Colorado Register

44 CR 19

Volume 44 , No. 19

October 10, 2021

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

2021-00603

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing

Date

11/03/2021

Time

10:00 AM

Location

Virtual Hearing See Below

Subjects and issues involved

The purpose of these rules is to add language that explains that hedging transactions are excluded from receipts except as provided in Special Rule 7A and Special Rule 9A.

Statutory authority

The statutory bases for these rules are sections 39-21-112(1), 39-22-301, 39-22-303, and 39-22-303.6, C.R.S.

Contact information

Name

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

Rule 39-22-303.6–1. Apportionment and Allocation Definitions.

Basis and Purpose. The bases of this rule are §§ 39-21-112, 39-22-301, 39-22-303, and 39-22-303.6, C.R.S. The purpose of this rule is to provide definitions for the terms used throughout Rules 39-22-303.6–1 through –17. Consistent with the General Assembly's adoption of § 39-22-303.6, C.R.S., these rules are intended to conform the state's income tax laws to the Multistate Tax Commission's model statute and regulation except when those model provisions are inconsistent with Colorado statute. See 2018 Colo. Sess. Laws, ch. 369, § 1(2).

(1) **Definitions.** In addition to the definitions provided in § 39-22-303.6, C.R.S., and unless the context otherwise requires, the following terms, as used throughout Rules 39-22-303.6–1 through –17, are defined or further defined as follows:

(a) "Allocation" refers to the assignment of nonapportionable income to a particular state.

(b) "Apportionment" refers to the division of apportionable income among states by use of a formula containing apportionment factors.

(c) "Billing address" means the location indicated in the books and records of the taxpayer as the primary mailing address relating to a customer's account as of the time of the transaction and kept in good faith in the normal course of business and not for tax avoidance purposes.

(d) "Business activity" refers to the transactions and activities occurring in the regular course of a particular trade or business of a taxpayer and includes the acquisition, employment, development, management, or disposition of property that is or was related to the operation of the taxpayer's trade or business.

(e) "Business customer" means a customer that is a business operating in any form, including a sole proprietorship. Sales to a nonprofit organization, to a trust, to the U.S. Government, to a foreign, state, or local government, or to an agency or instrumentality of that government are treated as sales to a business customer and must be assigned consistent with the rules for those sales.

(f) "Code" has the same meaning as "internal revenue code" in section 39-22-103(5.3), C.R.S.

(g) "Gross receipts" are the gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital in a transaction that produces apportionable income for which the income or loss is recognized under the Internal Revenue Code, and, where the income of foreign entities is included in apportionable income, amounts that would have been recognized under the Internal Revenue Code if the relevant transactions or entities were in the United States. Amounts realized on the

sale or exchange of property are not reduced for the cost of goods sold or the basis of property sold.

(h) "Individual customer" means a customer that is not a business customer.

(i) "Intangible property" generally means property that is not physical or whose representation by physical means is merely incidental and includes, without limitation, copyrights; patents; trademarks; trade names; brand names; franchises; licenses; trade secrets; trade dress; information; know-how; methods; programs; procedures; systems; formulae; processes; technical data; designs; literary, musical, or artistic compositions; ideas; contract rights including broadcast rights; agreements not to compete; goodwill and going concern value; securities; and, except as otherwise provided in this rule, computer software. Receipts from the sale of intangible property may be excluded from the numerator and denominator of the taxpayer's receipts factor pursuant to § 39-22-303.6(6)(d)(III), C.R.S., and paragraph (1)(d) of Rule 39-22-303.6–12.

(j) "Place of order" means the physical location from which a customer places an order for a sale, other than a sale of tangible personal property from a taxpayer, resulting in a contract with the taxpayer.

(k) "Population" means the most recent population data maintained by the U.S. Census Bureau for the year in question as of the close of the taxable period.

(l) "Receipts" means all gross receipts of the taxpayer that are not allocated under § 39-22-303.6, C.R.S., and that are received from transactions and activity in the regular course of the taxpayer's trade or business. The following are additional rules for determining "receipts" in various situations:

(i) In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, "receipts" includes all gross receipts from the sale of such goods or products (or other property of a kind that would properly be included in the inventory of the taxpayer if on hand at the close of the tax period) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales less returns and allowances.

(ii) In the case of cost-plus-fixed-fee contracts, such as the operation of a government-owned plant for a fee, "receipts" includes the entire reimbursed cost plus the fee.

(iii) In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency or the performance of equipment service contracts or research and development contracts, "receipts" includes the gross receipts from the performance of such services including fees, commissions, and similar items.

(iv) In the case of a taxpayer engaged in the sale of equipment used in the taxpayer's trade or business, where the taxpayer disposes of the equipment under a regular replacement program, "receipts" includes the gross receipts from the sale of this equipment. For example, a truck express company that owns a fleet of trucks, and sells its trucks under a regular replacement program, the gross receipts from the sale of the trucks would be included in "receipts."

(v) In the case of a taxpayer with insubstantial amounts of gross receipts arising from sales in the ordinary course of business, the insubstantial amounts may be

excluded from the receipts factor unless their exclusion would materially affect the amount of income apportioned to Colorado.

(vi) Receipts of a taxpayer from hedging transactions, or from holding cash or securities, or from the maturity, redemption, sale, exchange, loan, or other disposition of cash or securities, shall be excluded except as otherwise provided in 1 CCR 201-2, Special Rule 7A and Special Rule 9A. Receipts arising from a business activity are receipts from hedging if the primary purpose of engaging in the business activity is to reduce the exposure to risk caused by other business activities. Whether events or transactions not involving cash or securities are hedging transactions shall be determined based on the primary purpose of the taxpayer engaging in the activity giving rise to the receipts, including the acquisition or holding of the underlying asset. Receipts from the holding of cash or securities, or maturity, redemption, sale, exchange, loan, or other disposition of cash or securities are excluded from the definition of receipts whether or not those events or transactions are engaged in for the purpose of hedging. The taxpayer's treatment of the receipts as hedging receipts for accounting or federal tax purposes may serve as indicia of the taxpayer's primary purpose, but shall not be determinative.

(vii) Receipts, even if apportionable income, are presumed not to include such items as, for example:

(A) damages and other amounts received as the result of litigation;

(B) property acquired by an agent on behalf of another;

(C) tax refunds and other tax benefit recoveries;

(D) contributions to capital;

(E) income from forgiveness of indebtedness;

(F) amounts realized from exchanges of inventory that are not recognized by the Code; or

(G) amounts realized as a result of factoring accounts receivable recorded on an accrual basis.

(viii) Notwithstanding any other provision of law, foreign source income that is included in taxable income is not included as receipts of the taxpayer in Colorado for purposes of apportioning apportionable income under § 39-22-303.6, C.R.S., but may be included in the denominator as otherwise required by § 39-22-303.6, C.R.S., and its accompanying rules.

(ix) Exclusion of an item from the definition of "receipts" is not determinative of its character as apportionable or nonapportionable income. Certain gross receipts that are "receipts" under the definition are excluded from the "receipts factor" under § 39-22-303.6(6), C.R.S. Nothing in this definition shall be construed to modify, impair, or supersede any provision of § 39-22-303.6(9), C.R.S.

(m) "Related party" means:

(i) a stockholder who is an individual, or a member of the stockholder's family as set forth in section 318 of the Code, if the stockholder and the members of the

stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock;

(ii) a stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock; or

(iii) a corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Code, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution rules of the Code shall apply for purposes of determining whether the ownership requirements of this definition have been met.

(n) "Security" means any interest or instrument commonly treated as a security as well as other instruments that are customarily sold in the open market or on a recognized exchange, including, but not limited to, transferable shares of a beneficial interest in any corporation or other entity, bonds, debentures, notes, and other evidences of indebtedness, accounts receivable and notes receivable, cash and cash equivalents including foreign currencies, and repurchase and futures contracts.

(o) "State where a contract of sale is principally managed by the customer" means the primary location at which an employee or other representative of a customer serves as the primary contact person for the taxpayer with respect to the day-to-day execution and performance of a contract entered into by the taxpayer with the customer.

(p) "Trade or business," as used in the definition of apportionable income and in the application of that definition means the unitary business of the taxpayer, part of which is conducted within Colorado.

Rule 39-22-303.6–7. Sales Other Than Sales of Tangible Personal Property in Colorado.

Basis and Purpose. The bases of this rule are §§ 39-21-112, 39-22-301, 39-22-303, and 39-22-303.6, C.R.S. The purpose of this rule is to provide guidance for determining which gross receipts from sales other than sales of tangible personal property are included in a taxpayer's receipts factor. Consistent with the General Assembly's adoption of § 39-22-303.6, C.R.S., these rules are intended to conform the state's income tax laws to the Multistate Tax Commission's model statute and regulation except when those model provisions are inconsistent with Colorado statute. See 2018 Colo. Sess. Laws, ch. 369, § 1(2).

(1) **General Rule.**

(a) In general, § 39-22-303.6(6), C.R.S., provides for the inclusion in the numerator of the receipts factor of gross receipts arising from transactions other than sales of tangible personal property

(b) Receipts, other than receipts described in § 39-22-303.6(5), C.R.S., (from sales of tangible personal property) are in Colorado within the meaning of § 39-22-303.6(6), C.R.S., and Rules 39-22-303.6–7 through –13 if and to the extent that the taxpayer's market for the sales is in Colorado. In general, the provisions in this section establish uniform rules for (1) determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Colorado, (2) reasonably approximating

the state or states of assignment when the state or states cannot be determined, (3) excluding receipts from the sale of intangible property from the numerator and denominator of the receipts factor pursuant to § 39-22-303.6(6)(d)(III), C.R.S., and (4) excluding receipts from the denominator of the receipts factor, pursuant to § 39-22-303.6(6)(f), C.R.S., where the state or states of assignment cannot be determined or reasonably approximated.

(2) **General Principles of Application.** In order to satisfy the requirements of Rules 39-22-303.6–7 through –13, a taxpayer's assignment of receipts from sales of other than tangible personal property must be consistent with the following principles:

(a) A taxpayer shall apply the rules set forth in Rules 39-22-303.6–7 through –13 based on objective criteria and shall consider all sources of information reasonably available to the taxpayer at the time of its tax filing including, without limitation, the taxpayer's books and records kept in the normal course of business. A taxpayer shall determine its method of assigning receipts in good faith, and apply it such method consistently with respect to similar transactions year to year. A taxpayer shall retain contemporaneous records that explain the determination and application of its method of assigning its receipts, including its underlying assumptions, and shall provide those records to the Department upon request.

(b) Rules 39-22-303.6–7 through –13 provide various assignment rules that apply sequentially in a hierarchy. For each sale to which a hierarchical rule applies, a taxpayer must make a reasonable effort to apply the primary rule applicable to the sale before seeking to apply the next rule in the hierarchy, and must continue to do so with each succeeding rule in the hierarchy, where applicable. For example, in some cases, the applicable rule first requires a taxpayer to determine the state or states of assignment, and if the taxpayer cannot do so, the rule requires the taxpayer to reasonably approximate the state or states. In these cases, the taxpayer must attempt to determine the state or states of assignment (i.e., apply the primary rule in the hierarchy) in good faith and with reasonable effort before it may reasonably approximate the state or states.

(c) A taxpayer's method of assigning its receipts, including the use of a method of approximation, where applicable, must reflect an attempt to obtain the most accurate assignment of receipts consistent with the standards set forth in Rules 39-22-303.6–7 through –13, rather than an attempt to lower the taxpayer's tax liability. A method of assignment that is reasonable for one taxpayer may not necessarily be reasonable for another taxpayer, depending upon the applicable facts.

(3) **Rules of Reasonable Approximation.**

(a) In general, Rules 39-22-303.6–7 through –13 establish uniform rules for determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Colorado. Each rule also sets forth rules of reasonable approximation, which apply if the state or states of assignment cannot be determined. In some instances, the reasonable approximation must be made in accordance with specific rules of approximation prescribed in Rules 39-22-303.6–7 through –13. In other cases, the applicable rule in Rules 39-22-303.6–7 through –13 permits a taxpayer to reasonably approximate the state or states of assignment using a method that reflects an effort to approximate the results that would be obtained under the applicable rules or standards set forth in Rules 39-22-303.6–7 through –13.

(b) *Approximation Based Upon Known Sales.* In an instance where, applying the applicable rules set forth in Rule 39-22-303.6–10 (Sale of a Service), a taxpayer can ascertain the state or states of assignment for a substantial portion of its receipts from sales of substantially similar services ("assigned receipts"), but not all of those sales, and the

taxpayer reasonably believes, based on all available information, that the geographic distribution of some or all of the remainder of those sales generally tracks that of the assigned receipts, it shall include receipts from those sales that it believes tracks the geographic distribution of the assigned receipts in its receipts factor in the same proportion as its assigned receipts. This rule also applies in the context of licenses and sales of intangible property where the substance of the transaction resembles a sale of goods or services. *See paragraph (5) of Rule 39-22-303.6–11 and paragraph (1)(c) of Rule 39-22-303.6–12.*

(c) *Related-Party Transactions.* Where a taxpayer has receipts subject to these Rules 39-22-303.6–7 through –13 from transactions with a related-party customer, information that the customer has that is relevant to the sourcing of receipts from these transactions is imputed to the taxpayer.

(4) **Rules with Respect to Exclusion of Receipts from the Receipts Factor.**

(a) The receipts factor only includes those amounts defined as receipts under § 39-22-303.6(1)(d), C.R.S., and applicable rules.

(b) Certain receipts arising from the sale of intangibles are excluded from the numerator and denominator of the receipts factor pursuant to § 39-22-303.6(6)(d)(III), C.R.S. *See paragraph (1)(d) of Rule 39-22-303.6–12.*

(c) In a case in which a taxpayer cannot ascertain the state or states to which receipts of a sale are to be assigned pursuant to the applicable rules set forth in Rules 39-22-303.6–7 through –13 (including through the use of a method of reasonable approximation, when relevant) using a reasonable amount of effort undertaken in good faith, the receipts must be excluded from the denominator of the taxpayer's receipts factor pursuant to § 39-22-303.6(6)(f), C.R.S., and these rules.

(d) Receipts of a taxpayer from hedging transactions, or from holding cash or securities, or from the maturity, redemption, sale, exchange, loan or other disposition of cash or securities, shall be excluded pursuant to §§ 39-22-303.6(1)(d) and (6), C.R.S., except as provided in 1 CCR 201-2, Special Rule 7A and Special Rule 9A.

(5) **Changes in Methodology; Department Review.**

(a) *No Limitation on § 39-22-303.6(9), C.R.S., or Rules 39-22-303.6–16 and –17.* Nothing in the rules adopted here pursuant to § 39-22-303.6(6), C.R.S., is intended to limit the application of § 39-22-303.6(9), C.R.S., or the authority granted to the Department under § 39-22-303.6(9), C.R.S. To the extent that rules adopted pursuant to § 39-22-303.6(9), C.R.S., conflict with provisions of these rules adopted pursuant to § 39-22-303.6(6), C.R.S., the rules adopted pursuant to § 39-22-303.6(9), C.R.S., control. If the application of § 39-22-303.6(6), C.R.S., or the rules adopted pursuant thereto result in the attribution of receipts to the taxpayer's receipts factor that do not fairly represent the extent of the taxpayer's business activity in Colorado, the taxpayer may petition for, or Department may require, the use of a different method for attributing those receipts.

(b) *General Rules Applicable to Original Returns.* In any case in which a taxpayer files an original return for a taxable year in which it properly assigns its receipts using a method of assignment, including a method of reasonable approximation, in accordance with the rules stated in Rules 39-22-303.6–7 through –13, the application of such method of assignment shall be deemed to be a correct determination by the taxpayer of the state or states of assignment to which the method is properly applied. In those cases, neither the Department nor the taxpayer (through the form of an audit adjustment, amended return,

abatement application or otherwise) may modify the taxpayer's methodology as applied for assigning those receipts for the taxable year. However, the Department and the taxpayer may each subsequently, through the applicable administrative process, correct factual errors or calculation errors with respect to the taxpayer's application of its filing methodology.

(c) *Department's Authority to Adjust a Taxpayer's Return.* The provisions contained in this paragraph (5)(c) are subject to paragraph (5)(b). The Department's authority to review and adjust a taxpayer's assignment of receipts on a return to more accurately assign receipts consistently with the rules or standards of Rules 39-22-303.6–7 through –13 includes, but is not limited to, each of the following potential actions.

(i) In a case in which a taxpayer fails to properly assign receipts from a sale in accordance with the rules set forth in Rules 39-22-303.6–7 through –13, including the failure to properly apply a hierarchy of rules consistent with the principles of paragraph (2)(b), the Department may adjust the assignment of the receipts in accordance with the applicable rules in Rules 39-22-303.6–7 through –13.

(ii) In a case in which a taxpayer uses a method of approximation to assign its receipts and the Department determines that the method of approximation employed by the taxpayer is not reasonable, the Department may substitute a method of approximation that the Department determines is appropriate or may exclude the receipts from the taxpayer's numerator and denominator, as appropriate.

(iii) In a case in which the Department determines that a taxpayer's method of approximation is reasonable, but has not been applied in a consistent manner with respect to similar transactions or year to year, the Department may require that the taxpayer apply its method of approximation in a consistent manner.

(iv) In a case in which a taxpayer excludes receipts from the denominator of its receipts factor on the theory that the assignment of the receipts cannot be reasonably approximated, the Department may determine that the exclusion of those receipts is not appropriate, and may instead substitute a method of approximation that the Department determines is appropriate.

(v) In a case in which a taxpayer fails to retain contemporaneous records that explain the determination and application of its method of assigning its receipts, including its underlying assumptions, or fails to provide those records to Department upon request, the Department may treat the taxpayer's assignment of receipts as unsubstantiated, and may adjust the assignment of the receipts in a manner consistent with the applicable rules in Rules 39-22-303.6–7 through –13.

(vi) In a case in which the Department concludes that a customer's billing address was selected by the taxpayer for tax avoidance purposes, the Department may adjust the assignment of receipts from sales to that customer in a manner consistent with the applicable rules in Rules 39-22-303.6–7 through –13.

(d) *Taxpayer Authority to Change a Method of Assignment on a Prospective Basis.* A taxpayer that seeks to change its method of assigning its receipts under Rules 39-22-303.6–7 through –13 must disclose, in the original return filed for the year of the change, the fact that it has made the change. If a taxpayer fails to adequately disclose the change, the Department may disregard the taxpayer's change and substitute an assignment method that the Department determines is appropriate.

(e) *Department Authority to Change a Method of Assignment on a Prospective Basis.* The Department may direct a taxpayer to change its method of assigning its receipts in tax returns that have not yet been filed, including changing the taxpayer's method of approximation, if upon reviewing the taxpayer's filing methodology applied for a prior tax year, the Department determines that the change is appropriate to reflect a more accurate assignment of the taxpayer's receipts within the meaning of Rules 39-22-303.6–7 through –13, and determines that the change can be reasonably adopted by the taxpayer. The Department will provide the taxpayer with a written explanation as to the reason for making the change. In a case in which a taxpayer fails to comply with the Department's direction on subsequently filed returns, the Department may deem the taxpayer's method of assigning its receipts on those returns to be unreasonable, and may substitute an assignment method that the Department determines is appropriate.

(f) *Further Guidance.* The Department may issue further public written statements with respect to the rules set forth in this rule. These statements may, among other things, include guidance with respect to: (1) what constitutes a reasonable method of approximation within the meaning of the rules, and (2) the circumstances in which a filing change with respect to a taxpayer's method of reasonable approximation will be deemed appropriate.

COLORADO DEPARTMENT OF REVENUE
OFFICE OF TAX POLICY

STATEMENT OF BASIS AND PURPOSE

Rules 39-22-303.6–1 and 39-22-303.6–7
1 CCR 201-2

Basis

The statutory bases for these rules are sections 39-21-112(1), 39-22-301, 39-22-303, and 39-22-303.6, C.R.S.

Purpose

The purpose of these rules is to add language that explains that hedging transactions are excluded from receipts except as provided in Special Rule 7A and Special Rule 9A.

Notice of Proposed Rulemaking

Tracking number

2021-00604

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing

Date

11/03/2021

Time

10:00 AM

Location

Virtual Hearing See Below

Subjects and issues involved

The purpose of this new rule is to prescribe the inclusion of certain receipts of electricity producers in the receipts factor.

Statutory authority

The statutory bases for this rule are sections 39-21-112(1) and 39-22-303.6, C.R.S.

Contact information

Name

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

Special Rule 9A. Apportionment of Income for Electricity Producers.

Basis and Purpose. The statutory bases for this rule are sections 39-21-112(1) and 39-22-303.6, C.R.S. The purpose of this rule is to prescribe the inclusion of certain receipts of electricity producers in the receipts factor. Notwithstanding section 39-22-303.6(1)(d), C.R.S., and pursuant to the authority granted in section 39-22-303.6(9)(a)(I), C.R.S., the Department has determined that the exclusion of certain hedging transactions from the receipts factor of electricity producers does not fairly represent the extent of an electricity producer's business activity in Colorado. Gains and losses on hedging transactions entered into to manage risks associated with the gross income electricity producers expect from their wholesale sales of electricity are best accounted for in the receipts factor as adjustments to the gross receipts from such sales. Therefore, the Department establishes the following rule prescribing the adjustment of receipts from such sales based on the income, gain, or loss from certain hedging transactions, as described in this rule.

(1) **General Rule.** Except as provided in paragraph (3) of this rule, or as otherwise specifically allowed or required by the Executive Director pursuant to section 39-22-303.6(9), C.R.S., any income, gain, or loss from a transaction properly identified as a hedge under section 1221(b)(2)(A) or 475(c)(3) of the Internal Revenue Code shall be excluded from a taxpayer's receipts pursuant to section 39-22-303.6, C.R.S., for the purpose of apportionment.

(2) **Definitions.** For purposes of this rule,

(a) "Hedging transaction" means any transaction that a taxpayer enters into in the normal course of the taxpayer's trade or business primarily to manage risk of price changes. The Department shall construe this term in a manner consistent with its use in section 1221(b)(2)(A)(i) of the Internal Revenue Code.

(b) "Electricity producer" means any taxpayer treated as a C corporation, S corporation, or partnership for Colorado income tax purposes, wherever resident or organized, primarily engaged in the generation and sale of electricity.

(3) **Special Rule for Including Hedging Transactions in Receipts.**

(a) Except as provided in paragraph (3)(c) of this rule, any amount included in the receipts of an electricity producer pursuant to section 39-22-303.6(1)(d), C.R.S., from a wholesale sale of electricity shall be adjusted by the income, gain, or loss from a hedging transaction that hedged such wholesale sale of electricity if the identification requirements prescribed in this paragraph (3)(a) are satisfied. The identification requirements are met if the electricity producer's books and records clearly identify a hedging transaction as managing risk relating to a particular sale or sales of electricity, including anticipated sales, that must be included in the electricity producer's receipts pursuant to section 39-22-303.6(1)(d), C.R.S. The identification requirements are met only if identification is made at the time and in the manner consistent with 26 CFR 1.1221-2(f) and (g) (as in effect September 2021) and the taxpayer's books and records

include the information necessary to determine the applicable adjustment prescribed by this paragraph (3).

(b) The adjustment prescribed by this paragraph (3) shall be made with respect to the calculation of both the numerator and the denominator of the apportionment fraction pursuant to section 39-22-303.6(4), C.R.S. The numerator shall be adjusted to the extent that the receipts of the wholesale sale of electricity that was hedged were in Colorado as determined by section 39-22-303.6, C.R.S., and the rules thereunder.

(c) In the case of a taxpayer filing a combined return pursuant to section 39-22-303, C.R.S., a consolidated return pursuant to section 39-22-305, C.R.S., or both, the adjustment to the receipts factor required by this paragraph (3) shall not apply unless both the income from the wholesale sale and the gain or loss from the hedging transaction that hedged that wholesale sale are included in the taxpayers' combined, consolidated, or combined and consolidated federal taxable income.

(4) **Incorporation by Reference.** 26 CFR 1.1221-2(f) and (g) incorporated by reference in paragraph (3)(a) of this rule includes only the version that was in effect as of September 2021, and no later amendments to the incorporated federal regulation. The regulation incorporated by reference is available for public inspection during regular business hours at the Department of Revenue, 1881 Pierce Street, Lakewood, CO 80214. A copy of this regulation is also available for a reasonable charge from the Department of Revenue, 1881 Pierce Street, Lakewood, CO 80214, 303-866-5627, and is available online at https://www.govinfo.gov/content/pkg/CFR-2020-title26-vol13/pdf/CFR-2020-title26-vol13.pdf beginning on page 276 of the linked volume of the Code of Federal Regulations.

COLORADO DEPARTMENT OF REVENUE
OFFICE OF TAX POLICY

STATEMENT OF BASIS AND PURPOSE

Apportionment of Income for Electricity Producers
Special Rule 9A
1 CCR 201-2

Basis

The statutory bases for this rule are sections 39-21-112(1) and 39-22-303.6, C.R.S.

Purpose

The purpose of this new rule is to prescribe the inclusion of certain receipts of electricity producers in the receipts factor.

Notice of Proposed Rulemaking

Tracking number

2021-00602

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-3

Rule title

ALLOCATION AND APPORTIONMENT FOR CORPORATE INCOME TAX UNDER MULTI-STATE TAX COMPACT

Rulemaking Hearing

Date

11/03/2021

Time

10:00 AM

Location

Virtual Hearing See Below

Subjects and issues involved

The purpose of these rules is to repeal the rules because they applied to tax years prior to January 1, 2009.

Statutory authority

The statutory bases for these rules are sections 39-21-112(1), 24-60-1301, C.R.S.

Contact information

Name

Anthony Fiedler

Title

Administrative Assistant

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

ALLOCATION AND APPORTIONMENT FOR CORPORATE INCOME TAX UNDER MULTI-STATE TAX COMPACT

1 CCR 201-3

~~REGULATION IV COLORADO MULTI-STATE COMPACT TAX REGULATION IV – APPLICABILITY~~

~~For tax years beginning prior to January 1, 2009 taxpayers may elect the multi-state tax apportionment option set forth in Article III and Article IV of the Multistate Tax Compact and the regulations thereunder as those regulations existed prior to January 1, 2009. For tax years beginning on or after January 1, 2009, taxpayers must file in accordance with sections 39-22-303.5 and 39-22-303.7, C.R.S. and any regulations thereunder.~~

~~Reg. IV.1.(a). Business and Nonbusiness Income Defined.~~

~~(1) Article IV. 1. (a) defines "business income" as income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations. In essence, all income which arises from the conduct of trade or business operations of a taxpayer is business income. For purposes of administration of Article IV, the income of the taxpayer is business income unless clearly classifiable as nonbusiness income.~~

~~(2) Nonbusiness income means all income other than business income.~~

~~(3) The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, nonoperating income, etc., is of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises from transactions and activity occurring in the regular course of a trade or business. Accordingly, the critical element in determining whether income is "business income" or "nonbusiness income" is the identification of the transactions and activity which are the elements of a particular trade or business. In general all transactions and activities of the taxpayer which are dependent upon or contribute to the operations of the taxpayer's economic enterprise as a whole constitute the taxpayer's trade or business and will be transactions and activity arising in the regular course of, and will constitute integral parts of, a trade or business. (See Regulation IV. 1. (b) for further explanation of what constitutes a trade or business.)~~

~~Reg. IV.1.(b).~~

~~(1) **Two or More Businesses of a Single Taxpayer.** A taxpayer may have more than one "trade or business." In such cases, it is necessary to determine the business income attributable to each separate trade or business. The income of each business is then apportioned by an apportionment formula which takes into consideration the instate and outstate factors which relate to the trade or business the income of which is being apportioned.~~

(2) **Single trade or business.** The determination of whether the activities of the taxpayer constitute a single trade or business or more than one trade or business will turn on the facts in each case. In general, the activities of the taxpayer will be considered a single business if there is evidence to indicate that the segments under consideration are integrated with, dependent upon or contribute to each other and the operations of the taxpayer as a whole. The following factors are considered to be good indicia of a single trade or business, and the presence of any of these factors creates a strong presumption that the activities of the taxpayer constitute a single trade or business:

(A) Same type of business. A taxpayer is generally engaged in a single trade or business when all of its activities are in the same general line.

(B) Steps in a vertical process. A taxpayer is almost always engaged in a single trade or business when its various divisions or segments are engaged in different steps in a large, vertically structured enterprise.

(C) Strong centralized management. A taxpayer which might otherwise be considered as engaged in more than one trade or business in properly management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing.

Reg. IV.1.(c). Business and Nonbusiness Income: Application of Definitions (1).

(1) The following are rules for determining whether particular income is business or nonbusiness income.

(2) **Rents from real and tangible personal property.** Rental income from real and tangible property is business income if the property with respect to which the rental income was received is used in the taxpayer's trade or business or incidental thereto and therefore is includable in the property factor under Regulation IV.10.

(3) **Gains or losses from sales of assets.** Gain or loss from the sale, exchange or other disposition of real or tangible or intangible personal property constitutes business income if the property while owned by the taxpayer was used in the taxpayer's trade or business. However, if such property was utilized for the production of nonbusiness income or otherwise was removed from the property factor before its sale, exchange or other disposition, the gain or loss will constitute nonbusiness income. (See Regulation IV. 10.)

(4) **Interest.** Interest income is business income where the intangible with respect to which the interest was received arises out of or was created in the regular course of the taxpayer's trade or business operations or where the purpose for acquiring and holding the intangible is related to or incidental to such trade or business operations.

(5) **Dividends.** Dividends are business income where the stock with respect to which the dividends are received arises out of or was acquired in the regular course of the taxpayer's trade or business operations or where the purpose for acquiring and holding the stock is related to or incidental to such trade or business operations.

(6) **Patent and copyright royalties.** Patent and copyright royalties are business income where the patent or copyright with respect to which the royalties were received arises out of or was created in the regular course of the taxpayer's trade or business operations or where the purpose for

~~acquiring and holding the patent or copyright is related to or incidental to such trade or business operations.~~

~~**Reg. IV.1.(d). Proration of Deductions**~~

~~(1) In most cases an allowable deduction of a taxpayer will be applicable only to the business income arising from a particular trade or business or to a particular item of nonbusiness income. In some cases an allowable deduction may be applicable to the business incomes of more than one trade or business and/or to several items of nonbusiness income. In such cases the deduction shall be prorated among such trades or businesses and such items of nonbusiness income in a manner which fairly distributes the deduction among the classes of income to which it is applicable.~~

~~(2) **Consistency and uniformity in reporting.**~~

~~(A) **Year-to-Year consistency.** In filing returns with this state, if the taxpayer departs from or modifies the manner of prorating any such deduction used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modifications.~~

~~(B) **State-to-State uniformity.** If the returns or reports filed by a taxpayer with all states to which the taxpayer reports under Article IV of this Compact or the Uniofrm Division of Income for Tax Purposes Art are not uniform in the application or proration of any deduction, the taxpayer shall disclose in its return to this state the nature and extent of the variance.~~

~~**Reg. IV.2.(a). Definitions.**~~

~~(1) "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person, acting as a business entity in more than one state.~~

~~(2) "Apportionment" refers to the division of business income between states by the use of a formula containing apportionment factors.~~

~~(3) "Allocation refers to the assignment of nonbusiness income to a particular state.~~

~~(4) "Business activity" refers to the transactions and activity occurring in the regular course of a particular trade or business of a taxpayer.~~

~~**Reg. IV.2.(b)(1).Application of Article IV: Appointment.**~~

~~If the business activity in respect to any trade or business of a taxpayer occurs both within and without this state, and if by reason of such business activity the taxpayer is taxable in another state, the portion of the net income (or net loss) arising from such trade or business which is derived from sources within this state shall be determined by apportionment in accordance with Article IV.9 through IV.17.~~

~~**Reg. IV.2.(b)(2).Application of Article IV: Combined Report.**~~

~~If a particular trade or business is carried on by a taxpayer and one or more affiliated corporations, nothing in Article IV or in these regulations shall preclude the use of a "combined report" whereby the~~

entire business income of such trade or business is apportioned in accordance with Article IV.9IV.9 through IV.17.

Reg. IV.2.(b)(3).Application Article IV: Allocation.

Any taxpayer subject to the taxing jurisdiction of this state shall allocate all of its nonbusiness income or loss within or without this state in accordance with Article IV.4 through IV.8.

Reg. IV.2.(c). Consistency and Uniformity in Reporting.

(1) **Year-to-year consistency.** In filing returns with this state, if the taxpayer departs from or modifies the manner in which income has been classified as business income or nonbusiness income in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(2) **State-to-state consistency.** If the returns or reports filed by a taxpayer for all states to which the taxpayer reports under Article IV of this Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the classification of income as business or nonbusiness income, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

Reg. IV.3.(a). Taxable in Another State.

(1) In general. Under Article IV. 2. the taxpayer is subject to the allocation and apportionment provisions of Article IV if it has income from business activity that is taxable both within and without this state. A taxpayer's income from business activity is taxable without this state if such taxpayer, by reason of such business activity (i.e., the transactions and activity occurring in the regular course of a particular trade or business), is taxable in another state within the meaning of Article IV.3.

(2) **Applicable tests.** A taxpayer is taxable within another state if it meets either one of two tests: (1) If by reason of business activity in another state the taxpayer is subject to one of the types of taxes specified in Article IV.3.(1), namely: A net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or (2) If by reason of such business activity another state has jurisdiction to subject the taxpayer to a net income tax, regardless of whether or not the state imposes such a tax on the taxpayer.

(3) **Producing nonbusiness income.** A taxpayer is not taxable in another state with respect to a particular trade or business merely because the taxpayer conducts activities in such other state pertaining to the production of nonbusiness income or business activities relating to a separate trade or business.

Reg. IV.3.(b). Taxable in Another State: When a Corporation Is "Subject to" a Tax under Article IV.3.(1).

(1) A taxpayer is "subject to" one of the taxes specified in Article IV.3.(1) if it carries on business activities in such state and such state imposes such a tax thereon. Any taxpayer which asserts that it is subject to one of the taxes specified in Article IV.3.(1) in another state shall furnish to the executive director upon his request evidence to support such assertion. The executive director may request that such evidence include proof that the taxpayer has filed the requisite tax return in such other state and has paid any taxes imposed under the law of such other state; the

~~taxpayer's failure to produce such proof may be taken into account in determining whether the taxpayer in fact is subject to one of the taxes specified in Article IV.3.(1) in such other state.~~

~~(2) **Voluntary tax payment.** If the taxpayer voluntarily files and pays one or more of such taxes when not required to do so by the laws of that state or pays a minimal fee for qualification, organization or for the privilege of doing business in that state, but~~

~~(A) does not actually engage in business activity in that state, or~~

~~(B) does actually engage in some business activity, not sufficient for nexus, and the minimum tax bears no relation to the taxpayer's business activity within such state, the taxpayer is not "subject to" one of the taxes specified within the meaning of Article IV.3.(1).~~

~~(3) **Taxability.** The concept of taxability in another state is based upon the premise that every state in which the taxpayer is engaged in business activity may impose an income tax even though every state does not do so. In states which do not, other types of taxes may be imposed as a substitute for an income tax. Therefore, only those taxes enumerated in Article IV.3.(1) which may be considered as basically revenue raising rather than regulatory measures shall be considered in determining whether the taxpayer is "subject to" one of the taxes specified in Article IV.3.(1) in another state.~~

~~Reg. IV.3.(c). Taxable in Another State: When a State Has Jurisdiction To Subject a Taxpayer to a Net Income Tax.~~

~~The second test, that of Article IV.3.(2), applies if the taxpayer's business activity is sufficient to give the state jurisdiction to impose a net income tax by reason of such business activity under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provisions of Public Law 86-272, 15 U.S.C.A. § §381–385. In the case of any "state" as defined in Article IV.1.(h), other than a state of the United States or political subdivision of such state, the determination of whether such "state" has jurisdiction to subject the taxpayer to a net income tax shall be made as though the jurisdictional standards applicable to a state of the United States applied in that "state." If jurisdiction is otherwise present, such "state" is not considered as without jurisdiction by reason of the provisions of a treaty between that state and the United States.~~

~~Reg. IV.9. Apportionment Formula.~~

~~All business income of each trade or business of the taxpayer shall be apportioned to this state by use of the apportionment formula set forth in Article IV.9. The elements of the apportionment formula are the property factor (see Regulation IV.10.), the payroll factor (see Regulation IV.13.) and the sales factor (see Regulation IV.15.) of the trade or business of the taxpayer.~~

Reg. IV.10.(a). Property Factor: In General.

The property factor of the apportionment formula for each trade or business of the taxpayer shall include all real and tangible personal property owned or rented by the taxpayer and used during the tax period in the regular course of such trade or business. The term "real and tangible personal property" includes land, buildings, machinery, stocks of goods, equipment, and other real and tangible personal property but does not include coin or currency. Property used in connection with the production of nonbusiness income shall be excluded from the property factor. Property used both in the regular course of taxpayer's trade or business and in the production of nonbusiness income shall be included in the factor only to the extent the property is used in the regular course of taxpayer's trade or business. The method of determining that

portion of the value to be included in the factor will depend upon the facts of each case. The property factor shall include the average value of property includable in the factor. (See Regulation IV.12.)

Reg. IV.10.(b). Property Factor: Property Used for the Production of Business Income.

Property shall be included in the property factor if it is actually used or is available for or capable of being used during the tax period in the regular course of the trade or business of the taxpayer. Property held as reserves or standby facilities or property held as a reserve source of materials shall be included in the factor. Property or equipment under construction during the tax period, (except inventoriable goods in process) shall be excluded from the factor until such property is actually used in the regular course of the trade or business of the taxpayer. If the property is partially used in the regular course of the trade or business of the taxpayer while under construction, the value of the property to the extent used shall be included in the property factor. Property used in the regular course of the trade or business of the taxpayer shall remain in the property factor until its permanent withdrawal is established by an identifiable event such as its conversion to the production of nonbusiness income, its sale, or the lapse of an extended period of time (normally, five years) during which the property is held for sale.

Reg.IV.10.(c). Property Factor: Consistency and Uniformity in Reporting.

(1) **Year-to-Year consistency.** In filing returns with this state, if the taxpayer departs from or modifies the manner of valuing property, or of excluding or including property in the property factor, used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(2) **State-to-State uniformity.** If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under Article IV of this Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the valuation of property and in the exclusion or inclusion of property in the property factor, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

Reg. IV.10.(d). Property Factor: Numerator.

The numerator of the property factor shall include the average value of the real and tangible personal property owned or rented by the taxpayer and used in this state during the tax period in the regular course of the trade or business of the taxpayer. Property in transit between locations of the taxpayer to which it belongs shall be considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller which is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices shall be included in the numerator according to the state of destination. The value of mobile or movable property such as construction equipment, trucks or leased electronic equipment which are located within and without this state during the tax period shall be determined for purposes of the numerator of the factor on the basis of total time within the state during the tax period. An automobile assigned to a traveling employee shall be included in the numerator of the factor of the state to which the employee's compensation is assigned under the payroll factor or in the numerator of the state in which the automobile is licensed.

Reg. IV.11.(a). Property Factor: Valuation of Owned Property.

(1) Property owned by the taxpayer shall be valued at its original cost. As a general rule “original cost” is deemed to be the basis of the property for federal income tax purposes (prior to any federal adjustments) at the time of acquisition by the taxpayer and adjusted by subsequent capital

additions or improvements thereto and partial disposition thereof, by reason of sale, exchange, abandonment, etc.

If original cost of property is unascertainable, the property is included in the factor at its fair market value as of the date of acquisition by the taxpayer.

(2) Inventory of stock of goods shall be included in the factor in accordance with the valuation method used for federal income tax purposes.

(3) Property acquired by gift or inheritance shall be included in the factor at its basis for determining depreciation for federal income tax purposes.

Reg. IV.11.(b). Property Factor: Valuation of Rented Property.

(1) **Multiplier.** Property rented by the taxpayer is valued at eight times its net annual rental rate. The net annual rental rate for any item of rented property is the annual rental rate paid by the taxpayer for such property, less the aggregate annual subrental rates paid by subtenants of the taxpayer. (See Regulation IV.18 (b) for special rules where the use of such net annual rental rate produces a negative or clearly inaccurate value or where property is used by the taxpayer at no charge or rented at a nominal rental rate.)

Subrentals. Subrents are not deducted when the subrents constitute business income because the property which produces the subrents is used in the regular course of a trade or business of the taxpayer when it is producing such income. Accordingly there is no reduction in its value.

(2) “Annual rental rate” is the amount paid as rental for property for a 12-month period (i.e., the amount of the annual rent). Where property is rented for less than a 12-month period, the rent paid for the actual period of rental shall constitute the “annual rental rate” for the tax period. However, where a taxpayer has rented property for a term of 12 or more months and the current tax period covers a period of less than 12 months (due, for example, to a reorganization or change of accounting period), the rent paid for the short tax period shall be annualized. If the rental term is for less than 12 months, the rent shall not be annualized beyond its term. Rent shall not be annualized because of the uncertain duration when the rental term is on a month-to-month basis.

(3) “Annual rent” is the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer or for its benefit for the use of the property and includes:

(A) Any amount payable for the use of real or tangible personal property, or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise.

(B) Any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items which are required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, janitor services, etc. If a payment includes rent and other charges unsegregated, the amount of rent shall be determined by consideration of the relative values of the rent and the other items.

“Annual rent” does not include incidental day-to-day expenses.

(4) Leasehold improvements shall, for the purposes of the property factor, be treated as property owned by the taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. Hence, the original cost of leasehold improvements shall be included in the factor.

Reg. IV.12. Property Factor: Averaging Property Values.

As a general rule the average value of property owned by the taxpayer shall be determined by averaging the values at the beginning and ending of the tax period. However, the executive director may require or allow averaging by monthly values if such method of averaging is required to properly reflect the average value of the taxpayer's property for the tax period.

Averaging by monthly values will generally be applied if substantial fluctuations in the values of the property exist during the tax period or where property is acquired after the beginning of the tax period or disposed of before the end of the tax period.

Example: The monthly value of the taxpayer's property was as follows:

January	$2,000	July	$15,000
February	2,000	August	17,000
March	3,000	September	23,000
April	3,500	October	25,000
May	4,500	November	13,000
June	10,000	December	2,000
	--------		--------
	$25,000		$95,000
			Total $120,000.

The average value of the taxpayer's property includable in the property factor for the income year is determined as follows:

$$\frac{\$\ 120{,}000}{12} = \$10{,}000$$

Averaging with respect to rented property is achieved automatically by the method of determining the net annual rental rate of such property asset forth in Reg. IV.11.(b).

Reg. IV.13.(a). Payroll Factor: in General.

(1) The payroll factor of the apportionment formula for each trade or business of the taxpayer shall include the total amount paid by the taxpayer in the regular course of its trade or business for compensation during the tax period.

(2) The total amount “paid” to employees is determined upon the basis of the taxpayer's accounting method, if the taxpayer has adopted the accrual method of accounting, all compensation properly

accrued shall be deemed to have been paid. Notwithstanding the taxpayer's method of accounting, at the election of the taxpayer, compensation paid to employees may be included in the payroll factor by use of the cash method if the taxpayer is required to report such compensation under such method for unemployment compensation purposes.

(3) The compensation of any employee on account of activities which are connected with the production of nonbusiness income shall be excluded from the factor.

(4) The term “compensation” means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. Amounts considered paid directly include the value of board, rent, housing, lodging, and other benefits or services furnished to employees by the taxpayer in return for personal services provided that such amounts constitute income to the recipient under the federal Internal Revenue Code. In the case of employees not subject to the federal Internal Revenue Code, e.g., those employed in foreign countries, the determination of whether such benefits or services would constitute income to the employees shall be made as though such employees were subject to the federal Internal Revenue Code.

(5) The term “employee” means (A) any officer of a corporation, or (B) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee. Generally, a person will be considered to be an employee if he is included by the taxpayer as an employee for purposes of the payroll taxes imposed by the Federal Insurance Contributions Act; except that, since certain individuals are included within the term “employees” in the Federal Insurance Contributions Act who would not be employees under the usual common-law rules, it may be established that a person who is included as an employee for purposes of the Federal Insurance Contributions Act is not an employee for purposes of this regulation.

(6) **Consistency and Uniformity in Reporting.**

(A) **Year-to-Year Consistency.** In filing returns with this state, if the taxpayer departs from or modifies the treatment of compensation paid used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(B) **State-to-State uniformity.** If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under Article IV of this Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the treatment of compensation paid, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

Reg. IV.13.(b). Payroll Factor: Denominator.

The denominator of the payroll factor is the total compensation paid everywhere during the tax period. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is immune from taxation, for example, by Public Law 86-272, is included in the denominator of the payroll factor.

Reg. IV.13.(c). Payroll Factor: Numerator.

The numerator of the payroll factor is the total amount paid in this state during the tax period by the taxpayer for compensation. The tests in Article IV.14. to be applied in determining whether compensation is paid in this state are derived from the Model Unemployment Compensation Act. Accordingly, if compensation paid to employees is included in the payroll factor by use of the cash method of accounting or if the taxpayer is required to report such compensation under such method for unemployment compensation purposes, it shall be presumed that the total wages reported by the taxpayer to this state for unemployment compensation purposes constitute compensation paid in this state except for compensation excluded under Regulation IV.13.(a) through IV.14. The presumption may be overcome by satisfactory evidence that an employee's compensation is not properly reportable to this state for unemployment compensation purposes.

Reg. IV.14. Payroll Factor: Compensation Paid in this State.

Compensation is paid in this state if any one of the following tests, applied consecutively, are met:

(1) The employee's service is performed entirely within the state.

(2) The employee's service is performed both within and without the state, but the service performed without the state is incidental to the employee's service within the state. The word “incidental” means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction.

(3) If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:

(A) if the employee's base of operations is in this state; or

(B) if there is no base of operations in any state in which some part of the service is performed, but the place from which the service is directed or controlled is in this state; or

(C) if the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed but the employee's residence is in this state.

(4) The term “base of operations” is the place of more or less permanent nature from which the employee starts his work and to which he customarily returns in order to receive instructions from the taxpayer or communications from his customers or other persons or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of his trade or profession at some other point or points.

(5) The term “place from which the service is directed or controlled” refers to the place from which the power to direct or control is exercised by the taxpayer.

~~**Reg. IV.15.(a). Sales Factor.**~~

~~**(1) In General. Article IV 1.(g)** defines the term “sales” to mean all gross receipts of the taxpayer not allocated under paragraphs (5) through (8) of Article IV. Thus, for the purposes of the sales factor of the apportionment formula for each trade or business of the taxpayer, the term “sales” means all gross receipts derived by the taxpayer from transactions and activity in the regular course of such trade or business. The following are rules for determining “sales” in various situations:~~

(A) In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, "sales" includes all gross receipts from the sales of such goods or products (or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the tax period) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales less returns and allowances, and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to such sales. Federal and state excise taxes (including sales taxes) shall be included as part of such receipts if such taxes are passed on to the buyer or included as part of the selling price of the product.

(B) In the case of cost-plus-fixed fee contracts, such as the operation of a government-owned plant for a fee, "sales" includes the entire reimbursed cost, plus the fee.

(C) In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency, or the performance of equipment service contracts, research and development contracts, "sales" includes the gross receipts from the performance of such services including fees, commissions, and similar items.

(D) In the case of a taxpayer engaged in renting real or tangible property, "sales" includes the gross receipts from the rental, lease, or licensing the use of the property.

(E) In the case of a taxpayer engaged in the sale, assignment, or licensing of intangible personal property such as patents and copyrights, "sales" includes the gross receipts therefrom.

(F) If a taxpayer derives receipts from the sale of equipment used in its business, such receipts constitute "sales."

(2) **Exceptions.** In some cases certain gross receipts should be disregarded in determining the sales factor in order that the apportionment formula will operate fairly to apportion to this state the income of the taxpayer's trade or business (See Regulation IV.18(c).)

(3) Consistency and Uniformity in Reporting.

(A) **Year-to-year consistency.** In filing returns with this state, if the taxpayer departs from or modifies the basis for excluding or including gross receipts in the sales factor used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(B) **State-to-State uniformity.** If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under Article IV of this Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the inclusion or exclusion of gross receipts, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

Reg. IV.15.(b). Sales Factor: Denominator.

The denominator of the sales factor shall include the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except receipts excluded under Regulation IV.18.(c).

Reg. IV.15.(c). Sales Factor: Numerator.

The numerator of the sales factor shall include gross receipts attributable to this state and derived by the taxpayer from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-price differential charges incidental to such gross receipts shall be included regardless of (1) the place where the accounting records are maintained or (2) the location of the contract or other evidence of indebtedness.

Reg. IV.16.(a). Sales Factor: Sales of Tangible Personal Property in this State.

(1) Gross receipts from sales of tangible personal property (except sales to the United States Government; see Regulation IV.16.(b)) are in this state:

(A) if the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of sale; or

(B) if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser.

(2) Property shall be deemed to be delivered or shipped to a purchaser, within this state if the recipient is located in this state, even though the property is ordered from outside this state.

(3) Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.

(4) The term "purchaser within this state" shall include the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.

(5) When property being shipped by a seller from the state of origin to a consignee in another state is diverted while enroute to a purchaser in this state, the sales are in this state.

(6) If the taxpayer is not taxable in the state of the purchaser, the sale is attributed to this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state.

(7) If a taxpayer whose salesman operates from an office located in this state makes a sale to a purchaser in another state in which the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply:

(A) If the taxpayer is taxable in the state from which the third party ships the property, then the sale is in such state.

(B) If the taxpayer is not taxable in the state from which the property is shipped, then the sale is in this state.

Reg. IV.16.(b). Sales Factor: Sales of Tangible Personal Property to United States Government in this State.

(1) Gross receipts from sales of tangible personal property to the United States Government are in this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state. For the purpose of this regulation, only sales for which the United States

Government makes direct payment to the seller pursuant to the terms of a contract constitute sales to the United States Government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, do not constitute sales to the United States Government.

Reg. IV.17. Sales Factor: Sales Other than Sales of Tangible Personal Property in this State.

(1) In General, Article IV.17. provides for the inclusion in the numerator of the sales factor of gross receipts from transactions other than sales of tangible personal property (including transactions with the United States Government); under this section gross receipts are attributed to this state if the income-producing activity which gave rise to the receipts is performed wholly within this state. Also, gross receipts are attributed to this state if, with respect to a particular item of income, the income-producing activity is performed within and without this state but the greater proportion of the income producing activity is performed in this state, based on costs of performance.

(2) Income-Producing Activity: Defined. The term "income producing activity" applies to each separate item of income and means the transactions and activity directly engaged in by the taxpayer in the regular course of its trade or business for the ultimate purpose of obtaining gains or profit. Such activity does not include transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. Accordingly, income-producing activity includes but is not limited to the following:

(A) The rendering of personal services by employees or the utilization of tangible and intangible property by the taxpayer in performing a service.

(B) The sale, rental, leasing, licensing or other use of real property.

(C) The rental, leasing, licensing or other use of tangible personal property.

(D) The sale, licensing or other use of intangible personal property.

The mere holding of intangible personal property is not, of itself, an income-producing activity.

(3) **Costs of Performance: Defined.** The term "costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the taxpayer.

(4) Application.

(A) In General. Receipts (other than from sales of tangible personal property) in respect to a particular income-producing activity are in this state if:

(a) the income-producing activity is performed wholly within this state; or

(b) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(B) **Special Rules.** The following are special rules for determining when receipts from the income-producing activities described below are in this state:

~~(a) Gross receipts from the sale, lease, rental or licensing of real property are in this state if the real property is located in this state.~~

~~(b) Gross receipts from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state. The rental, lease, licensing or other use of tangible personal property in this state is a separate income-producing activity from the rental, lease, licensing or other use of the same property while located in another state; consequently, if property is within and without this state during the rental, lease or licensing period, gross receipts attributable to this state shall be measured by the ratio which the time the property was physically present or was used in this state bears to the total time or use of the property everywhere during such period.~~

~~(c) Gross receipts for the performance of personal services are attributable to this state to the extent such services are performed in this state. If services relating to a single item of income are performed partly within and partly without this state, the gross receipts for the performance of such services shall be attributable to this state only if a greater proportion of the services was performed in the state, based on costs of performance. Usually, where services are performed partly within and partly without this state, the services performed in each state will constitute a separate income-producing activity; in such case the gross receipts for the performance of services attributable to this state shall be measured by the ratio which the time spent in performing such services in this state bears to the total time spent in performing such services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation which gives rise to such gross receipts. Personal service not directly connected with the performance of the contract or other obligation, as for example time expended in negotiating the contract, is excluded from the computations.~~

IV.18.(a). Special Rules.

(1) In General. Article IV.18 of §24-60-1301, C.R.S. provides that, if the allocation and apportionment provisions of Article IV do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the executive director may require, in respect to all or any of the taxpayer's business activity, if reasonable:

(A) separate accounting;

(B) the exclusion of any one or more of the factors;

(C) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(D) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(2) Art.IV.18. permits a departure from the allocation and apportionment provisions of Article IV only in limited and specific cases. Article IV.18 may be invoked only in specific cases where unusual fact situations produce incongruous results under the apportionment and allocation provisions contained in Article IV.

(3) In the case of certain industries, the foregoing regulations in respect to the apportionment formula do not set forth appropriate procedures for determining the apportionment factors. Nothing in Article IV.18. or in this Regulation IV.18 shall preclude the executive director from establishing appropriate procedures under Article IV.10 through 17 for determining the apportionment factors for each such industry, but such procedures shall be applied uniformly.

(4) Exclusion of factors amounts or factors

(A) Any factor whose denominator is zero shall be excluded from the calculation of the average apportionment factor.

(B) Amounts in any factor of property, payroll, or sales that do not materially contribute to the generation of business income shall be excluded from the factor.

Reg. IV.18.(b). Special Rules: Property Factor.

The following special rules are established in respect to the property factor of the apportionment formula:

(1) If the subrents taken into account in determining the net annual rental rate under Regulation IV.11.(b) produce a negative or clearly inaccurate value for any item of property, another method which will properly reflect the value of rented property may be required by the executive director or requested by the taxpayer.

In no case however shall such value be less than an amount which bears the same ratio to the annual rental rate paid by the taxpayer for such property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property.

(2) If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rental rate for such property shall be determined on the basis of a reasonable market rental rate for such property.

~~**Reg. IV.18.(c). Special Rules: Sales Factor.**~~

~~The following special rules are established in respect to the sales factor of the apportionment formula:~~

~~(1) Where substantial amounts of gross receipts arise from an incidental or occasional sale of a fixed asset used in the regular course of the taxpayer's trade or business, such gross receipts shall be excluded from the sales factor.~~

~~(2) Insubstantial amounts of gross receipts arising from incidental or occasional transactions or activities may be excluded from the sales factor unless such exclusion would materially affect the amount of income apportioned to this state.~~

~~(3) Where business income from intangible property cannot readily be attributed to any particular income-producing activity of the taxpayer, such income cannot be assigned to the numerator of the sales factor for any state and shall be excluded from the denominator of the sales factor.~~

~~(4) Where the income-producing activity in respect to business income from intangible personal property can be readily identified, such income is included in the denominator of the sales factor and, if the income-producing activity occurs in this state, in the numerator of the sales factor as well.~~

COLORADO DEPARTMENT OF REVENUE
OFFICE OF TAX POLICY

STATEMENT OF BASIS AND PURPOSE

Regulations IV, IV.1.(a), IV.1.(b), IV.1.(c), IV.1.(d), IV.2.(a), IV.2.(b)(1), IV.2.(b)(2), IV.2.(b)(3), IV.2.(c), IV.3.(a), IV.3.(b), IV.3.(c), IV.9, IV.15.(a), IV.15.(b), IV.15.(c), IV.16.(a), IV.16.(b), IV.17, IV.18.(c)
1 CCR 201-3

Basis

The statutory bases for these rules are sections 39-21-112(1), 24-60-1301, C.R.S.

Purpose

The purpose of these rules is to repeal the rules because they applied to tax years prior to January 1, 2009.

Notice of Proposed Rulemaking

Tracking number

2021-00632

Department

200 - Department of Revenue

Agency

203 - Liquor and Tobacco Enforcement Division

CCR number

1 CCR 203-2

Rule title

COLORADO LIQUOR RULES

Rulemaking Hearing

Date

11/02/2021

Time

10:00 AM

Location

VIRTUAL http://meet.google.com/qka-umbh-vdx

Subjects and issues involved

The Executive Director of the Colorado Department of Revenue, on behalf of the Liquor Enforcement Division (Division), will consider the promulgation of additions and amendments to the Colorado Liquor Rules, 1 C.C.R. 203-2, as authorized by Article 3 of Title 44, C.R.S. For specific information and language concerning the proposed changes and new rules, please refer to the contents of this Notice and to the proposed rules that are set forth following this notice and are available on the Divisions website: https://sbg.colorado.gov/liquor.

Statutory authority

The Executive Director promulgates the additions and amendments to these rules pursuant to the authority granted in section 44-3-302, C.R.S., and section 24-4-103, C.R.S., of the Administrative Procedure Act.

Contact information

Name

Michelle Stone-Principato

Title

Director

Telephone

303-866-1428

Email

michelle.stone-principato@state.co.us

DEPARTMENT OF REVENUE

Liquor Enforcement Division

COLORADO LIQUOR RULES

1 CCR 203-2

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

Regulation 47-100. Definitions.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(A), C.R.S. The purpose of this regulation is to ensure consistent application and interpretation of common terms within the relevant articles.

A. "Licensed, licensee, and licensed premises" mean persons or premises issued a license or permit under Articles 3, Articles 4 and Article 5 of Title 44.

B. "Manufacturer" means a Colorado licensed brewery, winery, limited winery, distillery, vintner's restaurant, distillery pub or brew pub as defined by C.R.S. 44-4-104 and 44-3-103.

C. "Nonresident manufacturer" means a Colorado licensee that manufactures malt liquor or fermented malt beverages outside the state of Colorado and has been issued a Brewer's Notice by the Alcohol and Tobacco Tax and Trade Bureau.

D. "On-site product sales promotion" means a sales promotion, featuring a particular brand of alcohol beverage, that is conducted on a retailer's licensed premises by an alcohol beverage supplier. On-site product sales promotion may include drink specials, product sampling and the giveaway of consumer goods.

E. "Sponsored event" means an event supported in whole or in part by a licensed supplier that is conducted at a retail licensed establishment.

F. "Supplier" means a Colorado licensed brewery, winery, distillery, brew pub, distillery pub, vintner's restaurant, limited winery, nonresident manufacturer, wholesaler or importer of alcohol beverages.

G. "Retailer" or an entity "licensed to sell at retail" means those persons licensed pursuant to sections 44-3-401(1)(h) – (t) and (v – w), C.R.S., and section 44-4-104(1)(c), C.R.S. to sell alcohol beverages to the end consumer.

H. "Unreasonable noise" means a level of noise that violates local noise ordinance standards, or where no local noise ordinance standard exists, a level of noise that would violate section 25-12-103, C.R.S.

I. "Wholesaler" means those entities authorized to sell alcohol beverages at wholesale to licensed retailers, including wholesalers of fermented malt beverages, malt liquors, vinous and spirituous liquors, limited wineries, brew pubs, distillery pubs, and vintner's restaurants.

J. "Sandwiches" as used in articles 3 and 5 of Title 44, C.R.S. are defined as single serving items such as hamburgers, hot dogs, frozen pizzas, burritos, chicken wings, or items of a similar nature. "Light snacks" as used in articles 3 and 5 of Title 44, C.R.S. are defined as popcorn, pretzels, nuts, chips, or items of a similar nature.

K. "Colorado Liquor Code" or "Liquor Code" means article 3 of title 44, C.R.S.

L. "Colorado Beer Code" or "Beer Code" means article 4 of title 44, C.R.S.

M. "Special Event Code" means article 5 of title 44, C.R.S.

N. "Colorado Liquor Rules" means this regulatory article, 1 C.C.R. 203-2.

O. "Division" means the State of Colorado Department of Revenue's Liquor Enforcement Division, except as provided otherwise.

P. "Communal Outdoor Dining Area" means an outdoor space that is used for food and alcohol beverage service by two or more licensees licensed under article 3 or article 4 of title 44, C.R.S. as a:

1. Tavern;

2. Hotel and Restaurant;

3. Brew Pub;

4. Distillery Pub;

5. Vintner's Restaurant;

6. Beer and Wine Licensee;

7. Manufacturer that operates a sales room authorized under section 44-3-402(2) or (7), C.R.S.;

8. Beer wholesalers that operates a sales room under section 44-3-407(1)(b)(I), C.R.S.;

9. Limited Winery;

10. Lodging and Entertainment Facility;

11. Optional Premises; or

12. Fermented Malt Beverage Retailer licensed for consumption on the premises.

Regulation 47-104. Winery Direct Shipper's Permits.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-104(6), C.R.S. The purpose of this regulation is to clarify the scope of a winery direct shipper's permittee's privileges.

A. For purposes of this regulation, the term "permit" or "permittee" means the natural person or entity holding a winery direct shipper's permit and any manager, agent, servant, officer, or employee thereof.

B. For purposes of this regulation, the term "personal consumer" has the meaning set forth in section 44-3-103(36), C.R.S.

C. Subject to the requirements and limitations in section 44-3-104, C.R.S., a permittee may ship or deliver only wine that it produced or bottled to a personal consumer located in Colorado.

D. A winery direct shipper's permittee shall not engage in any in-person sale (as defined in section 44-3-103(52), C.R.S.) of wine to be shipped or delivered to a consumer in the State of Colorado, except at the licensed premises of a permittee's licensed winery or limited winery, or at an approved sales room of a licensed winery or limited winery that also has received a winery direct shipper's permit.

E. In-person sales (as defined in section 44-3-103(52), C.R.S.) of wine to be shipped or delivered to a consumer in the State of Colorado, shall also be allowed upon the licensed premises associated with a festival permit validly held by a licensed winery or limited winery.

Regulation 47-200. Petitions for Statements of Position and Declaratory Orders Concerning the Colorado Liquor Code, Colorado Beer Code, Special Event Code, or Colorado Liquor Rules.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(R), and 24-4-105(11), C.R.S. The purpose of this regulation is to establish clear and comprehensive procedures and considerations required for a statement of position and/or a declaratory order.

A. Statements of Position. Any person may petition the Division for a statement of position concerning the applicability to the petitioner of any provision of the Colorado Liquor Code, Colorado Beer Code, Special Event Code, or Colorado Liquor Rules.

B. Service of Petition for Statement of Position. A letter for petition for a statement of position shall be served on the Division by mailing or emailing such petition to the Division with a copy sent on the same date to the local licensing authority in the county or municipality where the petitioner's licensed premises or proposed licensed premises are located, if applicable. Each petition for a statement of position shall contain a certification that the service requirements of this paragraph have been met.

C. Time to Respond. The Division shall respond to a petition for statement of position in writing within forty-five (45) days of receiving such petition and set forth its position and the reasons therefore, or the grounds on which the division declines to provide a statement of position, pursuant to section 24-4-105(11), C.R.S., and/or paragraph (G) of this regulation.

D. Declaratory Orders. Any person who has petitioned the Division for a statement of position and who is dissatisfied with the statement of position may petition the state licensing authority within forty-five (45) days of the issuance of the statement of position for a declaratory order pursuant to section 24-4-105(11), C.R.S. Furthermore, any person who has not received a response within forty-five (45) days, may petition the state licensing authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. The parties to any petition for a declaratory order pursuant to this regulation shall be the petitioner and the Division.

E. Requirements of Petition for Declaratory Order. Each petition for a declaratory order shall set forth the following:

1. The name and address of the petitioner; whether the petitioner is licensed pursuant to the Colorado Liquor Code, Beer Code, or Special Events Code and if so, the type of license or permit and address of the licensed premises.

2. The statute, rule, or order to which the petition relates.

3. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule or order to which the petition relates.

4. A concise statement of the legal authorities if any, and such other reasons upon which petitioner relies.

5. A concise statement of the declaratory order sought by the petitioner.

F. Service. A petition for a declaratory order shall be served on the state licensing authority by mailing such petition to the state licensing authority with a copy of the petition sent on the same date to the Division, the local licensing authority in the county or municipality where the petitioner's licensed premises or proposed licensed premises are located, and to the Revenue & Utilities Section of the Colorado Department of Law. Each petition for a declaratory order shall contain a certification that the service requirements of this paragraph have been met.

G. Acceptance. The state licensing authority will determine whether to entertain any petition for declaratory order. If the state licensing authority decides it will not entertain a petition for declaratory order, it shall promptly notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

1. The petitioner has failed to petition the Division for a statement of position, or if a statement of position has been issued, the petition for declaratory order was filed with the state licensing authority more than forty-five (45) days after issuance of the statement of position.

2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule or order in question.

3. The petition involves a subject, question or issue which is currently involved in a court action, an administrative action before the state or any local licensing authority, ongoing investigation conducted by the Division or a written complaint filed with the state licensing authority or Division.

4. The petition seeks a ruling on a moot or hypothetical question, having no applicability to the petitioner.

5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo.R.Civ.P. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule or order.

H. Determination. If the state licensing authority determines that it will entertain the petition for declaratory order, it shall promptly so notify all parties involved, and the following procedures shall apply:

1. The state licensing authority may expedite the hearing, where the interests of the petitioner will not be substantially prejudiced thereby, by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing. Any such request for additional information shall be served on all parties.

2. If the state licensing authority determines that an evidentiary hearing or legal argument is necessary to a ruling on the petition, the state licensing authority shall issue a Notice to Set to all parties and on the date so set, a hearing shall be conducted in conformance with section 24-4-105, C.R.S.

3. In ruling on a petition for declaratory order, the state licensing authority may take administrative notice of general, technical or scientific facts within its knowledge, so long

as the fact is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to controvert the fact so noticed.

4. Every declaratory order shall be promptly decided and issued in writing, specifying the basis in fact and law for the order.

5. Any other interested person may seek leave of the state licensing authority to intervene in the proceeding and such leave may be granted if the licensing authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.

6. A declaratory order shall constitute final agency action subject to judicial review pursuant to section 24-4-106, C.R.S.

I. Record Retention and Reliability. Files of all requests, statements of position, and declaratory orders will be maintained and relied upon by the Division for a period of five (5) years, unless the statement of position or declaratory order is superseded by a statutory or regulatory change, amended by the division, or amended or reversed by the state licensing authority. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

Regulation 47-300. Change in Class of License.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(a), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(R), C.R.S. The purpose of this regulation is to establish procedures for a licensee requesting to change its license class, and provide clarity regarding a licensee's status pending this change.

A. A request for a change in the class of license from that presently held by a licensee shall be considered an application for a new license and subject to the requirements of sections 44-3-311, C.R.S and 44-3-313, C.R.S.

B. Repealed.

C. A new application to change the class of license shall not prohibit a licensee from operating under the terms and conditions of the old license, while its application for change in class is pending. Upon issuance of the new license, the licensee may continue the sale of the alcohol beverage inventory that was purchased under the old license, as long as the new license authorizes the sale of the same type of alcohol beverages. However, nothing herein shall authorize a licensee to sell a type of alcohol beverage unless specifically authorized to do so by the license it holds.

Regulation 47-302. Changing, Altering, or Modifying Licensed Premises.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44- 3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(D), C.R.S. The purpose of this regulation is to establish procedures for a licensee seeking to make material or substantial alterations to the licensed premises, and provide factors the licensing authority must consider when evaluating such alterations for approval or rejection.

A. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the latest approved plans and specifications on file with the state and local licensing authorities without application to, and the approval of, the respective licensing authorities.

For purposes of this regulation, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior approval, shall include, but not be limited to, the following:

1. Any increase or decrease in the total size or capacity of the licensed premises.

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the sale or distribution of alcohol beverages within the licensed premises.

3. Any substantial or material enlargement of a bar, relocation of a bar, or addition of a separate bar. However, the temporary addition of bars or service areas to accommodate seasonal operations shall not require prior approval unless the additional service areas are accompanied by an enlargement of the licensed premises.

4. A temporary outside service area located on a sidewalk owned by a municipality, and that the licensee possesses in accordance with subsection (B)(2) of this regulation, may be approved by the state and local licensing authorities upon the annual filing of a temporary modification of premises application, due at the time of initial application or at the time of renewal, on a form approved by the State Licensing Authority, and payment of the associated fee as set forth in Regulation 47-506, provided that:

    a. the proposed temporary outside service area located on a sidewalk is immediately adjacent to the licensed premises;

    b. The licensed premises, as temporarily modified, will comprise a definite contiguous area; and

    c. Plans and specifications identifying the temporary outside service area located on a sidewalk accompany the form and fee.

5. Any material change in the interior of the premises that would affect the basic character of the premises or the physical structure detailed in the latest approved plans and specifications on file with the state and local licensing authorities. However, the following types of modifications will not require prior approval, even if a local building permit is required: painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment; and any non structural remodeling where the remodel does not expand or reduce the existing area designed for the display or sale of alcohol beverage products.

6. The destruction or demolition, and subsequent reconstruction, of a building that contained the retailer's licensed premises shall require the filing of new building plans with the local licensing authority, or in the case of manufacturers and wholesalers, with the state licensing authority. However, reconstruction shall not require an application to modify the premises unless the proposed plan for the newly-constructed premises materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications detailed in the latest approved plans and specifications on file with the state and local licensing authorities.

7. Nothing herein shall prohibit a licensee, who is otherwise not eligible for an optional premises permit or optional premises license, from modifying its licensed premises to include in the licensed premises a public thoroughfare, if the following conditions are met:

a. The licensee has been granted an easement for the public thoroughfare for the purpose of transporting alcohol beverages.

b. The public thoroughfare is authorized solely for pedestrian and non-motorized traffic.

c. The inclusion of the public thoroughfare is solely for the purpose of transporting alcohol beverages between licensed areas, and no sale or consumption will occur on or within the public thoroughfare.

d. Any other conditions as established by the local licensing authority.

8. The addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.

9. Modification of the licensed premises to include a communal outdoor dining area, subject to the requirements of section 44-3-912, C.R.S.. and Regulation 47-1103.

B. In making its decision with respect to any proposed changes, alterations or modifications, the licensing authority must consider whether the premises, as changed, altered or modified, will meet all of the pertinent requirements of the Colorado Liquor or Beer Codes and related regulations. Factors to be taken into account by the licensing authority shall include, but not be limited to, the following:

1. The reasonable requirements of the neighborhood and the desires of the adult inhabitants.

2. The possession, by the licensee, of the changed premises by ownership, lease, rental or other arrangement.

3. Compliance with the applicable zoning laws of the municipality, city and county or county.

4. Compliance with the distance prohibition in regard to any public or parochial school or the principal campus of any college, university, or seminary.

5. The legislative declaration that the Colorado Liquor and Beer Codes are an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.

C. If permission to change, alter or modify the licensed premises is denied, the licensing authority shall give notice in writing and shall state grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the licensing authority within fifteen (15) days after the date of notice.

D. This regulation shall be applicable to the holder of a manufacturer's license as specifically defined in Section 44-3-402, C.R.S., or a limited winery defined in section 44-3-403, C.R.S, only if the physical change, alteration, or modification involves any increase or decrease in the total size of the licensed premises, including the addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.. Except, any change, alteration, or modification of a sales room, shall be reported in accordance with subsection (A).

E. The state licensing authority shall NOT impose any additional fees for the processing or review of an application for a modification of premises for the holder of a manufacturer’s license, except for applications to modify the premises through the addition of a noncontiguous location to the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S.

F. Due to public health concerns raised by the presence COVID-19 in Colorado, a licensee may apply to temporarily modify its licensed premises to facilitate social distancing by employees and customers and to facilitate compliance with the requirements of applicable public health orders (*See* Regulation 47-1102).

1. If permitted by the relevant local licensing authority, the temporary premises modification may include expansion of the licensed premises into outside areas that the licensee possesses in accordance with subsection (B)(2) of this regulation, provided that:

   a. Any outside area proposed to be included in the licensed premises, as temporarily modified, is contiguous or adjacent to the licensed premises and appropriately monitored by the licensee;

   b. The licensed premises, as temporarily modified, will comprise a definite contiguous area;

   c. The licensee will designate the boundaries of the licensed premises, as temporarily modified, using barriers approved by the local licensing authority and state licensing authority and post warning signs in areas visible to the public, including all points of ingress and egress, regarding laws against public consumption of alcohol beverages;

   d. The licensed premises, as temporarily modified, will not encroach upon or overlap with the licensed premises of any other licensee;

   e. The licensed premises, as temporarily modified, complies with local building and zoning laws; and

   f. The licensed premises, as temporarily modified, complies with all other restrictions and requirements imposed by the Colorado Liquor Code and Rules.

2. A temporary modification of a licensed premises pursuant to this paragraph (F) may be approved by the state and local licensing authorities after the filing of a temporary modification of premises application on a form approved by the State Licensing Authority, including plans and specifications of the licensed premises, as temporarily modified, and a one-time payment of the modification of licensed premises fee set forth in Regulation 47-506.

3. Any temporary modification approved pursuant to this paragraph (F) shall expire on May 31, 2022, unless the relevant local licensing authority imposes an earlier expiration date. A licensee is not required to pay an additional modification of licensed premises fee or obtain approval to remove a temporary modification to the licensed premises upon expiration of this paragraph (F).

4. Nothing in this regulation requires a local licensing authority to allow temporary premises modifications in response to COVID-19. A local licensing authority that allows temporary premises modifications may establish an earlier expiration date for any temporary modifications issued in the relevant jurisdiction and may establish additional requirements for temporary modifications that are at least as restrictive as the requirements in this paragraph (F).

5. This subsection (F) is effective until May 31, 2022 and is repealed effective June 1, 2022.

Regulation 47-303. License Renewal.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(C), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), 44-3-302, 44-3-501, and 44-4-105, C.R.S. The purpose of this regulation is to clarify and establish procedures and deadlines for a licensee that is applying to renew its license in accordance with section 44-3-302, C.R.S.

A. No one other than the license holder, or their duly-authorized representative, may file an application to renew the license with local and state licensing authorities.

B. At least ninety (90) days before the expiration date of an existing license, the State Licensing Authority shall notify the licensee of the expiration date by sending notice to the most recently provided email address and/or mailing address for the licensee.

C. A complete renewal application shall include evidence that the licensee remains in possession of the licensed premises by ownership, lease, rental, or other arrangement at the time of application. An agreement that may lapse within the new license year neither automatically disqualifies the licensee from renewing, nor automatically invalidates the license. However, this provision does not preclude the state or local licensing authority from initiating any action as provided by law to suspend or revoke a license for loss of possession of the licensed premises.

D. Nothing herein authorizes a licensee to purchase, sell, or serve alcohol beverages with an expired license, except as authorized in subparagraphs E, F(2), and G(3) of this regulation. Licensed privileges are not restored until and unless the applicable requirements of subparagraph F(2) and/or G(3) of this regulation are met.

E. Application for the renewal of an existing license shall be made to the local licensing authority not less than forty-five (45) days prior to the date of expiration and to the state licensing authority not less than thirty (30) days prior to the date of expiration. The state or local licensing authority may waive these requirements for good cause. Once an application for renewal has been filed with the local licensing authority, or the state licensing authority for state only licenses, the licensee may continue to operate until final agency action.

F. License expired for not more than ninety (90) days.

1. A licensee whose license has not been expired for more than ninety (90) days may file a late renewal application upon the payment of a non-refundable late application fee to the local licensing authority, and/or the state licensing authority.

2. A licensee who files a late renewal application and pays the requisite fees may resume operation until the state and/or local licensing authorities have taken final agency action to approve or deny such licensee's late renewal application.

G. License expired for more than ninety (90) days, but less than one hundred eighty (180) days.

1. Any licensee whose license has been expired more than ninety (90) but less than one hundred eighty (180) days, may submit to the local licensing authority, or state licensing authority for state only licenses, an application:

a. For a new license, subject to section 44-3-301, C.R.S., or

b. For a reissued license, subject to subsection 44-3-302(2)(d), C.R.S.

2. The local licensing authority, or state licensing authority for state-only licenses, shall have sole discretion to determine whether to allow a licensee to apply for a reissued license. If

the local licensing authority, or state licensing authority for state-only licenses, does not allow the licensee to apply for a reissued license, then the licensee must apply for a new license.

3. A licensee applying for a reissued license may resume operation pending final agency action by all of the relevant licensing authorities to approve or deny the licensee's application only if:

   a. The local licensing authority, or state licensing authority for state-only licensee, allows the licensee to apply for a reissued license;

   b. The licensee submits the application, along with payment for the required fees and fines, to the local licensing authority or the state licensing authority for state-only licensees; and

   c. The local licensing authority, or the state licensing authority for state-only licenses, accepts the reissued license application and required fees and fines.

H. Any licensee whose license has been expired for one hundred eighty (180) days or more must apply for a new license pursuant to section 44-3-311, C.R.S., and shall not purchase or sell any alcohol beverage until all required licenses have been obtained, unless otherwise authorized under these regulations.

I. A licensee that is in lawful possession of its alcohol beverage inventory at the time it receives approval from the local licensing authorities for an application for the late license renewal pursuant to paragraph (F) of this regulation, or for an application for new license of reissued license pursuant to paragraph (G) of this regulation, may continue to possess its alcohol beverage inventory.

Regulation 47-305. Transfers – Wholesaler Confirmation.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), and 44-3-303(1)(d), C.R.S. The purpose this regulation is to provide guidance to applicants and licensing authorities regarding statutory requirements for transfers under subsection 44-3-303(1)(d), C.R.S. and what is satisfactory to demonstrate fulfillment of the requirement that all wholesalers have been paid in full prior to approval of a transfer application.

A. In accordance with section 44-3-303(1)(d), C.R.S., the applicant shall deliver a confirmation to each wholesaler licensed under this article, including brew pubs, distillery pubs, vintner's restaurants and limited wineries, who has sold alcohol beverages to the transferor-licensee within the preceding one hundred eighty (180) calendar days, in the form and substance approved by the Division.

B. The confirmation may be delivered via email, so long as the applicant can prove receipt of the email by the wholesaler. If the applicant cannot prove receipt be email, the confirmation shall be delivered via United States mail or other common carrier with a minimum of a return receipt to the last known business address of the wholesaler, attention: credit department. The confirmation shall be deemed received by a wholesaler upon the third (3rd) day following the date on which the confirmation is deposited in the United States mail or common carrier or the date on the return receipt.

C. Upon delivery of a confirmation to a wholesaler, the transferor-licensee shall not purchase alcohol beverage on credit or accept an offer or extension of credit from the wholesaler and shall effect payment upon delivery of the alcohol beverage from the wholesaler. Allowed payments include

cash, credit or debit cards, check, money orders, certified check, EFT transfer and any other method of payment approved by the Division.

D. A wholesaler shall have fifteen (15) business days upon receipt of a confirmation to complete and return the confirmation to the applicant, in the same manner and extent as specified in section B of this regulation. If a wholesaler does not complete and return the confirmation within the fifteen (15) business day period of time, the wholesaler shall be deemed paid in full solely for purposes of transferring the license.

E. Nothing within this regulation shall prohibit or restrict a local licensing authority from issuing a temporary permit or from processing the transfer application. However, a transfer shall not be approved unless the transferor-licensee is in compliance with this regulation.

F. The applicant, transferor-licensee and/or its agent and assign, and each wholesaler shall act in good faith and fair dealing with each other.

Regulation 47-312. Change of Location.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(D), 44-3-202(2)(a)(I)(R), 44-3-301(9), 44-3-309, and 44-3-410, C.R.S. The purpose of this regulation is to establish procedures for a licensee requesting to change the location of the licensed premises, and provide factors the licensing authority must consider when evaluating a change for approval or rejection.

A. When a licensee desires to change the location of its licensed premises from the location named in an existing license, it shall make application to the applicable licensing authorities for permission to change location of its licensed premises, except that an application for change of location shall not be required for the demolition and reconstruction of the building in which the original licensed premises was located.

B. Applications to change location shall be made upon forms prepared by the state licensing authority and shall be complete in every detail. Each such application shall state the reason for such change, and in case of a retail license, shall be supported by evidence that the proposed change will not conflict with the desires of the adult inhabitants and the reasonable requirements of the neighborhood in the vicinity of the new location.

1. An application to change the location of a retail license shall contain a report of the local licensing authority of the town, city, county, or city and county in which the license is to be exercised. Such report shall describe the findings of the local licensing authority concerning the reasonable requirements of the neighborhood and the desires of the adult inhabitants with respect to the new location, except that pursuant to section 44-3-312(2)(a), C.R.S., the needs of the neighborhood need not be considered for a change of location for a club license.

2. When a licensee is required by lease, lease renewal, condemnation, or reconstruction to move its licensed premises to a new address that is located within the same shopping center, campus, fairground, or similar retail center, the local or state licensing authority may, at its discretion, waive the neighborhood needs and desires assessment requirements should it determine that the new location remains within the same neighborhood as the old location.

C. For retail licenses, no change of location shall be permitted until the state licensing authority has, after approval of the local licensing authority, considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once

at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. A local licensing authority may, at its discretion, extend the time to change the location of the licensed premises, for good cause shown. However, no extension that is beyond twelve (12) months from the original date of approval shall be granted.

D. For those licensees not subject to approval by the local licensing authority, no change of location shall be permitted until the state licensing authority has considered the application and such additional information as it may require, and approved of such change. The licensee shall, within sixty (60) days of approval, change the location of its licensed premises to the place specified therein. Once at the new location, the licensee shall no longer conduct the manufacture or sale of alcohol beverages at the former location. The state licensing authority may, at its discretion, extend the time to change the location, for good cause shown. However, no extension that is beyond twelve months from the original date of approval shall be granted.

E. Once the licensee has changed the location of its licensed premises, the permit to change location shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains until the license is renewed.

F. For retail licenses no change of location shall be allowed except to another location within the same city, town, county, or city and county in which the license was originally issued. Except, a retail liquor store licensed on or before January 1, 2016, may apply to move its permanent location to another place within or outside the municipality or county in which the license was originally granted. Once approved, the retail liquor store licensee shall change the location of its premises within three (3) years after such approval.

1. A change of location for a fermented malt beverage retailer or retail liquor store will be approved only if the new location satisfies the distance requirements in section 44-3-301(9)(a)(I)(B)-(C), C.R.S.

2. It is unlawful for a licensee to sell any alcohol beverage at a new location until permission is granted by the state licensing and local licensing authorities.

G. Upon application for change of location, public notice shall be required by the local licensing authority in accordance with Section 44-3-311, C.R.S.

H. A licensee located within 500 feet from any public or parochial school or principal campus of any college, university or seminary may apply for a change of location within the same prohibited area in accordance with the requirements of section 44-3-301(9), C.R.S., but may not apply for a change of location within any other prohibited area as defined within section 44-3-313, C.R.S.

I. A licensee that is in lawful possession of its alcohol beverage inventory at the time it receives approval from the local and state licensing authorities to change the location of its licensed premises, may continue to possess its alcohol beverage inventory for sale at the new location.

Regulation 47-322. Unfair Trade Practices and Competition.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-102, 44-3-103, 44-3-201(1), 44-3-202(1)(b), 44-3-202(2)(a), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(C), 44- 3-202(2)(a)(I)(G), 44-3-202(2)(a)(I)(R), 44-3-308, and 44-4-102, C.R.S. The purpose of this regulation is to establish certain permitted and prohibited trade practices between suppliers and retailers in order to clarify and prevent statutorily prohibited financial assistance between tiers.

Suppliers and their agents or employees may not attempt to control a retail licensee's product purchase selection by engaging in unfair trade practices or competition.

Nothing in this regulation shall apply to non-profit, charitable, or other qualifying organizations, when such organization conducts licensed events pursuant to the requirements contained in article 5 of title 44 and related regulations, and such organization does not otherwise hold a retail license pursuant to article 3 or 4 of title 44. However, nothing herein shall authorize any financial assistance for the purpose of altering or influencing an organization's product selection for said events.

Retailers may not accept any prohibited financial assistance as described herein, and suppliers are prohibited from directly or indirectly engaging in the following unfair practices:

A. Sales of alcohol beverages.

1. No vinous or spirituous liquor may be sold by a vinous or spirituous liquor manufacturer or wholesaler to a retail licensee below the laid-in cost of said vinous and spirituous liquor products.

2. No malt liquors or fermented malt beverages may be sold by a malt liquor/beverage manufacturer or wholesaler to a retail licensee below the laid-in cost of said malt liquor/beverage products.

3. Product cost per case will be determined utilizing a “Last In/First Out” basis unless a supplier has adequate records to verify that the actual cost of said products was less than the most recent shipment received.

4. A wholesaler's laid-in cost is defined as the actual proportionate invoice price and freight charge to that wholesaler or distributor, plus applicable state and federal taxes of any given product. An in-state manufacturer's laid-in cost is defined as the actual costs of the manufacturer, plus applicable state and federal taxes.

5. Certain sales of alcohol beverages below cost are not designed or intended to influence or control a retailer's product selection. The following exceptions to below cost product sales are therefore permitted:

a. Product lines that will be discontinued by a supplier for a minimum of at least one year may be sold below cost at market value.

b. A wholesaler's aged inventory of vinous and spirituous liquors for which the current market value has fallen substantially below the wholesaler's original purchase cost, after a period of twelve (12) months, and for which a recovery of the original cost through an increase in market value is unlikely. For aged inventories sold to retailers below their cost due to market-below-cost conditions, wholesaler's shall maintain the following records for a minimum of three years:

i. Original purchase invoice.

ii. Aged inventory schedule verifying slow sales and drop in market value.

iii. Other factors that had an effect on a decrease in market value (e.g. overproduction, poor media critique).

c. Products for use, but not for resale by the drink, by a non-profit organization or similar group, as defined in section 44-5-102, C.R.S., on a retailer's licensed premises, may be invoiced to a retailer at no cost. The invoice for said products must detail the products provided and the group for whose benefit it is provided. At the conclusion of the organization's event any unused product must be

returned to the wholesaler, brew pub, distillery pub, or vintner's restaurant, or invoiced at a minimum of laid in cost to the retailer.

6. Suppliers authorized to sell alcohol beverages to licensed retailers pursuant to articles 3 or 4 of title 44, may offer product discounts to licensed retailers that meet the requirements of paragraph A, and the following additional conditions:

   a. “Product Discount” shall mean a price reduction negotiated between supplier and retailer before the sale and delivery of alcohol beverage products, and where a description of the products subject to discount, and the dollar amount of the discount, is finalized and recorded in the supplier's sales records.

   b. Discount programs are not subject to time limitations, and any discount program that will affect more than a single sales transaction and sales invoice are permitted, provided that no invoice, by itself, reflects a zero cost or below-cost sale.

   c. Product discounts that are conditioned upon a retailer's commitment to prominently display the supplier's products are prohibited.

7. Any rebate, whereby a monetary value is returned by a supplier to a retailer, in cash, account credit, or free goods, as a reward or compensation for meeting a pre-specified purchase goal, is prohibited.

8. Suppliers authorized to sell alcohol beverages to licensed retailers pursuant to articles 3 or 4 of title 44, may offer account credits to licensed retailers under the following conditions:

   a. Any account credit offered on previously issued sales invoices must be in direct relation to previous product purchases, lawful returns pursuant to this regulation or other legitimate commercial transactions as authorized under articles 3 or 4 of title 44, C.R.S. and related regulations.

   b. Credits that cannot be connected with authorized business transactions, as described herein, will be considered unlawful financial assistance, and are therefore prohibited.

   c. Both the seller and retail licensee shall maintain copies of sales invoices and evidence of payment related to the transactions described in this section, in accordance with 44-3-701, C.R.S., and for the time frame specified in Regulation 47-700.

9. Wholesaler invoices provided to retail liquor store, fermented malt beverage off-premises, and liquor licensed drugstore licensees must clearly designate a price paid for each product, which shall not be less than the wholesaler’s laid-in cost of each product. At no point may a retail liquor store, fermented malt beverage off-premises, or liquor licensed drugstore licensee receive any products from a wholesaler at less than laid-in cost.

B. On-site sales promotions

1. Suppliers may conduct an on-site product sales promotion at a retailer's licensed premises subject to the following conditions:

   a. Free goods of any value may be provided to the public, provided that a supplier's representative or authorized agent, who is not the retailer or a retail

employee/agent, is physically present to award free goods to the public. Suppliers shall not require a customer purchase in order for the customer to receive the free goods.

b. If only consumer advertising specialties, as described in Regulation 47-316(A), are to be provided at the promotion, neither suppliers or their agents need be present for their distribution.

c. Suppliers are prohibited from providing anything other than the items specified in Regulation 47-316(A) to retailers or their employees at on-site product sales promotions.

d. Suppliers may provide or pay for any media announcement of an on-site product sales promotion that primarily advertises the product, the location, and the date and time of the promotion. The name of the retail outlet may also be mentioned.

e. Retailers may at their own cost advertise in advance a supplier's product sales promotion.

f. No supplier may require that a retailer change its product selection as a condition of conducting a product sales promotion. Retailers may at their option change their product selection in support of a product sales promotion.

g. Competitors' products may not be excluded during a product sales promotion.

2. On-Premises Sampling. A supplier-sponsored consumer sampling of alcohol beverages may be held at a retailer’s premises licensed for on-premises consumption for the purpose of product sales promotion under the following conditions:

a. A supplier-sponsored consumer sampling held at the licensed premises of a retailer licensed for on-premises consumption shall include only the alcohol beverages the retailer is licensed to sell.

b. The supplier shall only offer its alcohol beverage product to consumers during a supplier-sponsored consumer sampling.

c. A retailer or supplier shall not impose any charge to the consumer to enter or participate in the sampling.

d. Product used for sampling must be invoiced by the supplier, who is authorized to sell the alcohol beverages to licensed retailers pursuant to article 3 or 4 of title 44, as if sold to the retailer.

e. If all product listed in the sales invoice is consumed as permitted herein, the supplier may issue the retailer a credit against the entire amount of the original invoice.

f. Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the wholesaler’s cost.

g. The supplier must be present and shall be the person who provides the sample to a consumer who is twenty-one (21) years of age or older.

h. Suppliers may provide or pay for any media announcement of a supplier-sponsored consumer sampling that primarily advertises the product, the location,

and the date and time of the sampling. The name of the retail outlet may also be mentioned.

3. Off-Premises Giveaway. A supplier-sponsored consumer giveaway of sealed malt liquor or fermented malt beverages may be held at a retailer's premises licensed for off-premises consumption for the purpose of product sales promotion under the following conditions:

   a. A supplier-sponsored consumer giveaway held at the licensed premises of a retailer licensed for off-premises consumption is limited to either sealed malt liquor or fermented malt beverages, whichever the retailer is licensed to sell.

   b. The supplier shall only offer its malt liquor or fermented malt beverages product to consumers during a supplier-sponsored consumer giveaway.

   c. A retailer or supplier shall not impose any charge to the consumer to enter or participate in the giveaway.

   d. Product used for the giveaway must be invoiced by a supplier, who is authorized to sell malt liquor or fermented malt beverage to licensed retailers pursuant to article 3 or 4 of title 44, as if sold to the retailer.

   e. If all product listed in the sales invoice is given away as permitted herein, the supplier may issue the retailer a credit against the entire amount of the original invoice.

   f. Any remaining product must be returned to the wholesaler, or sold to the retailer at a minimum of the wholesaler's cost.

   g. The supplier must be present and shall be the person who gives the sealed container to consumers. The supplier must verify that each consumer is of lawful age prior to giving away the sealed container.

   h. Suppliers may provide or pay for any media announcement of a supplier-sponsored consumer giveaway that primarily advertises the product, the location, and the date and time of the giveaway. The name of the retail outlet may also be mentioned.

   i. The maximum amount of malt liquor or fermented malt beverages given to each consumer shall not exceed twenty-six (26) ounces.

C. Sponsored events: Lawful Advertising

1. Suppliers may provide sponsorship fees to advertise at charitable or civic events that are temporary in nature, where the supplier's sponsorship fee affords the supplier exclusive signage rights at the retail premises, and where sponsorship proceeds are received directly by the charity or civic endeavor, and not by a licensed retailer.

2. Suppliers may provide a sponsorship fee to advertise in ballparks, resorts, racetracks, stadiums, concert venues or entertainment districts as long as such sponsorship fee is not paid to a person or entity holding a retail license at such venue, directly or indirectly, and is not intended to influence the product selection of such retailer. The retailer's product selection for the event may not change as a condition of the event sponsorship and the products of the supplier's competitors may not be excluded.

3. Suppliers may provide or pay for any media announcement of a sponsored event that primarily advertises the product, the location, and the date and time of the event. The name of the retail outlet may also be mentioned.

4. Suppliers providing sponsorship fees to advertise at the aforementioned venues may also provide those items and services authorized under regulations 47-316, 47-320, and 47-322 to the licensed retailers at, or in conjunction with, the sponsored event.

D. Retailer entertainment

Suppliers may provide food, beverages, entertainment, recreation, or the costs associated with the same, to a retailer and its employees at meetings, social events, conferences, trainings, or other similar events, subject to the following:

1. Food, beverages, entertainment, or recreation are provided when, and where, suppliers or supplier representatives are participating or present.

2. Entertainment may include tickets or admission fees for athletic or sporting events, concerts, artistic performances, festivals, and similar forms of entertainment.

3. Recreation may include fees associated with participation in athletic or sports-related activities.

4. For any supplier-provided retailer entertainment, the supplier is prohibited from providing the costs associated with lodging and travel, other than nominal ground transportation.

5. Suppliers must maintain records sufficient to verify those entertainment expenses associated with retailers and their employees. Failure to maintain such records shall not be a per se violation of this regulation, but could constitute a violation of section 44-3-701, C.R.S. or Regulation 47-700.

E. Alcohol Beverage Samples for Retailers

1. Wholesalers, or those licensed to sell at wholesale pursuant to article 3 and 4 of title 44, may furnish or give a limited amount of alcohol beverage samples to retailers licensed solely for on-premises under the following conditions:

   a. The retailer's class of liquor license permits the sale of the type of beverage offered as a sample.

   b. The providing of samples is not conditioned upon future purchases of alcohol beverages, or as compensation for any previous alcohol beverage purchase.

   c. The retailer has not purchased the product SKU of the alcohol beverage offered as a sample within the previous six (6) months.

   d. The wholesaler provides not more than 3.0 liters per brand of spirituous liquor, not more than 3.0 liters per brand of vinous liquor, and not more than one six-pack, or 72-ounce equivalent, per brand of malt liquor or fermented malt beverage so packaged. If a particular brand is not available in a size meeting the quantity limitations stated herein, a wholesaler may furnish the next available larger size.

   e. Only the retailer and its employees are authorized to taste or test those alcohol beverages given as samples, as provided herein. Nothing shall authorize a

retailer to sell any samples provided or to use such the same for consumer tastings.

2. Wholesalers, or those licensed to sell at wholesale pursuant to article 3 and 4 of title 44, may furnish or give a limited amount of alcohol beverage samples to retailers licensed solely for off-premises under the following conditions:

   a. The retailer's class of liquor license permits the sale of the type of beverage offered as a sample.

   b. The providing of samples is not conditioned upon future purchases of alcohol beverages, or as compensation for any previous alcohol beverage purchase.

   c. The wholesaler provides not more than 3.0 liters per brand of spirituous liquor, not more than 3.0 liters per brand of vinous liquor, and not more than one six-pack per brand of malt liquor or fermented malt beverage so packaged. If a particular brand is not available in a size meeting the quantity limitations stated herein, a wholesaler may furnish the next available larger size.

   d. The wholesaler is present at the time of consumption and maintains sole possession of the container after sampling. Samples, in the quantities described herein, may be left in the retailer's possession if the container seal is left intact, but must be removed from the licensed premises at the end of the day.

F. Wholesaler Trade Shows and Trade Events

1. For purposes of this Regulation 47-322(F):

   a. “Trade show” means an event to which more than fourteen (14) authorized attendees are invited and which is organized and conducted by or on behalf of one or more wholesalers, as defined in Regulation 47-100(I), for the purpose of exhibiting and providing information regarding alcohol beverage products and services offered by the participating wholesaler(s), to retailers licensed to buy such alcohol beverage products from the wholesaler(s), and to provide samples of such alcohol beverage products for consumption during the event.

   b. “Trade event” means an event to which fourteen (14) or fewer authorized attendees are invited and which is organized and conducted by or on behalf of one or more wholesalers, as defined in Regulation 47-100(I), for the purpose of exhibiting and providing information regarding alcohol beverage products and services offered by the participating wholesaler(s), to retailers licensed to buy such alcohol beverage products from the wholesaler(s), and to provide samples of such alcohol beverage products for consumption during the event.

   c. “Hosting on-premises retailer” means a retailer licensed for on- premises consumption on whose licensed premises a trade show or trade event is held.

   d. “Authorized attendees” means, and shall be limited to:

      i. Officers, directors, and employees of a retail licensee that is licensed to sell the type of alcohol beverages to be exhibited and sampled during the trade show or trade event;

      ii. Other individuals affiliated with one or more retail licensees as independent consultants or experts; and

iii. No more than one adult guest of each individual authorized to attend the trade show or trade event under subparagraphs (d)(i)-(ii).

2. Trade shows or trade events are subject to the following requirements and limitations:

a. A trade show or trade event shall take place only with the permission of, and on the licensed premises of, a hosting on-premises retailer that is licensed to sell the type of alcohol beverages to be exhibited and sampled during the trade show or trade event.

b. A trade show or trade event shall not be open to the general public, and shall be limited to authorized attendees registered (either in advance or at the door). The wholesaler(s) participating in the trade show or trade event shall maintain registration records containing, at a minimum, the date of the trade show or trade event, the name of the hosting on-premises retailer, the name of each authorized attendee who attended the trade show or trade event, and the name of the licensed retailer(s) with which each authorized attendee is associated. The registration records from the trade show or trade event shall be available for inspection by the Division during the trade show or trade event and shall be provided to the Division within ten (10) days of the conclusion of the trade show or trade event.

c. By agreement, the participating wholesaler(s), the hosting on-premises retailer or both (including such entities' agents and employees) may serve samples of alcohol beverage product(s) to authorized attendees during a trade show or trade event. Such samples shall be provided to authorized attendees free of charge.

i. The entity or entities responsible for the serving of the alcohol beverage products during a trade show or trade event shall be responsible for any violations of the Liquor Code, Beer Code, or Special Event Code, and/or any regulation promulgated pursuant thereto, related to the serving of alcohol beverage products during a trade show or trade event, including, but not limited to, violations related to service of alcohol beverages to a visibly intoxicated person or to a person under twenty-one years of age.

d. Alcohol beverage products used for a trade show or trade event must comply with all applicable product registration and labeling requirements, including those set forth in Regulation 47-904(F) and (G).

e. All taxes, fees and surcharges required by section 44-3-503, C.R.S., must be paid for all alcohol beverage products used in a trade show or trade event.

f. Invoices for alcohol beverage products used for a trade show or trade event must be clearly labeled as a "No-Cost Trade Show/Event Inventory Record" and shall be subject to the following requirements:

i. Any wholesaler participating in a trade show or trade event must invoice any alcohol beverage products to be used in the trade show or trade event to the hosting on-premises retailer. Notwithstanding any other rule or regulation to the contrary contained in 1 CCR 203-2, the wholesaler shall invoice the hosting on-premises retailer for alcohol beverage products to be used in a trade show or trade event at no cost.

ii. The hosting on-premises retailer must receive all wholesalers' invoice(s) for alcohol beverage products to be used in the trade show or trade

event prior to the commencement of the trade show or trade event, and shall retain such invoice(s) for their records.

iii. Any wholesaler(s) participating in a trade show or trade event shall provide the Division with copies of all invoice(s) to be issued in accordance with this paragraph (F)(2)(f) as an accounting for all the alcohol beverage products intended to be used during the trade show, and the anticipated drop-off and pick-up dates for such alcohol product, at least three (3) days prior to the commencement of the trade show.

iv. In order to account for unanticipated changes in the alcohol beverage products to be used during a trade show or trade event, any Wholesaler(s) participating in a trade show or trade event may provide the Division with an "Amended No-cost Trade Show/Event Inventory Record" before the commencement of the scheduled trade show or trade event, provided the wholesaler(s) complied with the provisions of paragraph (F)(2)(f)(iii) of this regulation in the first instance.

v. At the conclusion of the trade show or trade event, any alcohol beverage product(s) invoiced for use during the trade show or trade event (whether opened or unopened) shall be removed from the hosting on-premises retailer's licensed premises by the wholesaler(s), or destroyed.

A. Any alcohol beverage product(s) invoiced for use during the trade show or trade event remaining on the hosting on-premises retailer's licensed premises at the conclusion of the trade show or trade event, and awaiting wholesaler pick-up, must be held in a secure area of the hosting on-premises retailer's licensed premises, kept separate from, and clearly labeled to distinguish such alcohol beverage product(s) from, the host on-premises retailer's stock, by affixing a copy of the most current invoice issued pursuant to paragraph (F)(2)(f)(iii), or (F)(2)(f)(iv) of this regulation, and marking such invoice with the anticipated pick-up date of the alcohol beverage product(s), which shall be no more than thirty (30) days after the conclusion of the Trade Show or Trade Event.

B. Allowing any alcohol beverage product(s) invoiced for use during the trade show or trade event (whether opened or unopened) to remain on the hosting on-premises retailer's licensed premises after the conclusion of the thirty (30) day pick-up window allowed for in paragraph (F)(2)(f)(v)(A) above, shall be deemed a violation of this Regulation, for which both the wholesaler(s), and hosting on-premises retail licensee shall be responsible.

g. No delivery or exchange of alcohol beverage product(s) between a participating wholesaler and authorized buyer of same shall take place during the trade show or trade event.

h. A hosting on-premises retailer shall not be deemed to be receiving unlawful financial assistance from the wholesaler(s) participating in the trade show or trade event, so long as the hosting on-premises retailer does not directly benefit from the sale of any alcohol beverage product exhibited to or sampled by authorized attendees during the trade show or trade event.

i. All documents and information required to be provided to the Division pursuant to paragraphs (F)(2)(b) and (F)(2)(F) of this regulation, shall be provided using a method authorized by the Division (which, at the Division's discretion, may be through uploading the records to an online location specified by the Division or through electronic mail).

3. This Regulation 47-322(F) shall not apply to:

a. Events similar to those addressed in this Regulation that are organized and conducted as special events pursuant to, and in compliance with article 5 of title 44, the exemption set forth in section 44-5-108, C.R.S., provisions of article 3 of title 44 applicable to special events, and Regulations 47-1000 through 47-1022, 1 CCR 203-2.

b. Tastings conducted by a licensed winery pursuant to section 44-3-402(2), C.R.S.; by a limited winery, pursuant to section 44-3-403(2)(e), C.R.S.; by a distillery, pursuant to section 44-3-402(7), C.R.S.; by a beer wholesaler, pursuant to section 44-3-407(1)(b), C.R.S.; or as part of a festival permit, pursuant to section 44-3-404, C.R.S.

G. Consignment Sales and Lawful Product Returns

1. Wholesalers are prohibited from making consignment sales to retailers.

2. A consignment sale is an arrangement whereby a wholesaler invoices and delivers alcohol beverages to a retailer who is under no obligation to pay for such beverages until they are resold. Consignment sales also afford the retailer the right to return product to the wholesaler for any reason.

3. Wholesalers are permitted to accept a return of alcohol beverages previously sold to retailers for ordinary and usual commercial reasons and to provide account credit or product exchange. Such commercial reasons for return shall be limited to the following:

a. Defective products: Products qualifying under this exception are those that are upon delivery, or later become, unmarketable due to contamination or deterioration of product ingredients, leaking containers, damaged labels, or missing, damaged or compromised container seals.

b. Broken containers or short-filled containers/cases: Nothing shall prevent a retailer from making a claim for the replacement of alcohol beverages that were delivered by a wholesaler in a damaged or incomplete condition, and nothing shall prevent a wholesaler from granting credible claims.

c. Error in products delivered: Any discrepancy between a retailer's product order and the products delivered may be corrected by the wholesaler within a reasonable period after delivery.

d. Discontinued products: When a manufacturer or importer discontinues the production, importation, or market availability of a product, a retailer may return any remaining product to the original wholesaler. A retailer's decision to discontinue a product does not qualify.

e. Manufacturer's product change: When a manufacturer has changed the formula, proof, label or container of an alcohol beverage, wholesalers may withdraw the

product from the retailer's inventory and replace it with the newly-manufactured product.

f. Manufacturer's quality standards: To ensure freshness standards for malt liquor and fermented malt beverages, wholesalers, with retailer consent, may withdraw product from the retailer's inventory and replace it with new product, without additional charge, under the following conditions:

i. Out of freshness standard is defined as: a product that has a pre-printed freshness date on the alcohol beverage container that is no more than thirty (30) days away from the current date.

ii. The product to be withdrawn is undamaged and in its original packaging.

iii. The retailer purchased the original product from the wholesaler providing the replacement, or the current wholesaler is acting as an authorized successor wholesaler.

iv. The wholesaler replaces the product with the identical product SKU, the identical quantity, and the identical package, or with a product from the same manufacturer’s portfolio that is equal to or lesser in value to the original purchase.

v. A wholesaler may sell a product to another retailer that was picked up because it was within thirty (30) days prior to the freshness date. The sale of this replaced product to another retailer can only be done once.

g. Retailer's seasonal operation: For those retailers who are only open for business a portion of the year due solely to seasonal influences, or for venues that operate only during scheduled events, a wholesaler may remove and grant credit for those products that are likely to spoil or violate a manufacturer's freshness standards.

h. Wholesalers that have lawfully exercised their claim to a retailer's inventory as secured creditors.

i. Products in a retailer's inventory that may no longer be sold due to statutory or regulatory changes or disciplinary actions over which the wholesaler and retailer had no control.

j. Within thirty days of evidence of an expiration or a lawful surrender and cancellation of a retail liquor license by the state licensing authority.

k. Holders of special events permits that have unsold alcohol beverages after the licensed event.

4. A return of product for the following reasons does not qualify as a return for ordinary and usual commercial reasons:

a. A retailer's overstocked inventory or slow-moving products.

b. Products for which there is only a limited-time or seasonal demand, such as holiday decanters or seasonal brands.

H. Warehousing of products for a retailer

Wholesalers shall not furnish free warehousing to retailers by delaying delivery of alcohol beverages beyond the time that payment for the product is received or, if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended pursuant to 44-3-202(2)(b), C.R.S.

I. Product resets

Resets by a supplier are permitted, but a competitor's alcohol beverage products may not be disturbed during the reset process, unless the in-state seller of the competing products has been given 72 hours written notice, during normal and customary business hours, and is not present at the time designated for the reset activity. Suppliers may furnish a retailer with a recommended shelf plan or shelf schematic.

J. Equipment rentals

All equipment rentals by a supplier to a retailer must be at fair market value.

K. Other goods

Suppliers may not provide a retailer with any other goods below fair market value except those items expressly permitted by articles 3, 4, or 5 of title 44, C.R.S, and related regulations.

When a supplier also deals in items of commerce that are not regulated by articles 3, 4, or 5 of title 44, only the following restrictions shall apply:

1. The unregulated item(s) may not be provided as an inducement, or require purchase of alcohol beverages.

2. Any equipment or other goods provided free of charge (e.g. energy drink refrigerated coolers) shall not be provided in conjunction with alcohol sales or promotions.

L. Indirect financial assistance through third party arrangements

1. A supplier's furnishing of any equipment, supplies, services, money, or other things of value to a third party that is not licensed pursuant to article 3 or 4 of title 44, C.R.S. where the benefits resulting from such things of value flow to individual licensed retailers through written agreements or otherwise, is prohibited.

2. A supplier will not be in violation of this regulation when the unlicensed third party provides the prohibited item or service to a retailer without the supplier's knowledge, and the supplier could not have reasonably foreseen that the item or service would flow to a retailer.

3. Retailers that collude with unlicensed third parties to obtain prohibited financial assistance through a third party arrangement between a third party and a licensed supplier shall be in violation of this regulation.

4. It shall not be a violation for a supplier to furnish items or services to a retailer that are otherwise specifically authorized by regulation or any provision within articles 3 or 4 of title 44, C.R.S.

M. Value of Labor

1. Definitions for purposes of this subsection (L):

a. "Deliver" or "delivering" is the act of a supplier bringing and unloading its alcohol beverage product from its delivery vehicle onto the retailer's licensed premises or permitted retail warehouse storage location. "Deliver" or "delivering" does not include a supplier bringing and unloading its alcohol beverage product from a permitted retail warehouse storage location to a retailer's licensed premises.

b. "Merchandise" or "merchandising" is the act of organizing, constructing, maintaining, or stocking a display of alcohol beverage product or alcohol beverage product promotional materials, including alcohol beverage product signs, consumer advertising specialties, or point-of-sale advertising, within the retailer's licensed premises.

c. "Price stamp" or "price stamping" is the act of affixing the retail price of alcohol beverage product to its respective shelf, refrigerator, or any other similar location within the retailer's licensed premises.

d. "Rotate" or "rotating" is the act of moving alcohol beverage product from the rear to the front of any shelf, refrigerator, or similar location within the retailer's licensed premises.

e. "Service" or "servicing" is the act of replacing, staging, and/or tapping kegs within a retail premises. "Service" or "servicing" also includes performing necessary cleaning of alcohol beverage dispensing equipment, to the extent necessary for the maintenance of reasonable standards of purity, cleanliness, and health.

f. "Stock" or "stocking" is the act of placing or replenishing alcohol beverage product on any shelf, refrigerator, or similar location within the retailer's licensed premises.

2. In a supplier's sole discretion, and if allowed by the retailer, a supplier may deliver, merchandise, price stamp, rotate, service, and stock its alcohol beverage product on the retailer's licensed premises at no cost to the retailer.

a. A supplier is prohibited from materially disturbing another supplier's alcohol beverage product while delivering, merchandising, price stamping, rotating, servicing, or stocking its own alcohol beverage product.

b. A supplier may only service the portion of the retailer's alcohol beverage dispensing equipment used for dispensing its alcohol beverage product.

3. A retailer is prohibited from requiring a supplier to provide any labor to the retailer, including, but not limited to, merchandising, price stamping, rotating, servicing, or stocking activities, as an express or implied condition of the delivery, purchase, or future purchases between the supplier and retailer.

4. Unless otherwise permitted under this Regulation, the Liquor Code, or the Beer Code, or unless the retailer pays the supplier at the normal hourly rate of the employee performing the labor, a supplier is prohibited from providing to a retailer, and a retailer is prohibited from accepting from a supplier, any labor other than the kinds of labor described in subsection (L)(2) of this Regulation, including, but not limited to:

a. Cleaning, repairing, or otherwise maintaining the interior or exterior of a retailer's premises;

b. Operating the retailer's powered mechanical equipment, other than pallet jacks; or

c. Performing inventory for the retailer's records.

N. Prohibition.

1. Except as otherwise provided by the Colorado Liquor Code, Colorado Beer Code, or Colorado Liquor Rules, a supplier is prohibited from disturbing another supplier's alcohol beverage product.

Regulation 47-322(A)(9) is effective July 1, 2019.

Regulation 47-422. Arts License.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(R), and 44-3-419, C.R.S. The purpose of this regulation is to define "production and performances of an artistic or cultural nature" required to qualify for an arts license

A. For the purposes of determining eligibility for an arts license pursuant to section 44-3-419, C.R.S., "productions and performances of an artistic or cultural nature" include all forms of theatrical and other performing arts, the display or exhibition of all forms of the visual arts, and activities conducted on the licensed premises in furtherance of the proper purposes of arts organizations.

B. An organization otherwise complying with section 44-3-419, C.R.S. shall be deemed to be engaged in a production or performance at all times that visual art is on exhibit for viewing within the licensed premises.

Regulation 47-424. REPEALED

Regulation 47-426. Delivery Sales by Off-Premises Licensees.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-4-107(1)(c), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(O), 44-3-202(2)(a)(I)(R), 44-3-409(3), 44-3-410(3), and 44-3-601, 44-3-701, C.R.S. The purpose of this regulation is to permit fermented malt beverage off-premises licensees, retail liquor stores, and liquor licensed drug stores to deliver alcohol beverage products to consumers within the requirements, restrictions, and limitations outlined in the regulation in accordance with the statutory provisions under which limited retail delivery activities are authorized.

A. Delivery Permitted.

A retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., may deliver such alcohol beverages authorized by its license to any location off the licensed premises, pursuant to the following restrictions:

1. Order.

a. The order for the alcohol beverages which are to be delivered, must be taken by the licensee or an ordering service acting as an agent of the licensee pursuant to a written agreement entered into with the licensee. Licensee shall provide a copy of said agreement to the Division prior to any orders being accepted by licensee's agent.

b. The order may be taken by written order, by telephone, in person, or via internet communication with the licensee or its agent.

c. The person placing the order must provide the licensee with their name, date of birth, and delivery address. Under no circumstances shall a person under twenty-one (21) years of age be permitted to place an order for alcohol beverages.

2. Delivery.

a. Delivery of alcohol beverages shall only be made to a person twenty-one (21) years of age or older at the address specified in the order.

b. Delivery must be made by the licensee or the licensee's employee who is at least twenty-one (21) years of age and is using a vehicle owned or leased by the licensee to make the delivery.

c. The licensee or the licensee's employee who delivers the alcohol beverages shall note and log at the time of delivery the name and identification number, of the person the alcohol beverages are delivered to. Under no circumstances shall a person under twenty-one (21) years of age be permitted to receive a delivery of alcohol beverages.

d. A licensee must derive no more than fifty (50) percent of its gross annual revenues from total sales of alcohol beverages that the licensee delivers.

3. Licensees who deliver alcohol beverages shall maintain as a part of their required records, pursuant to 44-3-701, C.R.S., all records of delivery including delivery orders, receipt logs and journals. These records shall be maintained by the licensee for sixty (60) days. Failure to maintain accurate or complete records shall be a violation of this regulation.

4. Have a licensed premises with the following conditions:

a. Open to the public a minimum of three (3) days a week; and

b. Open to the public a minimum of five (5) hours each day the business is open; and

c. Have signage viewable from a public road.

5. Permit required.

a. Effective July 1, 2019, the state licensing authority will accept complete delivery permit applications from any applicant of or retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S.

b. Effective July 1, 2020, any retailer licensed pursuant to section 44-3-409 or 44-3-410, or subsection 44-4-107(1)(a), C.R.S., must hold a valid delivery permit issued by the state licensing authority to deliver alcohol beverages pursuant to the Colorado Liquor Code, the Colorado Beer Code, and this regulation.

c. The applicant must affirm on its delivery permit application that the applicant derives or will derive no more than fifty (50) percent of its gross annual revenues from total sales of alcohol beverages that the applicant delivers. However, nothing within this subsection (A)(5)(c) shall limit the authority of the state

licensing authority to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify this affirmation or compliance with this statutory requirement.

d. A delivery permittee shall display its delivery permit at all times in a prominent place on its licensed premises. A delivery permittee shall not be required to hold or carry a copy of its delivery permit in the delivery vehicle.

e. A delivery permit shall not be required for a retailer to deliver alcohol beverages within its customary parking area.

B. Suspension or Revocation.

Any delivery made in violation of Title 44, Articles 3 and Article 4, or in violation of this regulation may be grounds for suspension or revocation of the licensee's license and/or delivery permit by the state licensing authority as provided for in section 44-3-601, C.R.S.

Regulation 47-428. Sales Rooms.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103(49), 44-3-202(1)(b), 44-3-202(a)(I)(R), 44-3-202(2)(a)(I)(T), 44-3-402, 44-3-403, and 44-3-407, C.R.S. The purpose of this regulation is to establish procedural requirements for sales room applicants, and provide factors the licensing authority must consider when evaluating the application for approval or denial.

A. Any manufacturer of vinous or spirituous liquor, licensed pursuant to 44-3-402, C.R.S., a limited winery license issued pursuant to section 44-3-403, C.R.S., or beer (malt liquor) wholesaler licensed pursuant to section 44-3-407(1)(b), C.R.S., applying to operate a sales room as defined by section 44-3-103(49), shall submit an application for a sales room to the state licensing authority.

B. The applicant must send a copy of the application for the sales room concurrently to the state licensing authority and to the local licensing authority in the jurisdiction in which such sales room is proposed. All applications for vinous or spirituous liquor sales rooms to be operated for no more than three (3) consecutive days shall be filed with both the local and state licensing authorities not less than ten (10) business days prior to the proposed opening date.

C. The sales room application submitted to the state licensing authority and copies of the sales room application submitted to the local licensing authority shall be done in a manner that provides proof of date of delivery. This includes, but is not limited to, email, facsimile, or certified mail.

D. The local licensing authority may submit a response to the application to the state licensing authority including its determination whether or not the approval of the proposed sales room will impact traffic, noise, or other neighborhood concerns in a manner that is inconsistent with local regulations or ordinances, which may be determined by the local licensing authority without requiring a public hearing, or that the applicant cannot sufficiently mitigate any potential impacts identified by the local licensing authority. The local licensing authority submission to the state licensing authority shall be done in a manner that provides proof of date of delivery. This includes, but is not limited to, email, facsimile, or certified mail.

E. For proposed sales rooms operating more than three (3) consecutive days, the local licensing authority must submit its response to the state licensing authority within forty-five (45) days from the date of application to the state licensing authority.

F. For proposed sales rooms operating not more than three (3) consecutive days, the local licensing authority must submit its response to the state licensing authority within eight (8) business days from the date of application to the state licensing authority.

G. If the state licensing authority does not receive a response from the local licensing authority within the time frame as stated in paragraph E or F, the state licensing authority shall deem that the local licensing authority does not object to the sales room according to paragraph D.

H. For additional sales rooms for vinous or spirituous liquor, the applicant must affirm to the state licensing authority that the applicant has complied with local zoning restrictions.

I. The local licensing authority can request the state licensing authority take action in accordance with section 44-3-601, C.R.S. against a licensee who operates an approved sales room if the local licensing authority:

1. Demonstrates that the licensee has engaged in an unlawful action set forth in section 44-3-901, et seq, C.R.S.

2. Shows good cause as specified in subsections 44-3-103(19)(a), (19)(b), or (19)(d), C.R.S.

J. Neither the state or local licensing authority shall impose any additional fees for the processing or review of an application for a sales room

K. If a licensee that has a salesroom within its main licensed premises changes its location pursuant to Regulation 47-312, 1 C.C.R. 203-2, the licensee must apply for a new sales room license at its new location in accordance with this Regulation.

L. Sales rooms that do not sell and serve alcohol for consumption on the licensed premises are exempt from local licensing review in accordance with paragraphs B, D, E, F, and G.

M. A winery licensed pursuant to section 44-3-402, C.R.S. whose licensed premises includes multiple noncontiguous locations may operate a sales room on its primary licensed premises, and on no more than one of the noncontiguous locations.

1. A winery licensed pursuant to section 44-3-402. C.R.S., may only operate a sales room on one of the noncontiguous locations if the sales room is approved in accordance with the process outlined in section 44-3-402(2)(c), C.R.S.

2. A winery licensed pursuant to section 44-3-402, C.R.S. that operates a sales room on the primary licensed premises and one of the noncontiguous locations may not operate another sales room at any location.

N. A limited winery licensed pursuant to section 44-3-403, C.R.S. whose licensed premises includes multiple noncontiguous locations may operate a sales room on its primary licensed premises and on no more than one of the noncontiguous locations.

1. A limited winery may only operate a sales room on one of the noncontiguous locations of the licensed premises if the sales room is approved as one of the licensee's additional sales rooms allowed under section 44-3-403(2)(e)(i)(a), C.R.S., in accordance with the process outlined in section 44-3-403(2)(e)(ii), C.R.S.

2. A limited winery that operates a sales room on its primary licensed premises and one of the noncontiguous locations may only operate additional sales rooms at up to four other approved locations.

Regulation 47-434. Winery and Limited Winery Licensed Premises That Include Noncontiguous Locations.

Basis and Purpose. The statutory authority for the regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(R), 44-3-301(2)(c), 44-3-301(11)(d), 44-3-402(2)(a), and 44-3-403-(2)(e)(I)(A), C.R.S. The purpose of this regulation is to clarify and establish requirements for a winery to obtain approval for and maintain a licensed premises that include noncontiguous locations.

A. If approved by the state licensing authority, the licensed premises of a winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S., may include, in addition to the primary licensed premises, up to two noncontiguous locations within a radius of ten miles of the primary original licensed premises. Any approved noncontiguous locations must also be used for manufacturing purposes.

B. The state licensing authority may approve a winery's licensed premises that includes the primary licensed premises and up to two noncontiguous locations through the winery's initial application for a license pursuant to 44-3-402 or 44-3-403, C.R.S., or through a modification of the premises pursuant to Regulation 47-302.

1. The Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury must have approved the description and diagram of the proposed or modified premises.

2. In order to obtain approval for a licensed premises that includes a noncontiguous location, an applicant or licensee must submit proof from the municipality in which the proposed premises is located in compliance with all applicable zoning, building, fire, and other requirements for occupancy and operation.

C. A winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S., may be part of an entertainment district or common consumption area. However, if the winery's licensed premises includes multiple noncontiguous locations, any noncontiguous location included in the licensed premises that falls outside of the approved boundaries of the entertainment district or common consumption area shall not be included in the certified promotional association or entertainment district.

D. A winery licensed pursuant to sections 44-3-402 or 44-3-403, C.R.S., with a licensed premises that includes multiple noncontiguous locations may operate one or more sales rooms to the extent permitted by sections 44-3-402(2)(a) or 44-3-403(2)(e)(1)(A), C.R.S., and Regulation 47-428.

Regulation 47-500. Excise Taxes, Surcharges, and Fees Audits.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b) and 44-3-503(2), C.R.S. The purpose of this regulation is to establish a regular audit for manufacturers (as defined in Regulation 47-100(B) and (C)), holders of a winery direct shipper's permit, and wholesalers, and associated credits and liabilities consequential to this audit

The Department of Revenue shall cause each original monthly summary report to be audited.

A. If the audit reveals that the reporting manufacturer, holder of a winery direct shipper's permit, or wholesaler shall have paid more taxes, surcharges, penalties, or interest than was actually due, the Department of Revenue shall issue to that manufacturer, holder of a winery direct shipper's permit, or wholesaler a tax credit form reflecting the amount of overpayment. The manufacturer, holder of a winery direct shipper's permit, or wholesaler may deduct the tax credit from any succeeding monthly report by attaching tax credit forms to the report.

B. If such audit reveals that the reporting manufacturer, holder of a winery direct shippers permit, or wholesaler shall have paid less taxes, surcharges, fees, penalties, or interest than was actually due, the Department of Revenue shall issue to that manufacturer, holder of a winery direct shippers permit, or wholesaler a notice of assessment form reflecting the amount of underpayment. The manufacturer, holder of a winery direct shipper's permit, or wholesaler must return the assessment form, along with the remittance, payable to the Department of Revenue.

Regulation 47-502. Excise Taxes, Surcharges, and Fees Reports.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b) and 44-3-503(2), C.R.S. The purpose of this regulation is to establish procedures for reporting excise taxes, surcharges, and fees.

A. Manufacturers, wholesalers, and holders of a winery direct shipper's permit.

1. Reporting of alcohol beverages received or manufactured.

Each licensed manufacturer or wholesaler whose licensed premises are located within Colorado shall forward to the Department of Revenue on or before the 20th day of the month succeeding the month of receipt or manufacture of such alcohol beverage, a completed report. Wholesalers shall use form DR 0445 which shall include the date of receipt, supplier account number and name, invoice number, and gallons or liters received. A separate form shall be submitted for each commodity. Manufacturers shall use this form only if they are acting in a licensed wholesale capacity, and they shall include the amount of product manufactured. Manufacturers and wholesalers shall maintain upon the licensed premises, and make available for inspection by the state licensing authority or other agents of the department, documents or invoices supporting such reports.

2. Reporting and payment of excise taxes, surcharges, and fees - first sold.

Each Colorado licensed wholesaler or manufacturer shall, in addition to filing form DR 0445, also complete and file each month with the Department of Revenue form DR 0442. Form DR 0442 shall be filed on or before the 20th of the month succeeding the month reported. Payment of excise taxes, surcharges, and fees due shall accompany the filing of form DR 0442.

3. Reporting and payment of excise taxes, surcharges, and fees - upon manufacture or receipt.

Each Colorado licensed manufacturer or wholesaler electing this method of payment must in addition to the requirement in A.2. above, contact the Department of Revenue. The department may enter into a "memorandum of understanding" with the licensee stating that the taxes will be reported and paid upon manufacture or receipt of purchased product, rather than when the product was first sold by such licensee.

4. Reporting receipt of alcohol beverages for which excise taxes, surcharges, and fees have previously been paid.

All Colorado licensed wholesalers receiving alcohol beverages, where the excise taxes, surcharges, and fees upon such alcohol beverages have already been reported and paid to the Department of Revenue by a Colorado licensed wholesaler or manufacturer, or where the liability for reporting and payment of such excise taxes, surcharges, and fees has been incurred by a manufacturer or some other licensed wholesaler, shall report

receipt of such alcohol beverages on form DR 0445 and shall attach invoices evidencing receipt of such.

5. Reporting and payment of excise taxes, surcharges, and fees – Holders of a winery direct shipper's permit.

   Each out-of-state winery must file with the Department of Revenue a separate return, on Form DR 0448, for each location with a Colorado Winery Direct Shipper's Permit. Form DR 0448 must be filed on or before the 20th of the month succeeding the month reported. Payment of excise taxes, surcharges, and fees due shall accompany the filing of form DR 0448.

6. Excise taxes, surcharges, and fees - credits, refunds.

   a. A Colorado manufacturer who transmits outside the state and there disposes of any alcohol beverages, upon which no state excise taxes, surcharges, and fees have been previously paid or liability incurred, may claim exemption from the payment of excise taxes thereon by submitting form DR 0443 as well as invoices or bills of lading evidencing such disposal. A Colorado wholesaler who shall transmit outside the state and there dispose of alcohol beverages, upon which excise taxes, surcharges, or fees have been previously paid or liability incurred, may claim credit for such taxes for which such wholesaler may be liable on form DR 0443 and shall attach a signed and itemized delivery receipt, invoice and bill of lading from a common carrier or affidavit showing such transaction.

   b. A Colorado manufacturer or wholesaler possessing alcohol beverages upon which state excise taxes, surcharges, or fees have been previously paid or liability incurred and which alcohol beverages have been rendered unsalable by reason of destruction or damage may claim exemption or credit for such taxes, surcharges, and fees for which such manufacturer or wholesaler may be liable by submitting an application for credit supported by a properly executed affidavit of destruction or damage. Nothing herein shall be construed to authorize claims for credit of taxes, surcharges, and fees paid on any alcohol beverages rendered unsalable by reason of spoilage.

   c. All claims for exemptions from excise taxes, surcharges, fees or claims for credit, shall be made on forms DR 0442 and DR 0443 on or before the 20th day of the month succeeding the date of disposal. In addition, all affidavits of destruction or damage, or invoices evidencing shipment outside of Colorado shall be submitted with said forms.

B. Any manufacturer, holder of a winery direct shipper's permit, or wholesaler may, in lieu of forms required in this regulation, forward a computer generated report in a format approved by the Department of Revenue. Such reports must be submitted within the same time frames as set forth above.

Regulation 47-504. Payment of Excise Taxes by Non-licensees.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b) and 44-3-503(2), C.R.S. The purpose of this regulation is to establish standards and procedures for excise taxes, surcharges, and fees payment and collection required of certain non-licensees.

A. Persons twenty-one years of age or older, not licensed pursuant to this article, arriving at any airport in this state on an air flight originating in a foreign country who is thereby subject to

customs clearance at the airport, may lawfully possess up to one gallon or four liters (one imperial gallon), whichever measure is applicable, of an alcohol beverage without liability for the Colorado excise tax thereon. Excise taxes on alcohol beverages in excess of the aforesaid four (4) liters (or one imperial gallon) shall be paid to the Colorado Department of Revenue in the amounts set forth in section 44-3-503, C.R.S. Persons in possession of such alcohol beverages at the time of their arrival in Colorado shall be liable for the payment of excise taxes and fees thereon, and such payment shall be made within thirty (30) days of the date such alcohol beverages arrive in Colorado.

B. Notwithstanding the above, persons receiving vinous liquors in this state pursuant to the provisions of section 44-3-104 C.R.S., are exempt from payment of excise taxes, surcharges, and fees on such vinous liquors.

Regulation 47-600. Complaints against Licensees – Suspension, Revocation, and Fining of Licenses.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(R), and 44-3-601, C.R.S. The purpose of this regulation is to establish general processes and procedures required for the licensing authority to suspend, revoke, or fine a license for violations of any law, or rule or regulation of the state licensing authority.

A. Whenever a written complaint shall be filed with a licensing authority, alleging a violation by any licensee for the manufacture or sale of alcohol beverages with a violation of any law or of any of the rules or regulations adopted by the state licensing authority, the licensing authority shall investigate, as deemed appropriate, the allegations.

B. If it shall appear therefrom or shall otherwise come to the attention of the licensing authority appears from an investigation that there is reasonable cause to believe that a licensee has violated any such law, rule or regulation, the licensing authority may issue and cause to be served upon such licensee a notice of hearing and order to show cause why its license should not be suspended, revoked, or fined. Notice of discipline by the state licensing authority shall be issued pursuant to the procedures set forth in Regulation 47-606.

C. A hearing shall be held at a place and time designated by the licensing authority on the day stated in the notice, or upon such other day as may be set for good cause shown. Hearings for the state licensing authority shall be conducted in accordance with the procedures set forth in Regulation 47-606. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, evidence and statements in mitigation and/or aggravation of the offense shall also be permitted.

D. In the event the licensee is found not to have violated any law, rule or regulation, the charges against the licensee will be dismissed. If the licensee is found to have violated some law, rule or regulation, the licensee's license may be suspended, revoked, or fined. When making a determination to suspend, revoke, or fine a license—including the amount of fine to impose—a licensing authority shall consider the severity of the violation(s) based on the provisions established in Regulation 47-603.

E. Every licensee whose license has been suspended by any licensing authority shall, if ordered by the licensing authority, post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be two feet in length and fourteen inches in width containing lettering not less than ½ " in height, and shall be in the following form:

NOTICE OF SUSPENSION
ALCOHOL BEVERAGE LICENSES ISSUED
FOR THESE PREMISES HAVE BEEN
SUSPENDED BY ORDER OF THE STATE-LOCAL LICENSING AUTHORITY
FOR VIOLATION OF THE COLORADO LIQUOR/BEER CODE

Advertising or posting signs to the effect that the premises have been closed or business suspended for any reason other than by order of the Department suspending alcohol beverage license, shall be deemed a violation of this rule.

F. During any period of active license suspension, when such suspension has not otherwise been stayed by a licensing authority through the payment of a fine pursuant to section 44-3-601(3) through (8), C.R.S., the licensee shall not permit the selling, serving, giving away, or consumption of alcohol beverages on the licensed premises.

G. For purposes of calculating a fine to be paid, including in lieu of an active suspension, "between", as used in subsections 44-3-601(1)(c) and 44-3-601(3)(b), C.R.S., shall include the minimum and maximum fine amounts permitted by statute.

Regulation 47-601. Written Warnings and Assurances of Voluntary Compliance.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(E), C.R.S. The purpose of this regulation is to establish general processes and procedures necessary for an assurance of voluntary compliance by a licensee for violations of certain laws, or rules or regulations of the state licensing authority.

A. Assurance of Voluntary Compliance. The Division Director or local licensing authority may accept an Assurance of Voluntary Compliance regarding any act or practice alleged to violate Articles 3, 4 or 5 of title 44, C.R.S., or the Colorado Liquor Rules, by a licensee who has engaged in, is engaging in, or is about to engage in such acts or practices.

1. The Assurance of Voluntary Compliance must be in writing and may include a stipulation for the voluntary payment of the costs of the investigation.

2. An Assurance of Voluntary Compliance may not be considered an admission of a violation for any purpose by the state or local licensing authority. However, the Assurance of Voluntary Compliance shall constitute evidence in any subsequent administrative proceeding that licensee entered into an agreement to comply with articles 3, 4, or 5 of title 44, C.R.S. and/or the Colorado Liquor Rules.

3. An Assurance of Voluntary Compliance shall not exceed nine (9) months from the date of executed agreement.

4. The state or local licensing authority may approve or review an Assurance of Voluntary Compliance executed by their respective agencies.

B. Written Warnings. During an investigation, if the Division identifies a violation(s) of articles 3, 4, or 5 of title 44, C.R.S., or the Colorado Liquor Rules, the Division may issue a written warning in lieu of recommending immediate administrative action.

1. The written warning shall identify the alleged violation(s).

2. The written warning shall not constitute an admission of a violation(s) for any purpose of finding of a violation(s) by the state or local licensing authority, and shall not be evidence

that the licensee violated articles 3, 4, or 5 of title 44, C.R.S., or the Colorado Liquor Rules.

3. A written warning shall constitute evidence in any subsequent administrative proceeding, if relevant, that the licensee was previously warned of the violation(s).

4. The Division may, in its discretion, initiate a subsequent administrative action and prove the violation(s) that was the subject of the written warning.

C. Neither a written warning nor an Assurance of Voluntary Compliance constitutes a disciplinary action.

Regulation 47-605. Responsible Alcohol Beverage Vendor and Permitted Tastings by Retail Liquor Stores and Liquor-Licensed Drugstores

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-1002(2), C.R.S. The purpose of this regulation is to establish curricula required to be considered a responsible alcohol beverage vendor.

To be considered a Responsible Alcohol Beverage Vendor at any licensed premises, or to serve beverage alcohol at tastings held in retail liquor stores or liquor licensed drugstores, the following standards must be complied with.

A) Initial Certification Training Program Standards

1) A training program must be attended by the resident on-site owner (if applicable) or a manager, and all employees selling/serving alcohol beverages

2) Once a licensee is designated a “Responsible Vendor,” all new employees involved in the sale, handling and service of alcoholic beverages must complete the training described in this regulation within 90 days of date of hire

3) The program must include at least (2) hours of instruction time.

4) The program must provide written documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee

a) Attendees that can speak and write English must successfully pass a written test with a score of 70% or better

b) Attendees that cannot speak or write English may be offered a verbal test, provided the same questions are given as are on the written test and the results of the verbal test are documented with a passing score of 70% or better

5) Program providers may, at their discretion, conduct class surveys or discussions to help determine a program’s effectiveness. This time shall not be counted as part of the program’s instruction time.

B) Initial certification training class core curriculum

1) Discussion concerning alcohol’s effects on the human body

a) Alcohol's physical effects

b) Visible signs of intoxication

c) Recognizing the signs

d) Poly-substance interactions, including but not limited to, interaction with marijuana, prescriptions and over-the-counter medication, and other substances.

2) Liquor Liability

a) Civil liability

b) Criminal liability

c) Administrative liability (License Sanctions)

d) Liability for licensee and/or managers for the actions of employees

3) Sales to visibly Intoxicated persons

a) Colorado law provisions

b) Recognition and prevention, including identifying signs of visible alcohol and drug impairment.

c) Intervention techniques

d) Related laws or issues

(1) DUI/DWAI

(2) Reg. 47-900

4) Sales to minors

a) Colorado law provisions

b) Sale and service

c) Permitting consumption

5) Acceptable forms of Identification (Reg. 47-912)

a) How to check identification - protocol

b) Spotting false identification

c) Mistakes made in verification

6) Other key state laws and rules affecting owners, managers, sellers, and servers

a) Age requirements for servers and sellers

b) Provisions for confiscating fraudulent identifications

c) Removal of liquor from on-premises licensed establishment

d) Patrons prohibited from bringing liquor onto licensed premises

e) Permitted hours of sale and service

f) Conduct of establishment

g) Nudity and prohibited entertainment

h) Permitting inspections by state and local licensing and enforcement authorities

i) Reporting changes in ownership and management

j) Licensee responsible for activities occurring within licensed premises

k) Tastings in retail liquor stores and liquor licensed drugstores

l) Prohibited purchases

m) On-premises and off-premises delivery and takeout rules

n) Commonly arising issues with delivery and takeout sales

C) Information for Owners and Managers

1) Local Licensing and Enforcement

a) Encourage to become familiar with local law provisions

b) Encourage to develop a relationship with local agencies

2) State Licensing and Enforcement

a) Contact Information for the Division

b) Become familiar with state laws and regulations

c) Encourage to develop a relationship with area investigator

3) Recommendations for Licensees

a) Establish policies and procedures.

b) Establish a record keeping system to document activities and events

c) Contact local authority on incident reporting expectations

D) Training programs based on type of licensed establishment and portability of training

1) Training program curriculum may be tailored by Division-certified training program providers to on-premises only licensed establishments, to off-premises only licensed establishments, or to both on-premises and off-premises combined. Except as noted below, all approved training programs shall include the curriculum contained in paragraphs B and C of this regulation.

2) Combined training programs must include all of the curriculum contained in paragraphs B and C of this regulation. Persons certified in a combined training program may use the certification in both on- and off-premises licensed establishments.

3) On-premises only training programs may exclude from their curriculum subparagraph B(6)(k) of this regulation relating to liquor store tasting events. Persons certified in an on-premises only training program may use their certification only in an on-premises licensed establishment.

4) Off-premises only training programs may exclude from their curriculum subparagraphs B(6)(c), (d), (f), and (g) relating to activities at on-premises businesses. Persons certified in an off-premises only training program may use their certification only in an off-premises licensed establishment.

E) Recertification requirements

1) Recertification must occur every two (2) years, inclusive of a grace period of thirty (30) days.

2) Recertification shall be accomplished in any of the following manners:

a) Documented successful passage of a written or verbal test with a score of 70% or better administered by a Division-approved program trainer in person, including virtually through a live program, which demonstrates knowledge of new and existing alcohol beverage laws

(1) Completion of a course is not required before the test is administered

(2) Failure to pass the first administration of the test shall require attendance at either a recertification course or an initial certification training program

b) Documented attendance and completion of a recertification course

c) Documented attendance and completion of an initial certification training program

3) Recertification course

a) The curriculum must cover any and all changes in the law or regulations that affect the curriculum contained in the initial certification program

b) The course must provide a refresher on the following topics:

(1) Sales to intoxicated persons

(2) Sales to minors

(3) Legal sales hours

(4) Civil and criminal liabilities for law violations

c) No minimum instruction time or testing requirements shall apply

F. Records Retention The certified seller – server training program providers for the Responsible Alcohol Beverage Vendor Program must keep proof of attendance and records of successful completion of the training for a minimum of three (3) years and make the records available to the Division upon request.

Regulation 47-606. Disciplinary and Denial Process for State Licensing Authority

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, sections 44-3-202(1)(b), 44-3-202(1)(c), 44-3-202(1)(d), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(R), 44-3-601, 44-3-901, 24-4-104, and 24-4-105, C.R.S The purpose of this regulation is to establish what entity conducts the administrative hearings for the state licensing authority, the procedures governing administrative hearings, and other general hearings issues

A. Initiation of Disciplinary Actions.

1. If the state licensing authority, on its own initiative or based on a complaint, has reasonable cause to believe that a licensee has violated the Liquor Code, the Beer Code, the Special Event Code, the Colorado Liquor Rules, or any of the state licensing authority's orders, the state licensing authority shall issue and serve upon the licensee an order to show cause as to why its license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

2. The order to show cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended, revoked, restricted, fined, or subject to other disciplinary sanction should the charges contained in the notice be sustained upon final hearing.

3. A respondent that has been served with an order to show cause shall be entitled to a hearing regarding the matters addressed therein.

B. License Denials.

1. If the state licensing authority denies an application, the state licensing authority shall inform the applicant in writing of the reasons for the denial in a notice of denial, mailed to the denied applicant at the last-known address as shown by the records of the Division and to the local licensing authority if a local license has been granted. A notice of denial shall be deemed to have been received three days after the date of mailing, if sent by mail.

2. A denied applicant that has been served with a notice of denial may request a hearing within the time set forth in the notice of denial by making a written request for a hearing to the Division. The request must be submitted by United States mail, by hand delivery, or by email at dor_led_legal@state.co.us. The request must be sent to the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of denial. An untimely request for hearing will not be considered.

3. A denied applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial and shall be entitled to a hearing regarding the matters addressed therein.

C. General Procedures – Administrative Hearings.

1. Hearing Location. Hearings will generally be conducted by the Department of Revenue's Hearings Division. Hearings will be held virtually, unless otherwise ordered by the hearing officer for good cause. If the hearing officer orders an in-person hearing, the hearing will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer. Good cause for in-person hearings includes unusual circumstances where justice, judicial economy, and convenience of the parties would be served by holding a hearing in person.

2. Scope of Hearing Regulations. This Regulation shall be construed to promote the just and efficient determination of all matters presented.

3. Right to Legal Counsel. Any denied applicant or respondent has a right to legal counsel throughout all processes described in regulations associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the denied applicant's or respondent's expense. Unless a denied applicant or respondent is an entity that satisfies the exception in section 13-1-127(2), C.R.S., the denied applicant or respondent must be represented by an attorney admitted to practice law in the state of Colorado.

D. When a Responsive Pleading is Required.

1. A respondent shall file a written answer with the hearings division and the Division within 30 days after the date of mailing of any order to show cause. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a respondent fails to file a required answer, the Hearing Officer, upon motion, may enter a default against that person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Regulation, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

2. A denied applicant shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Notice of Grounds for Denial. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a denied applicant fails to file a required answer, the hearing officer, upon motion, may enter a default against that person pursuant to section 24-4-105(2)(b), C.R.S. For good cause shown, as described in this Regulation, the hearing officer may set aside the entry of default within ten days after the date of such entry.

E. Hearing Notices.

1. Notice to Set. The Division shall send a notice to set a hearing to the denied applicant or Respondent in writing by electronic mail or, if an electronic mail address is unknown, by first-class mail to the last mailing address of record.

2. Notice of Hearing. The Hearings Division shall notify the Division and denied applicant or Respondent of the date, place, time, and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.

A. If an order of summary suspension has been issued pursuant to Regulation 47-602, the hearing on the order to show cause will be scheduled and held promptly.

B. Continuances may be granted for good cause, as described in this Regulation, shown. A motion for a continuance must be timely.

C. Good Cause for Continuance. Good cause for a continuance may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a

postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause for a continuance normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

F. Prehearing Matters Generally.

1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the hearing officer upon request of any party, or upon the hearing officer's own motion. If a prehearing conference is held and a prehearing order is issued by the hearing officer, the prehearing order will control the course of the proceedings. Such prehearing conferences will be held virtually or by telephone, unless otherwise ordered by the hearing officer.

2. Depositions. Depositions are generally not allowed; however, a hearing officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a hearing officer grants a motion for a deposition, C.R.C.P. 30 controls. Hearings will not be continued because a deposition is allowed unless (a) both parties stipulate to a continuance and the hearing officer grants the continuance, or (b) the hearing officer grants a continuance over the objection of any party in accordance with paragraphs (E)(2)(b) and (c) of this Regulation.

3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the hearing officer, each party shall file with the hearing officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the hearing officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:

   A. Witnesses. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.

   B. Experts. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.

   C. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and denied applicant or respondent using letters.

   D. Stipulations. A list of all stipulations of fact or law reached.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the

prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.

5. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the hearing officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.

G. Conduct of Hearings.

1. The hearing officer shall cause all hearings to be electronically recorded.

2. The hearing officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to be offered into evidence at the hearing to the hearing officer when the prehearing statement is filed. Electronic filings will be accepted at: dor_regulatoryhearings@state.co.us.

3. The hearing officer shall administer oaths to all witnesses at hearing. The hearing officer may question any witness.

4. The hearing, including testimony and exhibits, shall be open to the public unless otherwise ordered by the hearing officer in accordance with a specific provision of law.

A. Reports and other information that would otherwise be confidential pursuant to subsection 44-3-202(1)(d), C.R.S., may be introduced as exhibits at hearing.

B. Any party may move the hearing officer to seal an exhibit or order other appropriate relief if necessary to safeguard the confidentiality of evidence.

5. Court Rules.

A. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word “court,” “judge,” or “jury” appears in the Colorado Rules of Evidence, such word shall be construed to mean a hearing officer. A hearing officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.

B. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word “court” appears in a rule of civil procedure, that word shall be construed to mean a hearing officer.

6. Exhibits.

A. All documentary exhibits must be paginated by the party offering the exhibit into evidence.

B. The Division shall use numbers to mark its exhibits.

C. The denied applicant or respondent shall use letters to mark its exhibits.

7. The hearing officer may proceed with the hearing or enter a default judgment if any party fails to appear at hearing after proper notice.

H. Post Hearing. After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an initial decision subject to review by the state licensing authority pursuant to the Colorado Administrative Procedure Act and this paragraph H.

1. Exception(s) Process. Any party may appeal an initial decision to the State licensing authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the initial decision to the denied applicant or respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these regulations shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties. The address of the state licensing authority is: state licensing authority, 1707 Cole Boulevard, Suite 350, Lakewood CO 80401.

2. Designation of Record. Any party that seeks to reverse or modify the Initial Decision of the hearing officer shall file with the state licensing authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.

3. Deadline Modifications. The state licensing authority may modify deadlines and procedures related to the filing of exceptions to the initial decision upon motion by either party for good cause shown.

4. No Oral Argument Allowed. Requests for oral argument will not be considered.

I. No Ex Parte Communication. Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the state licensing authority, or with conflicts counsel representing the hearing officer or state licensing authority, pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the state licensing authority in connection with a hearing or with the exceptions process.

J. Liquor Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.

Regulation 47-607. Administrative Subpoenas

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, sections 44-3-202(1)(b), 44-3-202(1)(c), 44-3-202(1)(d), 44-3-202(2)(a)(I)(A), 44-3-202(2)(a)(I)(E), 44-3-202(2)(a)(I)(R), 44-3-601, and 24-4-105, C.R.S. The purpose of this regulation is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process.

A. Informal Exchange of Documents Encouraged. Parties are encouraged to exchange documents relevant to the notice of denial or order to show cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to secure the voluntary presence of witnesses necessary for the hearing prior to requesting subpoenas.

B. Hearing Officer May Issue Subpoenas.

1. A party or its counsel may request the hearing officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.

2. Requests for subpoenas to be issued by the hearing officer must be emailed to the Hearings Division of the Department of Revenue at dor_regulatoryhearings@state.co.us. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.

3. Requests for subpoenas to be issued by the hearing officer must be made on a "Request for Subpoena" form authorized and provided by the Hearings Division. A hearing officer shall not issue a subpoena unless the request contains the following information:

A. Name of denied applicant or respondent;

B. License or application number;

C. Case number;

D. Date of hearing;

E. Location of hearing, including information necessary to access virtual proceedings, or telephone number for telephone check-in;

F. Time of hearing;

G. Name of witness to be subpoenaed; and

H. Mailing address of witness (home or business).

4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.

5. Requests for subpoenas shall be signed by the requesting party or its counsel.

6. The hearing officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing hearing officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

C. Service of Subpoenas.

1. Service of any subpoena is the duty of the party requesting the subpoena.

2. All subpoenas must be served at least two business days prior to the hearing.

D. Subpoena Enforcement.

1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the hearing officer.

2. A hearing officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Regulation 47-904. Product Labeling, Substitution, Sampling and Analysis.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(M), and 44-3-202(2)(a)(I)(N), C.R.S. The purpose of this regulation is to establish filling, labeling, and sampling and analyzing standards for alcohol beverages.

A. No licensee, for the sale of alcohol beverages for consumption on the premises where sold, shall maintain thereon any container of alcohol beverage which contains any such substance other than that contained at the time such container was received by or delivered to the licensee. Nothing herein shall prohibit a licensee from using emptied alcohol beverage bottles with labels removed by filling them with non-alcohol items (e.g. marbles, sand, salt, pepper) for the purpose of decorations or display. Nothing herein shall prohibit a licensee from using emptied, cleaned alcohol beverage bottles with labels removed by filling them with non-alcoholic beverages (i.e. water, tea, juices) for patrons to consume on premises.

B. No licensee, for the sale of alcohol beverages for consumption on the premises where sold, shall substitute one brand, type, or alcohol content of alcohol beverages for that which has been specifically requested by a customer, unless the customer expressly consents to the substitution.

C. Except manufacturers or malt liquor manufacturers with an onsite wholesale sales room, no licensee shall refill or permit the refilling of any alcohol beverage container with alcohol beverage or reuse any such container by adding distilled spirits or any substance, including water, to the original contents or any portion of such original contents. There shall be no prohibition against the use of carafes, pitchers or similar serving containers for alcohol beverages.

D. If sampling, analysis or other means shall establish that any such licensee has upon the licensed premises any bottle or other container which contains alcohol beverage of a different brand, type, or alcohol content than that which appears on the label thereof, such licensee shall be deemed to have violated this regulation.

E. All licensees for the sale of alcohol beverages for consumption on the premises where sold shall, upon request of the Division or any of its officers, make available to the person so requesting a sufficient quantity of such alcohol beverage to enable sampling or analysis thereof. The licensee shall be notified of the results of the sampling or analysis without delay.

F. The manufacturer or importer of any alcohol beverage product sold in or shipped to Colorado must register said product with the Division prior to the date of the product's initial intended date of sale or shipment. If required by applicable Federal laws or regulations, alcohol beverages sold in Colorado must have obtained either a “Certificate of Label Approval” or a “Certificate of Exemption” from the Alcohol and Tobacco Tax and Trade Bureau (“TTB”).

G. The manufacturer or importer of alcohol beverage products that have obtained a TTB “Certificate of Exemption” are required upon request to certify that their product's label will comply with TTB labeling criteria as found in the “Federal Alcohol Administration Act” 27 CFR Subchapter A - Liquor Part 4, Subpart D; Part 5, Subpart D; and Part 7, Subpart C.

1 The material incorporated by reference shall be those effective as of January 1, 2019. 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 Director of the Colorado Liquor Enforcement Division of the Department of Revenue at; dor_led@state.co.us, or at the Division's office located at 1707 Cole Boulevard, Suite 300, Lakewood, Colorado, 80401, and copies of the material may be examined at any state publication depository library.

Regulation 47-922. Gambling.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(M), and 44-3-901(6)(n), C.R.S. The purpose of this regulation is to clarify and define prohibited and permitted activities, games, and equipment on the licensed premises concerning gambling.

A. Activities prohibited.

1. No person licensed under Article 3, Article 4 and Article 5 of Title 44 to sell at retail shall authorize or permit on the licensed premises any gambling, or use of any gambling machine or device, or the use of any machine which may be used for gambling, except as specifically authorized for a racetrack, pursuant to Article 32 of Title 44 C.R.S., or for limited gaming, pursuant to Article 30 of Title 44 C.R.S.

2. No person licensed under these Articles shall authorize or permit on the licensed premises the holding of any lottery, except as authorized by Article 40 of Title 44, C.R.S. 1973 and any rules and regulations promulgated thereunder. Nothing in this regulation shall be deemed to prohibit the conducting of games of chance authorized by the bingo and raffles law (Article 9 of Title 12, C.R.S. 1973).

B. Equipment prohibited.

No person licensed under Article 3, Article 4 and Article 5 of Title 44 to sell at retail shall authorize, permit or possess on the licensed premises any table, machine, apparatus or device of a kind normally used for the purpose of gambling, except as specifically authorized and when licensed for limited gaming, pursuant to Article 30 of Title 44 C.R.S. Prohibited equipment shall include video poker machines and other devices, defined either as slot machines pursuant to C.R.S. 44-30-103(30)(a) and/or gambling devices pursuant to C.R.S. 18-10-102.

C. Equipment permitted.

1. Nothing in this regulation shall be deemed to prohibit the use of bona fide amusement devices, such as pinball machines or pool tables, provided however that such devices do not and cannot be adjusted to pay anything of value, and that such devices are not used for gambling, as defined in C.R.S. 18-10-102, as the same may be amended from time to time.

2. A licensee is permitted to conduct, on its licensed premises, tournaments or competitions involving games of skill as permitted by C.R.S. 18-10-102(2)(a), including the awarding of prizes or other things of value to participants, in connection with the use or operation of devices such as and including, but not limited to:

a. Pool tables

b. Billiard tables

c. Pinball machines

d. Foosball machines

e. Basketball games

f. Air hockey games

g. Shuffleboard games

h. Dart games

i. Bowling games

j. Golf Games

3. Licensees will not be considered in violation of this regulation if they permit on their licensed premises card or similar games of chance to be played between natural persons whereas no person is engaging in gambling as defined by C.R.S. 18-10-102(2).

D. Inspections and records.

1. Licensees shall keep a complete set of records, including operating manuals, concerning any game machine or device maintained on their licensed premises. Licensees who do not own their machines or devices shall be required to maintain a copy of their current contract with the vendor. This contract at a minimum shall detail the division of profits between the parties and how monies will be accounted for, including the payment of any monies, credits, or any other thing of value to customers of the licensee. Copies of any outstanding notes or loans between the parties must also be maintained by the licensee.

2. Licensees shall make available without delay to agents of the state or local licensing authority access to the interiors of any machine or device maintained upon the licensed premises to assist in the determination of whether or not said machine or device is permitted or prohibited equipment.

Regulation 47-924. Importation and Sole Source of Supply/Brand Registration.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b) and 44-3-202(2)(a)(I)(D), C.R.S. The purpose of this regulation is to establish procedures and forms required for a party to import alcohol beverages into the state of Colorado and to require where applicable compliance with requirements in the Federal Alcohol Administration Act.

A. Before any person, firm, company, partnership, or corporation ships any alcohol beverages into the State of Colorado, each such entity shall be properly licensed by the state licensing authority. The only exceptions to licensing for importation may be found under 44-3-104 and 44-3-106, C.R.S.

B. Prior to the sale or shipment of any alcohol beverages into the State of Colorado, each licensed manufacturer, non-resident manufacturer or importer shall submit to the state licensing authority a complete and approved report, on forms prepared and furnished by the state licensing authority, which shall detail: the licensee's name and license number; the designated Colorado licensed wholesaler(s); the name of the United States primary source of supply; the products to be imported, including the brand name, class or type, and fanciful name; and evidence of compliance with federal labeling requirements found in the “Federal Alcohol Administration Act” 27 CFR Subchapter A-Liquors Part 4, Subpart D; Part 5, subpart D; and Part 7, Subpart C. The import licensee, if not the product manufacturer, shall also include with said form a separate letter from the primary source of supply designating such import licensee as the primary source in the United States or the sole source of supply in Colorado. A separate form is required for each primary source. Each non-resident manufacturer, manufacturer and importer shall also remit with

said form the appropriate brand registration and/or sole source fee(s). A separate sole source fee is required for each primary source that an importer represents.

C. Should the primary source of supply change its designated licensed importer, the newly designated licensed importer is required to submit the same information described in paragraph B of this regulation on required forms thirty (30) days prior to shipment of any alcohol beverages. The newly designated importer shall also remit the appropriate sole source and brand registration fees with said form.

The material incorporated by reference shall be those effective as of January 1, 2019. 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 Director of the Colorado Liquor Enforcement Division of the Department of Revenue at; dor_led@state.co.us, or, at the division's office located at 1707 Cole Boulevard, Suite 300, Lakewood, Colorado, 80401, and copies of the material may be examined at any state publication depository library.

Regulation 47-1016. Special Event Permittee - Purchase and Storage of Alcohol Beverages.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44-3-202(2)(a)(I)(K), and 44-5-109, C.R.S. The purpose of this regulation is to establish purchasing and storage requirements for a special event permit.

A. Special event permittees may purchase alcohol beverages authorized by such permits from a licensed wholesaler, brew pub, distillery pub, limited winery, vintner's restaurant, retail liquor store, or liquor-licensed drugstore.

1. Any alcohol beverages purchased from a retailer licensed for off-premises consumption for a non-profit event held at a retail location licensed for on-premises consumption will count against the on-premises licensee's statutory dollar limit of alcohol beverages purchased from an off-premises retailer.

B. Special event permittees may store alcohol beverage stock in areas outside the designated event area approved by the state or local licensing authority under the following conditions:

1. The application included the address of proposed storage locations and a diagram of said premises.

2. The application included evidence of the special event permittee's lawful possession of the storage premises by way of deed, lease, rental, or other arrangement and specifying the terms of storage.

3. The proposed location is not a location licensed pursuant to articles 3 or 4 of title 44, C.R.S.

4. State and local law enforcement authorities have the right to inspect each storage area that is used for permitted events.

5. Storage areas may only be maintained in anticipation of scheduled events. Nothing herein shall authorize long-term storage of alcohol beverages that have no nexus to events. This subparagraph (B)(5) does not apply to special event permittees that hold a valid club or arts license.

6. A licensed wholesaler may deliver alcohol beverages purchased by a special event permittee to the storage location in accordance to subparagraphs (B)(1), (B)(2), (B)(3), and (B)(4) of this regulation, but such storage cannot be more than two (2) business days prior to the date for the special event. If a licensed wholesaler donates alcohol to the special event permittee, the wholesaler may pick up such unused donated alcohol beverage products from the storage area in accordance to subparagraphs (B)(1), (B)(2), (B)(3), and (B)(4) of this regulation. Such removal of unused donated alcohol beverage products must occur within two (2) business days after the end of the special event permit.

C. If the special event permittee is also a retailer licensed for on-premises consumption that holds a valid club or arts license, and the designated event area is the retailer's licensed premises, then the special event permittee need not store the alcohol beverages purchased for the special event in a separate area of the on-premises retailer's licensed premises.

1. At the conclusion of the special event, the on-premises retailer may sell alcohol beverages purchased for the special event to consumers by the drink pursuant to the on-premises retailer's licensed privileges and normal business operations.

2. This paragraph (C) only applies when the special event permittee is a qualified not-for-profit organization and is the same legal entity as the holder of the on-premises retailer's license.

3. This paragraph (C) only applies when the special event permittee purchases alcohol for a special event held for the benefit of the entity holding both the special event permit and the on-premises retailer's license.

4. This paragraph (C) does not apply to alcohol beverages donated to the special event permittee or purchased by the special event permittee below cost.

Regulation 47-1101. Delivery and Takeout Sales By On-Premises Licensees.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-202(1)(b), 44- 3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(R), 44-3-601, 44-3-911, and 24-4-104(4)(a), C.R.S. The purpose of this regulation is to exercise proper regulation and control over the manufacture, distribution and sale of alcohol beverages, promoting the social welfare, the health, peace and morals of the people of the State. This regulation establishes a permit for on-premises licensees authorized to engage in such sales by section 44-3-911, C.R.S., which temporarily allows persons issued a license under sections 44-3-411, 44-3-413, 44-3-414, 44-3-417, 44-3-418, 44-3-422, 44-3-426, or 44-3-428, C.R.S., to sell alcohol beverages through delivery and takeout through July 1, 2025, the date section 44-3-911, C.R.S. is automatically repealed. Section 44-3-911, C.R.S., also temporarily allows a person issued a license under sections 44-4-104(1)(c)(I)(A) or 44-3-104(1)(c)(III), C.R.S., to sell alcohol beverages via takeout, and a person issued a license under sections 44-3-412, 44-3-415, 44-3-416, 44-3-419, 44-3-420, and 44-3-421, C.R.S., to sell alcohol beverages via delivery through July 1, 2025. Finally, section 44-3-911, C.R.S., also temporarily allows a person issued a license under sections 44-3-402 or 44-3-407, C.R.S., and that operates a sales room, to sell alcohol beverages through delivery until January 2, 2022. This regulation also addresses age verification, container, and other requirements and related recordkeeping for alcohol beverages sold through delivery or takeout by on premises licensees authorized to engage in such sales by section 44-3-911, C.R.S.

A. The requirements of paragraphs (B), (C), (D), and (E) of this this Regulation 47-1101 apply to persons issued a license under sections 44-3-411, 44-3-412, 44-3-413, 44-3-414, 44-3-415, 44-3-416, 44-3-417, 44-3-418, 44-3-419, 44-3-420, 44-3-421, 44-3-422, 44-3-426, 44-3-428, 44-4-104 (1)(c)(I)(A), or 44-4-104 (1)(c)(III), C.R.S.

B. Unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24, no persons issued a license identified in paragraph (A) of this regulation may sell alcohol beverages through takeout and/or delivery pursuant to section 44-3-911, C.R.S., unless the licensee has first obtained a permit from the state licensing authority and paid the relevant fee established in Regulation 47-506.

1. If a person issued a license identified in paragraph (A) of this regulation applies for a takeout and/or delivery permit while a disaster emergency declared by the governor under part 7 of article 33.5 of title 24 is in effect, that person may continue engaging in takeout and/or delivery sales once the disaster emergency is rescinded or expired. However, the licensee shall cease all takeout and/or delivery sales if the state or local licensing authority denies the licensee's application for a takeout or delivery permit.

2. An applicant for a permit must affirm on its takeout and/or delivery permit application that the applicant derives, or will derive, no more than fifty (50) percent of its gross annual revenues from total sales of food and alcohol beverages from the sale of alcohol beverages through takeout orders and orders that the licensee delivers.

    a. This subparagraph (B)(2) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24; and

    b. Nothing within this subparagraph (B)(2) shall limit the authority of the state licensing authority or the local licensing authority, if applicable, to inspect books and records pursuant to Regulation 47-700, 1 C.C.R. 203-2, to verify the affirmation or compliance with this statutory requirement.

3. A takeout and/or delivery permittee shall display its takeout and/or delivery permit at all times in a prominent place on its licensed premises. The takeout and delivery permittee's employee making a delivery shall be required to carry, or have immediate access to, a copy of the takeout and delivery permit in the delivery vehicle. The copy of the permit may be electronic.

C. If the relevant local licensing authority creates a permit for takeout and delivery pursuant to section 44-3-911(4)(C), C.R.S., no persons issued a license identified in paragraph (A) of this regulation may engage in sales of alcohol beverages through takeout or delivery unless the licensee holds takeout and/or delivery permits from both the state and local licensing authorities.

1. This subparagraph (c) does not apply if the governor has declared a disaster emergency under part 7 of article 33.5 of title 24.

D. Any licensee authorized to engage in sales of alcohol beverages through delivery or takeout pursuant section 44-3-911, C.R.S., and this regulation shall comply with the following requirements and limitations:

1. Orders for delivery or takeout that include alcohol beverages may be accepted by only the licensee or its employees at the licensed premises, which may be accepted by telephone, in person, or via internet communication. No order for delivery may be solicited or accepted by a delivery driver or from a delivery vehicle. All orders for delivery shall be documented in a written order prepared by the licensee or its employees.

2. When receiving a delivery order, the licensee must obtain and record the name and date of birth of the person placing the order and the delivery address for the order. Under no circumstances shall a person under twenty-one (21) years of age be permitted to place an order for takeout or delivery of alcohol beverages.

3. Delivery of orders that include alcohol beverages shall be made only to a person twenty-one (21) years of age or older at the address specified in the customer's delivery order.

4. Delivery of orders that include alcohol beverages shall not be made to any public place, including public parks, streets, alleys, roads, or highways.

5. Delivery must be made by an employee of the licensee who is at least twenty-one (21) years of age, and who has completed a seller server training program established under section 44-3-1001, C.R.S., and maintained recertification under the requirements of Regulation 47-605. Use of third-party delivery services is prohibited.

6. The licensee's employee who delivers the alcohol beverages shall note and log at the time of delivery the name and identification number of the person receiving the delivery of the alcohol beverages. Under no circumstances shall a person under twenty-one (21) years of age be permitted to receive a delivery of alcohol beverages.

7. Licensees who deliver alcohol beverages shall maintain all records relating to delivery, including delivery orders, receipt logs and journals, as part of their records required pursuant to section 44-3-701, C.R.S. These records shall be maintained by the licensee for sixty (60) days. Failure to maintain accurate or complete records is a violation of this regulation.

8. Licensees engaged in delivery shall comply with section 42-4-1305, C.R.S., and any local laws, ordinances or regulations, addressing prohibitions on open containers of alcohol beverages in motor vehicles.

9. Any alcohol beverage sold to a consumer through delivery or takeout under this regulation, which may include cocktails or mixed drinks, shall be in a sealed container. For purposes of this regulation, "sealed container" means:

    a. For the purposes of this regulation "sealed container" means a "sealed container" as defined in subsection 44-3-103(51), C.R.S., and shall also include a container filled with alcohol beverage, that is new, has never been used, and has a tamper evident secure lid or cap designed to prevent consumption without removal of the lid or cap. "Sealed container" does not include a container with a lid with sipping holes or openings for straws or a container made of paper or polystyrene foam. "Tamper evident" means a lid or cap that has been sealed with tamper-evident material, including, but not limited to, wax dip, heat shrink wrap, or adhesive tape or that is secured in such a manner that is visible apparent if the container has been opened or tampered with.

    b. Persons issued a license identified in paragraph (A) of this regulation may not refill sealed containers as defined in subsection (D)(9)(a) or offer any such refilled containers for sale.

    c. Any sealed container of alcohol beverages sold pursuant to this regulation shall not exceed the relevant volume limits identified in paragraph (E) of this regulation.

10. Any sealed container containing an alcohol beverage that is sold for takeout or delivery under this regulation, other than an alcohol beverage sealed by its manufacturer, shall identify the licensee that sold the beverage and include a warning statement, with a minimum fourteen (14) font size, stating as follows: "WARNING: DO NOT OPEN OR REMOVE SEAL WHILE IN TRANSIT. Purchasers are subject to state and local laws and

regulations prohibiting drinking or possessing open containers of alcoholic beverages in motor vehicles, including section 42-4-1305, C.R.S."

11. Licensees who sell alcohol beverages through delivery or takeout pursuant to this regulation are responsible for compliance with all laws and regulations prohibiting the sale of alcohol beverages to an underage person or to a visibly intoxicated person.

12. Licensees shall only sell alcohol beverages through takeout and delivery between the hours of 7 a.m. and 12 midnight.

E. Unless the governor has declared a disaster emergency under part 7 of article 33.5 of title 24, no persons issued a license identified in paragraph (A) of this regulation shall sell more than the following amounts of alcohol beverage to a consumer as part of a takeout or delivery order:

1. 1,500 milliliters, or approximately 50.8 fluid ounces, of vinous liquors; and

2. 144 fluid ounces, or approximately 4,259 milliliters, of malt liquor, fermented malt beverages, and hard cider, and

3. One liter, or approximately 33.8 fluid ounces, of spirituous liquors.

F. A violation of this regulation by a licensee, or by any of the agents, servants, or employees of a licensee, may result in disciplinary action, up to and including license revocation, pursuant to section 44-3-601(1), C.R.S., and may result in summary suspension of a license pursuant to section 44-3-601(2) and Regulation 47-602.

G. This regulation is repealed, effective July 1, 2025, and any takeout and delivery permit then in effect shall be deemed to have expired, without further action by the state or local licensing authorities.

H, A person issued a license under sections 44-3-402 or 44-3-407, C.R.S., and that operates a sales room may sell alcohol beverage through delivery pursuant to section 44-3-911, C.R.S., and the requirements of this regulation. This paragraph (H) is repealed effective January 2, 2022.

Regulation 47-1103. Communal Outdoor Dining Areas.

Basis and Purpose. The statutory authority for this regulation includes, but is not limited to, subsections 44-3-103(11.5), 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), 44-3-2020(2)(a)(I)(F), 44-3-202(2)(a)(I)(L), 44-3-202(2)(a)(I)(M), 44-3-202(2)(a)(I)(R), 44-3-601, 44-3-912(6), and 24-4-104(4)(a), C.R.S. The purpose of this regulation is to address requirements for the operation of communal outdoor dining areas.

A. No licensee shall sell or serve alcohol beverages in a communal outdoor dining area unless

1. The licensee obtains a permit from the state licensing authority and pays the permitting fee established in regulation 47-506; and

2. The state and local licensing authorities have approved both attaching the license to the communal outdoor dining area and a modification of licensed premises pursuant to Regulation 47-302 that includes the communal outdoor dining area.

3. A retail food establishment that does not have a liquor license may also serve food in a communal outdoor dining area approved under this regulation 47-1103.

B. A communal outdoor dining area must be within 1000 feet of the permanent licensed premises of each of the licensees associated with the communal outdoor dining area. This distance shall be computed by direct measurement from the nearest property line of the land used for the communal outdoor dining area to the nearest portion of the building in which the permanent licensed premises is located, using a route of direct pedestrian access.

C. If allowed by the local licensing authority, all licensees who wish to be associated with a communal outdoor dining area may submit a joint application to modify their licensed premises to include the communal outdoor dining area. Each licensee is responsible for paying the modification of the licensed premises fee set forth in Regulation 47-506.

D. All licensees associated with a communal outdoor dining area pursuant to this Regulation 47-1103 must adopt and agree to a security and control plan for the communal outdoor dining area that is approved by the state and local licensing authorities. The security and control plan shall ensure:

1. Any retail food establishments associated with the communal outdoor dining area that does not hold a liquor license acknowledges and agrees that alcohol beverages will be sold in the communal outdoor dining area only by, and under the control of, the licensees associated with the communal outdoor dining area;

2. One or more licensees will supervise or provide security within the communal outdoor dining area during all hours of operation to ensure compliance with this Regulation 47-1103 and all relevant requirements of article 3 of title 44 and the Colorado liquor rules;

3. All licensees associated with the communal outdoor dining area agree they are jointly responsible for complying with this Regulation 47-1103 and all relevant requirements of article 3 of title 44 and the Colorado liquor rules; and

4. All licensees have obtained and will maintain a properly endorsed general liability and liquor liability insurance policy that includes the communal outdoor dining area and is reasonable acceptable to the state and local licensing authorities.

E. A licensee associated with a communal outdoor dining area shall not:

1. Permit customers to leave the communal outdoor dining area with any alcohol beverage except as permitted under Regulation 47-918;

2. Permit customers to bring food into the communal outdoor dining area that was purchased outside of the communal outdoor dining area;

3. Permit takeout or delivery orders to be ordered from or delivered to the communal outdoor dining area;

4. Sell, serve, or permit consumption of alcohol beverages in the communal outdoor dining area during hours the licensed premises cannot sell alcohol under article 3 of title 44 or the limitations imposed by the local licensing authority;

5. Sell, serve, dispose of, exchange, or deliver, or permit the sale, serving, giving, or procuring of an alcohol beverage to a visibly intoxicated person or to a known drunkard;

6. Sell, serve, dispose of, exchange, or deliver, or permit the sale, serving, or giving of an alcohol beverage to a person under twenty-one years of age;

7. Permit a visibly intoxicated person to remain within the communal outdoor dining area without an acceptable purpose; or

8. Permit a person to consume an alcohol beverage within the communal outdoor dining area unless it was purchased within the communal outdoor dining area from a licensee associated with the communal outdoor dining area.

F. Licensees associated with a communal outdoor dining area shall promptly remove all alcohol beverages from the communal outdoor dining area at the end of the hours of operation.

G. This Regulation 47-1103 does not apply to a special event permit issued under article 5 of title 44 unless the permit holder desires to use an existing communal outdoor dining area and agrees in writing to the requirements of article 3 of title 44 and the local licensing authority concerning the communal outdoor dining area.

H. A violation of section 44-3-912, C.R.S., or this regulation by a licensee, or by any of the agents, servants, or employees of a licensee, may result in disciplinary action, up to and including license revocation, pursuant to section 44-3-601(1), C.R.S., and may result in summary suspension of a license pursuant to section 44-3-601(2) and Regulation 47-602.

1. If the licensee responsible for the violation cannot be identified, each attached licensee is deemed jointly responsible and subject to discipline for the violation.

Notice of Proposed Rulemaking

Tracking number

2021-00606

Department

200 - Department of Revenue

Agency

204 - Division of Motor Vehicles

CCR number

1 CCR 204-10

Rule title

VEHICLE SERVICES SECTION

Rulemaking Hearing

Date

11/09/2021

Time

01:00 PM

Location

Virtual Hearing (link and call in in additional notes)

Subjects and issues involved

The purpose of this rule is to provide procedures for obtaining records and accessing the Department Website for Abandoned Motor Vehicles.

The time an operator whose access to the Department Website or records is cancelled or suspended may request a hearing, in writing, is being amended from "within thirty days" to "within sixty days" after the date of notice of cancellation or suspension is issued.

Statutory authority

42-1-204, C.R.S., Part 18 of Article 4 of Title 42, and Part 21 of Article 4 of Title 42, C.R.S.

Contact information

Name

Dylan Ikenouye

Title

Administrative Services Manager

Telephone

(720)248-7372

Email

dylan.ikenouye@state.co.us

DEPARTMENT OF REVENUE

Division of Motor Vehicles – ~~Title and Registration~~ Vehicle Services Section

1 CCR 204-10

RULE 12. OBTAINING RECORDS FOR ABANDONED MOTOR VEHICLES

Basis: ~~This rule is promulgated under the authority of sections~~ The statutory bases for this rule are 42-1-204**,** C.R.S., Part 18 of Article 4 of Title 42, and Part 21 of Article 4 of Title 42**,** C.R.S.

Purpose: The purpose of this rule is to provide procedures for obtaining records and accessing the Department Website for Abandoned Motor Vehicles.

1.0 Definitions

1.1 "Abandoned Motor Vehicle" for the purpose of this rule includes an abandoned motor vehicle on private property defined in section 42-4-2102(1), C.R.S., and/or an abandoned motor vehicle on public property defined in section 42-4-1802(1), C.R.S., as the context of the rule requires.

1.2 "Department Website" means the Colorado Department of Revenue, Title and Registration Section website, https://dmvpartner.colorado.gov, for acquiring ownership or lienholder information for abandoned vehicles.

1.3 "National Database" means an electronic system that allows the Department to obtain the name and contact information or motor vehicle owners' and lienholders' from the motor vehicle records of other states.

1.4 "Operator" has the same meaning as defined in sections 42-4-1802(7) and 42-4-2102(5), C.R.S.

1.5 "Private Tow" means the removal of an Abandoned Motor Vehicle on private property by an Operator pursuant to section 42-4-2103, C.R.S.

1.6 "Public Tow" means the removal of an Abandoned Motor Vehicle on public property in accordance with section 42-4-1803, C.R.S.

1.7 "Towing Law Enforcement Agency" means a law enforcement agency that is authorized to perform a Public Tow under its own authority.

2.0 Operator and Towing Law Enforcement Agency Registration, Department Website, and National Database

2.1 Operators and Towing Law Enforcement Agencies must be registered with the Department in order to use the Department Website. To register, Operators and

Towing Law Enforcement Agency users must submit a signed end-user's license agreement (EULA) provided by the Department.

2.2 Operators and Towing Law Enforcement Agencies must renew their Department Website registration annually, as directed on the Website.

2.3 An Operator must attempt to obtain the names and contact information of motor vehicle owners' and lienholders' name and contact information by submitting a DR 2489A Motor Vehicle Requestor Release Affidavit of Intended Use form with payment to the Department, or by performing a record search through the Department Website.

2.4 An Operator must establish a pre-paid account on the Department Website. The cost to search the National Database will be deducted from funds in the account. An Operator must maintain a sufficient balance on their account within the Department Website in order to complete Colorado record searches.

2.5 An accurately completed DR 2008 Public Tow Vehicle Information Request form and DR 2008A Private Tow Vehicle Information Request form submitted with a title application that is filed upon sale of the motor vehicle constitutes prima facie proof that the owner/lienholder notification and search requirements are satisfied.

2.6 The Department may cancel or suspend an Operator's registration and access to the Department Website pursuant to sections 42-4-1806(2)(b), 42-4-2105(2)(b), C.R.S., and for any violation of Part 18 of Article 4 of Title 42 or Part 21 of Article 4 of Title 42, C.R.S., or this Rule, including but not limited to the following:

a. The Operator's permit to operate as a towing carrier has been suspended, cancelled, or revoked by the Department of Regulatory Agencies, Public Utilities Commission;

b. The Operator obtains and uses records for any purpose not authorized by this Rule or the Colorado Revised Statutes; or

c. The Operator fails to complete an EULA annually on the Department Website.

3.0 Abandoned Motor Vehicle Record Search

3.1 A Colorado record search must be performed on all Abandoned Motor Vehicles, regardless of whether the vehicle has Colorado license plates, by submitting a DR 2489A Motor Vehicle Requestor Release Affidavit of Intended Use form or by using the Department Website.

3.2 A National Database record search must be performed if:

a. The Colorado record search results in "no record found"; or

b. The Abandoned Motor Vehicle displays visual indicators that it is an out-of-state motor vehicle (e.g., another state's license plate or registration number).

3.3 A National Database record search is performed by requesting a search through the Department Website or, if an Operator requests a search in person or by mail, by submitting a DR 2489A Motor Vehicle Requestor Release Affidavit of Intended Use form with payment to the Department.

a. If an Operator requests a search in person or by mail, it may request a National Database and Colorado record search at the same time as long as the Operator remits payment for both. If a motor vehicle record is located through a Colorado search, the Department will not perform a National Database search and will not refund the payment for the National Database record search.

4.0 Operator Access to Department Website and Records Cancelled - Hearing

4.1 Access Cancelled Due to Department of Regulatory Agencies, Public Utilities Commission Actions.

a. The Department will cancel or suspend an Operator's access to the Department Website immediately upon receiving notice of a final decision that the Operator's towing carrier license issued by the Department of Regulatory Agencies, Public Utilities Commission has been cancelled in accordance with sections 24-4-104 and 24-4-105, C.R.S.

b. An Operator whose access to the Department Website or records is cancelled or suspended may request a hearing, in writing, within ~~thirty~~ sixty days after the date of notice of cancellation or suspension is issued. Written hearing requests must be submitted to the Department of Revenue, Hearings Division.

c. The hearing will be held at the Department of Revenue, Hearings Division. The presiding hearing officer shall be an authorized representative designated by the Executive Director. The Department's representative need not be present at the hearing unless his or her presence is required by the presiding officer, or requested by the Operator at the time the written request for hearing is submitted. If the Department's representative is not present at the hearing, any written documents and affidavits submitted by the Department may be considered at the discretion of the hearing officer.

~~d. The sole issue at hearing will be whether the Department of Regulatory Agencies, Public Utilities Commission issued a final decision revoking the Operator's towing carrier license.~~

Notice of Proposed Rulemaking

Tracking number

2021-00613

Department

200 - Department of Revenue

Agency

204 - Division of Motor Vehicles

CCR number

1 CCR 204-10

Rule title

VEHICLE SERVICES SECTION

Rulemaking Hearing

Date

11/04/2021

Time

11:00 AM

Location

Virtual Hearing (link and call in in additional notes)

Subjects and issues involved

The purpose of this rule is to establish criteria for the application, responsibilities, and processes for group special license plates.

This rule change updates specifications regarding nonprofit application criteria and requirements for group special license plates.

Statutory authority

42-1-102(41.5), 42-1-204, 42-3-207, 42-3-208 and 42-3-301, C.R.S.

Contact information

Name

Dylan Ikenouye

Title

Administrative Services Manager

Telephone

(720)248-7372

Email

dylan.ikenouye@state.co.us

DEPARTMENT OF REVENUE

Division of Motor Vehicles – ~~Title and Registration~~ Vehicle Services Section

1 CCR 204-10

Rule 16. GROUP SPECIAL LICENSE PLATES

Basis: The statutory bases for this rule are 42-1-102(41.5), 42-1-204, 42-3-207, 42-3-208 and 42-3-301, C.R.S.

Purpose: The purpose of this rule is to establish criteria for the application, responsibilities, and processes for group special license plates.

1.0 Definitions

1.1 "Approval Notification" means written notification by the Executive Director of the Department of Revenue to a Nonprofit confirming that the Nonprofit has complied with the statutory and regulatory requirements necessary to seek legislative action to authorize a new group special license plate.

1.2 "Certificate" for the purpose of this rule means a Department approved-letter, voucher, or other document issued by a Nonprofit to a person as evidence that the person is qualified to receive a group special license plate. A Certificate may be in electronic or digital format instead of paper, if approved by the Department.

1.3 "Group Special License Plate Created through Rule" means the Air Force Commemorative, Columbine, Firefighters, Greyhound Lovers, Pioneer, and Raptor Education Foundation license plates.

1.4 "Group Special License Plate Created through Statute" means a group special license plate created on or after January 1, 2001 through its authorizing legislation.

1.5 "Nonprofit" means an entity that is a section 501(c)(3) corporation under the Internal Revenue Code or an entity holding charitable nonprofit status with the Colorado Secretary of State.

1.6 "Pre-Certification Qualifier" means a condition(s) that must be met in order to qualify for issuance of a group special license plate by the Department.

1.7 "Registered" for the purpose of this rule means a vehicle with an unexpired registration as provided in sections 42-3-102 and 42-3-114, C.R.S., that is currently issued the group special license plate, unless the context otherwise requires.

1.8 "Retire" or "Retirement" means the discontinuation of the production of the group special license plate.

1.9 "Secure and Verifiable Identification" means an identification document listed on form DR 2841 Secure and Verifiable ID.

2.0 Application for Approval to Seek Creation of Group Special License Plates

2.1 Any Nonprofit may apply for an Approval Notification authorizing the Nonprofit to seek legislation to create a group special license plate.

2.2 A Nonprofit that has satisfied all statutory and regulatory requirements for proposing the creation of a group special license plate ~~may submit~~ must apply using an application supplied by the Department to the ~~Title and Registration~~ Vehicle Services Section, Division of Motor Vehicles. Incomplete applications will not be accepted or retained.

a. Applications must be signed by the Nonprofit's designated representative. In addition to the signed application, the Nonprofit must submit:

1. Petition sheets with the names, addresses of residence, date signed, and signatures of at least three thousand (3,000) Colorado registered vehicle owners who have committed to purchase the proposed group special license plate. Petition sheets must be submitted in either paper, electronic, or digital format, as required by the Department. Petitions are not transferable between applications for different group special license plates. Petition signatures are valid for two years from the date signed prior to being submitted with the application to the Department. Petition sheets are valid for two consecutive legislative sessions from the date submitted with the application to the Department. At the sole discretion of the Department, a nonprofit may be granted additional time that petitions are valid.

A. With prior approval of the Department, a Nonprofit may use electronic or digital methods to obtain commitments to purchase the group special license plate. A Nonprofit requesting electronic or digital methods must submit a ~~their~~ plan on how these ~~electronic or digital~~ methods will be used to obtain commitments~~, to~~ including e, but not ~~be~~ limited to:~~,~~ how the methods would show that commitments ~~will be validated that they~~ meet the requirements of Colorado Revised Statutes and this Rule;~~,~~ how the methods~~y~~ will ~~be retained~~ protected ~~from invalid access to~~ personal identifying information;~~,~~ and include samples or actual electronic or digital methods sites (i.e., websites, emails etc.). Electronic or digital signatures obtained prior to the Department's approval are invalid and will not be counted toward the 3,000-signature requirement.

B. Electronic or digital methods may include, but are not limited to, web petitions, or electronic mail.

2. Proof of Nonprofit status by submitting a current letter from the Internal Revenue Service confirming section 501(c)(3) status or a document from the Colorado Secretary of State confirming the Nonprofit is holding charitable nonprofit status.

3. A sample Certificate (paper, electronic, or digital) with a written description of security features (serialization, watermarks, holograms, etc.) incorporated into the Certificate. The Nonprofit must provide a sample Certificate to the Department for approval before the Nonprofit can issue Certificates to qualified individuals. A Nonprofit may not issue a Certificate prior to the effective date of the enabling legislation. An individual's name on a Certificate must be identical to that listed on the individual's Secure and Verifiable Identification. Certificates are not transferable and are valid for issuance and registration of one set (single if a motorcycle) of group special license plates. The Department will destroy the Certificate upon issuing the group special license plate. The Certificate must contain an area in which the Nonprofit may place a Department system generated serial number/PIN.

4. Proof that the Nonprofit has the legal right to use all logos, designs, colors and other intellectual property in the proposed design of the group special license plate.

5. Proof that payment for the design was submitted by check or money order directly to Colorado Correctional Industries. The design fee becomes non-refundable upon the receipt of the Approval Notification from the Department.

6. A list of Pre-Certification Qualifiers required by the Nonprofit. If there are no Pre-Certification Qualifiers, the Nonprofit must provide a written statement that the Nonprofit will not require Pre-Certification Qualifiers for persons to be issued the group special license plate.

   A. If a monetary donation is required, the Nonprofit must provide a document that demonstrates that the use of those funds meets statutory and regulatory requirements.

2.3 Upon receipt of the Approval Notification, the Nonprofit is solely responsible for obtaining a bill sponsor to propose legislation. The Department will retain the application for two consecutive legislative sessions from the date of the Approval Notification.

a. If the Nonprofit fails to obtain a bill sponsor within two years of issuance of the Approval Notification, and it desires to continue to seek creation of the group special license plate, the Nonprofit must re-apply, submit a new application, ~~and~~ documents and petition signatures, and meet all statutory and regulatory requirements in effect at that time. Applications, documents, and other materials previously submitted to satisfy the application requirements are not transferable to the new application.

3.0 Enacted Group Special License Plates Responsibilities and Processes

3.1 A group special license plate must be designed within the parameters established by the Department. The Department may deny any design violating such parameters.

a. A group special license plate design shall not include a logo or other image copyrighted, trademarked, registered, or otherwise commonly associated with a for-profit entity, whether or not the Nonprofit is a division of or otherwise associated with the for-profit entity. Use of symbols not subject to trademark, copyright, or other legal protection may be approved if such use does not violate the parameters established by the Department. The Department shall have final approval authority on all logo designs and placement on the group special license plate.

b. Design change requests after the design has been approved must be submitted in writing to the Department by the Nonprofit. The Department may require supporting documentation, including, but not limited to, issuance trends, current inventory levels, and costs associated with changes. If the change request is approved, the Nonprofit shall prepay all design costs directly to Colorado Department of Corrections Division of Correctional Industries prior to production of the new design. Design changes are effective upon approval by the Department. If approval is granted while existing inventory is available and the Nonprofit requests that the new plates be issued prior to the sale of such inventory, the Nonprofit shall pay all costs associated with the recall, collection, and destruction of existing inventory. Registered vehicle owners may continue to use their current group special license plate regardless of any subsequent design change, provided such plate will not be replaced if the inventory is destroyed, exhausted, or the Department has determined not to issue additional plates.

3.2. Upon completion of the proposed group special license plate design, the Nonprofit will receive one sample of the approved plate design. Sample plates used in the design approval process are the property of the Department. The Nonprofit may request up to five samples for marketing and display purposes upon payment of material fees for each sample plate, as established in section 42-3-301, C.R.S. Sample plates will be produced using the standard passenger size license plate with the standard sample plate numbers assigned by the Department. Requests for non-standard sample plate number will not be accepted. The Department must be given at least one business day in advance notice from the Nonprofit of all news releases, interviews, or mass communications that reference the group special license plate.

3.3 Group special license plates are produced through a print on demand process, which does not require pre-stocking of inventory. However, the Department may utilize methods other than print on demand if the Department deems it appropriate.

3.4 The Department will not distribute thank you notes, requests for contributions, or other materials on behalf of the Nonprofit.

3.5 The Nonprofit must continuously maintain its Nonprofit status. A letter from the Internal Revenue Service confirming section 501(c)(3) status or a document from the Colorado Secretary of State's Office confirming that the Nonprofit is holding charitable nonprofit statute must be submitted to the Department annually on or before June 1st.

a. If at any time it is determined that an entity no longer has Nonprofit status, the group special license plate will be Retired pursuant to Code of Colorado Regulations 1 CCR 204-10 Rule 20. License Plate Retirement. Upon Retirement, the entity must cease seeking any donation authorized pursuant to its respective authorizing statute, and must cease to associate itself in any way with the group special license plate.

3.6 If a Nonprofit has Pre-Certification Qualifiers, it may enter into systems maintained by the Department information for each individual who has been approved for the receipt of a group special license plate and, for each, record the system generated serial number/PIN on the Certificate. If the Nonprofit enters the system generated serial number/PIN on the Certificate the Department may use the serial number/PIN to authenticate the Certificate.

3.7 The Nonprofit must notify the Department in writing if its authority regarding the group special license plate is transferred to a successor Nonprofit, as provided in the group special license plates respective authorizing statute. The successor Nonprofit must meet all statutory and regulatory requirements.

3.8 A Nonprofit may request changes to its Certificate. Requests must be submitted in writing, and any change must be approved by the Department before the Nonprofit can issue the new Certificate. Any changes must meet the requirements of this rule. Upon approval, the Department will work with the Nonprofit to establish an effective date upon which the Non-Profit may begin to issue the new Certificate. After the effective date of the new Certificate, only a new Certificate will be accepted by the Department; provided, however, that the Department will accept an old Certificate if it was issued by the Nonprofit prior to the effective date of the new Certificate.

3.9 If a group special license plate's respective authorizing statute provides that the Department "may" stop issuing the group special license plate if the group special license plate has not met the minimum issuance requirement, the Department may Retire the group special license plate or may continue to issue the plate until the existing inventory is exhausted. If the Department elects to Retire the group special license plate, the plate will be Retired pursuant to subsection 3.12 of this rule and Code of Colorado Regulations 1 CCR 204-10 Rule 20. License Plate Retirement.

3.10 If a group special license plate's respective authorizing statute provides that the Department "shall" retire the plate if the plate has not met its minimum issuance requirement as provided in that statute, then the group special license plate will be Retired pursuant to the group special license plate's respective authorizing statute and Code of Colorado Regulations 1 CCR 204-10 Rule 20. License Plate Retirement.

3.11 The Department may audit the Nonprofit associated with a group special license plate. The audit may include, but is not limited to, accounting, financial, tax, and Pre-Certification Qualifiers.

a. If the Department determines that the Nonprofit has violated its respective authorizing statute, or no longer qualifies as a Nonprofit under this rule, the Department may require additional information or at the Department's discretion may Retire the group special license plate pursuant to Code of Colorado Regulations 1 CCR 204-10 Rule 20. License Plate Retirement.

b. If the Department requires additional information, and such information is not provided or does not change the Department's determination that the Nonprofit has violated its respective authorizing statute, or that the Nonprofit no longer qualifies as a Nonprofit under this rule, the Department may Retire the group special license plate pursuant to Code of Colorado Regulations 1 CCR 204-10 Rule 20. License Plate Retirement.

c. Upon Retirement, the Nonprofit must cease seeking any donation authorized pursuant to the group special license plates respective authorizing statute.

3.12 If the Department Retires a group special license plate:

a. The Department will immediately cease producing the group special license plate, and may stop issuing the plate prior to exhausting the plate's inventory.

b. The Department will provide written notice of Retirement, via certified mail, to the Nonprofit associated with the group special license plate. This notice will be mailed to the last address provided by the Nonprofit in writing to the Department. This notice shall also act as official notice that the Nonprofit can no longer associate itself with the group special license plate. Upon receipt of the Retirement notice, the Nonprofit must:

1. Immediately cease collecting donations and issuing Certificates.

2. Within 72 hours, remove any reference to the Nonprofit's Pre-Certification Qualifier, if applicable, for the group special license plate from the Nonprofit's website, newsprint, or other publicly accessible media.

c. A person whose vehicle is Registered with a Retired group special license plate may continue to register with the group special license plate so long as the license plate is not damaged, lost, or stolen. The Department will not replace a Retired group special license plate if the inventory is destroyed, exhausted, or the Department has determined not to issue additional plates.

3.13 Nonprofits associated with Group Special License Plates Created through Rule must meet the requirements of this rule except as otherwise provided herein and/or pursuant to a contract between the Nonprofit and the Department that establishes requirements that differ from this rule.

3.14 A Nonprofit associated with a Group Special License Plate Created through Statute must meet the requirements of its respective authorizing statute and this rule.

3.15 An Approval Notification issued by the Department does not constitute an agreement to create the proposed group special license plate nor support legislation that would create the proposed group special license plate. The Department will designate a Nonprofit as directed in the enacting legislation.

4.0 Denial and Retirement Appeals

4.1 If a Nonprofit's application for a group special license plate has been denied, it may request a hearing, in writing, within 60 days after the date of the notice of denial. Written hearing requests shall be submitted to the Department of Revenue Hearings Section.

4.2 The hearing shall be held at the Department of Revenue, Hearing Section. The presiding hearing officer shall be an authorized representative designated by the Executive Director. The Department's representative need not be present at the hearing unless the presiding hearing officer requires his or her presence or the Sponsoring Organization requests his or her presence in writing. If the Department's representative is not present at the hearing, the hearing officer has the discretion to consider any written documents and affidavits submitted by the Department.

4.3 A group special license plate will be Retired pursuant to Code of Colorado Regulations 1 CCR 204-10 Rule 20. License Plate Retirement.

Notice of Proposed Rulemaking

Tracking number

2021-00641

Department

200 - Department of Revenue

Agency

212 - Marijuana Enforcement Division

CCR number

1 CCR 212-3

Rule title

COLORADO MARIJUANA RULES

Rulemaking Hearing

Date

11/01/2021

Time

09:00 AM

Location

Virtual

Subjects and issues involved

The State Licensing Authority will consider proposed rule recommendations needed to implement legislation passed during the 2021 legislative session (allowing changes in designation of Retail Marijuana to Medical Marijuana, establishing requirements and restrictions for regulated marijuana for purposes of safe consumption, allowing contingency plans for adverse weather events, providing for conditional employee licenses, and making non-substantive edits to defined terms); stakeholder recommendations from the Science & Policy Work Group (a stakeholder forum established in 2018 by the Division in collaboration with the Colorado Department of Public Health and Environment); revising and clarifying prior rules; and addressing any other subject matter necessary to implement, interpret, and effectively administer and enforce the Colorado Marijuana Code.

Statutory authority

The State Licensing Authority promulgates these rules pursuant to the authority granted in the Colorado Marijuana Code, 44-10-101, C.R.S., et seq., Article XVIII, Section 16 of the Colorado Constitution, and section 24-4-103, C.R.S., of the Administrative Procedure Act.

Contact information

Name

Danielle Henry

Title

Policy Advisor

Telephone

3032418271

Email

Danielle.Henry@state.co.us

COLORADO
Department of Revenue
Marijuana Enforcement Division

Initial Proposed Rules

Attachment to Notice of Rulemaking Filed September 30, 2021
Colorado Marijuana Rules
1 CCR 212-3

Part 1 – General Applicability

Basis and Purpose – 1-105

The statutory authority for this rule includes but is not limited to sections 44-10-102(3), 44-10-202(1)(c), and 44-10-701(2)(a), C.R.S. Unless such activity is authorized by the Colorado Constitution, article XVIII, Section 14 or Section 16, the Colorado Marijuana Code, section 25-1.5-106.5, C.R.S., or these rules, any Person who buys, Transfers, or acquires Regulated Marijuana outside the requirements of the Colorado Marijuana Code is engaging in illegal activity pursuant to Colorado law. This rule clarifies that those engaged in the business of possessing, cultivating, dispensing, Transferring, transporting, or testing Medical Marijuana or Retail Marijuana must be properly licensed to be in compliance with Colorado law. This Rule 1-105 was previously Rules M and R 101, 1 CCR 212-1 and 1 CCR 212-2.

1-105 – Engaging in Business

A. Except as authorized by the Colorado Constitution, article XVIII, sections 14 or 16, the Colorado Marijuana Code, or section 25-1.5-106.5, C.R.S., no person shall possess, cultivate, dispense, Transfer, transport, offer to sell, manufacture, or test Regulated Marijuana unless said person is duly licensed by the State Licensing Authority and approved by the relevant Local Jurisdiction(s) and/or licensed by the relevant Local Licensing Authority(-ies).

B. Public Health Orders and Executive Orders.

1. All Licensees, their agents, and their employees shall comply with any applicable public health orders issued by any agency of the State of Colorado including, but not limited to the Colorado Department of Public Health and Environment.

2. All Licensees, their agents, and their employees, shall comply with any and all executive orders issued by the Governor pursuant to the Governor's disaster emergency powers under section 24-33.5-704, C.R.S.

3. A violation of this Rule by a Licensee, or by any of the agents or employees of a Licensee, is a license violation affecting public safety, which may result in disciplinary action up to and including license revocation and summary suspension pursuant to sections 44-10-901(1), C.R.S. and 44-10-901(2), C.R.S., and these Rules.

Basis and Purpose – 1-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), C.R.S. The purpose of this rule is to clarify that each rule is independent of the others, so if one is found to be invalid, the remainder will stay in effect. This will give the regulated community confidence in the rules even if one is challenged. This Rule 1-110 was previously Rules M and R 102, 1 CCR 212-1 and 1 CCR 212-2.

1-110 – Severability

If any portion of the rules is found to be invalid, the remaining portion of the rules shall remain in force and effect.

Basis and Purpose – 1-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(j), and 44-10-103, C.R.S., and all of the Marijuana Code. The purpose of this rule is to provide necessary definitions of terms used throughout the rules. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and is not intended to be a defined term, it is not capitalized. This Rule 1-115 was previously Rules M and R 103, 1 CCR 212-1 and 1 CCR 212-2.

1-115 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 44-10-103, C.R.S., apply to all rules promulgated pursuant to the Marijuana Code, unless the context requires otherwise:

"Accelerator Cultivator" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Cultivation Facility on the premises of an Accelerator-Endorsed Retail Marijuana Cultivation Facility Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Accelerator-Endorsed Licensee" means a Retail Marijuana Cultivation Facility Licensee, Retail Marijuana Products Manufacturer Licensee, or a Retail Marijuana Store Licensee who has, pursuant to these rules, been endorsed to host and offer technical and capital support to a Social Equity Licensee pursuant to the requirements of the accelerator program established pursuant to the Code.

"Accelerator Licensee" means an Accelerator Cultivator, Accelerator Manufacturer, or Accelerator Store.

"Accelerator Manufacturer" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Products Manufacturer on the premises of an Accelerator-Endorsed Retail Marijuana Products Manufacturer Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Accelerator Store" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Store on the premises of an Accelerator-Endorsed Retail Marijuana Store Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Acquire," when used in connection with the acquisition of an Owner's Interest of a Regulated Marijuana Business, means obtaining ownership, Control, power to vote, or sole power of disposition of the Owner's Interest, directly or indirectly through one or more transactions or subsidiaries, through purchase, assignment, transfer, exchange, succession or other means.

"Acting in Concert" means knowing participation in a joint activity or interdependent conscious parallel action toward a common goal, whether or not pursuant to an express agreement.

"Additive" means any non-marijuana derived substance added to Regulated Marijuana to achieve a specific technical and/or functional purpose during processing, storage, or packaging. Additives may be direct or indirect. Direct additives are used to impart specific technological or functional qualities. Indirect additives are not intentionally added but may be present in trace amounts as a result of processing, packaging, shipping, or storage. Botanically Derived Compounds which have been isolated or enriched and subsequently added back into cannabis products are additives.

"Adverse Health Event" means any untoward health condition or occurrence associated with the use of marijuana—this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, medical visit, abnormal laboratory finding, outbreak, death [non-motor vehicle]), symptom, or disease temporally associated with the use of a marijuana product, and may include concerns or reports on the quality, labeling, or possible adverse reactions to a specific marijuana (or hemp) product Transferred or manufactured at a Regulated Marijuana Business.

"Adverse Weather Event" means:

a. Damaging weather, which involves a drought, a freeze, hail, excessive moisture, excessive wind or a tornado; or

b. An adverse natural occurrence, which involves an earthquake, wildfire, or flood.

"Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication, to directly induce any Person to patronize a particular Medical Marijuana Business or Retail Marijuana Business, or to purchase particular Regulated Marijuana. "Advertising" does not include packaging and labeling, Consumer Education Materials, or Branding.

~~"Additive" means any non-marijuana derived substance added to Regulated Marijuana to achieve a specific technical and/or functional purpose during processing, storage, or packaging. Additives may be direct or indirect. Direct additives are used to impart specific technological or functional qualities. Indirect additives are not intentionally added but may be present in trace amounts as a result of processing, packaging, shipping, or storage. Botanically Derived Compounds which have been isolated or enriched and subsequently added back into cannabis products are additives.~~

"Affiliate" of, or Person affiliated with, a specified Person, means a Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, the Person specified.

"Alarm Installation Company" means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

"Alternative Use Designation" means a designation approved by the State Licensing Authority, permitting a Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer to manufacture and Transfer Alternative Use Product.

"Alternative Use Product" means Regulated Marijuana that has at least one intended use that is not included in the list of intended uses in Rule 3-1015(B). Alternative Use Product may raise public health concerns that outweigh approval of the Alternative Use Product, or that require additional safeguards and oversight. Alternative Use Product cannot be Transferred except as permitted by Rule 5-325 or Rule 6-325 after obtaining an Alternative Use Designation. Rule 5-325 permits a Medical Marijuana Products Manufacturer to Transfer Alternative Use Product to a Medical Marijuana Testing Facility prior to receiving an Alternative Use Designation. Rule 6-325 permits a Retail Marijuana Products Manufacturer to Transfer Alternative Use Product to a Retail

Marijuana Testing Facility prior to receiving an Alternative Use Designation. Except where the context otherwise clearly requires, rules applying to Regulated Marijuana Concentrate or Regulated Marijuana Product apply to Alternative Use Product.

"Applicant" means a Person that has submitted an application for licensure, permit, or registration, or for renewal of licensure, permit, or registration, pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

"Approved Training Program" means a responsible vendor program that received approval from the Division prior to being offered to a Licensee.

"Audited Product" means a Regulated Marijuana Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration. Audited Product types may raise public health concerns requiring additional safeguards and oversight. These product types may only be manufactured and Transferred by a Medical Marijuana Products Manufacturer in strict compliance with Rule 5-325 or Retail Marijuana Products Manufacturer in strict compliance with Rule 6-325. Prior to the first Transfer of an Audited Product to a Medical Marijuana Store, Medical Marijuana Cultivation Facility that has a Centralized Distribution Permit, Retail Marijuana Store or Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit, the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer shall submit to the Division and, if applicable, to the Local Licensing Authority or Local Jurisdiction an independent third-party audit verifying compliance with Rule 5-325 or Rule 6-325. All rules regarding Regulated Marijuana Product apply to Audited Product except where Rules 5-325, 6-325, 4-115, 3-1010, and 3-1015 apply different requirements.

"Bad Actor" means a Person who:

a. Has been convicted, within the previous ten years (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor:

   i. In connection with the purchase or sale of any Security;

   ii. Involving the making of any false filing with the Federal Securities Exchange Commission; or

   iii. Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of Securities;

b. Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within the previous five years, that restrains or enjoins such Person from engaging or continuing to engage in any conduct or practice:

   i. In connection with the purchase or sale of any Security;

   ii. Involving the making of any false filings with the Federal Securities Exchange Commission; or

   iii. Arising out of conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of Securities:

c. Is subject to a final order of a state securities commission (or an agency or officer of a state performing like functions); a state authority that supervises or examines

banks, savings associations, or credit unions; a state insurance commission (or an agency or officer of a state performing like functions); an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that:

i. Bars the Person from:

A. Association with an Entity regulated by such commission, authority, agency, or officer;

B. Engaging in the business of Securities, insurance or banking; or

C. Engaging in savings association or credit union activities; or

ii. Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within the previous ten years;

d. Is subject to an order of the Federal Securities Exchange Commission entered pursuant to section 15(b) or 15B(c) of the Securities Exchange Act of 1934, or section 203(e) or (f) of the Investment Advisers Act of 1940 that:

i. Suspends or revokes such Person's registration as a broker, dealer, municipal securities dealer or investment adviser;

ii. Places limitations on the activities, functions or operations of such Person; or

iii. Bars such Person from being associated with any Entity, or from participating in the offering of any Penny Stock;

e. Is subject to any order of the Federal Securities Exchange Commission entered within the previous five years that orders the Person to cease and desist from committing or causing a violation or future violation of:

i. Any scienter-based anti-fraud provision of the federal securities laws, including without limitations section 17(a)(1) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. 240.10b-5, section 15(c)(1) of the Securities Exchange Act of 1934 and section 206(1) of the Investment Advisers Act of 1940, or any other rule or regulation thereunder; or

ii. Section 5 of the Securities Act of 1933.

f. Is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

g. Has filed (as a registrant or issuer), or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the federal Securities Exchange Commission that, within the previous five years, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or

h. Is subject to a United States Postal Service false representation order entered with the previous five years, or is subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

"Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Medical Marijuana Cultivation Facility or Medical Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Medical Marijuana, or by a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Retail Marijuana.

"Beneficial Owner" includes the terms "beneficial ownership", or "beneficially owns" and means:

a. Any Person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

i. Voting power which includes the power to vote, or to direct the voting of, an Owner's Interest; and/or,

ii. Investment power which includes the power to dispose, or to direct the disposition of, an Owner's Interest.

b. Any Person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose of effect of divesting such Person of beneficial ownership of an Owner's Interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d) or (g) of the Securities Act of 1933 shall be deemed for purposes of such sections to be the beneficial owner of such Owner's Interest.

c. All Owner's Interests of the same class beneficially owned by a Person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such Person.

d. Notwithstanding the provisions of paragraphs (a) and (c) of this rule:

i.

A. A Person shall be deemed to be the beneficial owner of an Owner's Interest, subject to the provisions of paragraph (b) of this rule, if that Person has the right to acquire beneficial ownership of such Owner's Interest, as defined in Rule 13d-3(a) (§ 240.13d-3(a)) within sixty days, including but not limited to any right to acquire: (1) Through the exercise of any option, warrant or right; (2) through the conversion of an Owner's Interest; (3) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or (4) pursuant to the automatic termination of a trust, discretionary account or similar arrangement; provided, however, any person who acquires an Owner's Interest or power specified in paragraphs (d)(i)(A)(1), (2) or (3), of this section, with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon

such acquisition shall be deemed to be the beneficial owner of the Owner's Interests which may be acquired through the exercise or conversion of such Owner's Interests or power. Any Owner's Interests not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding Owner's Interests of the class owned by such Person but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other Person.

B. Paragraph (d)(i)(A) of this section remains applicable for the purpose of determining the obligation to file with respect to the underlying Owner's Interests even though the option, warrant, right or convertible Owner's Interests is of a class of equity Owner's Interest, as defined in § 240.13d-1(i), and may therefore give rise to a separate obligation to file.

ii. A member of a national securities exchange shall not be deemed to be a beneficial owner of an Owner's Interest held directly or indirectly by it on behalf of another Person solely because such member is the record holder of such Owner's Interests and, pursuant to the rules of such exchange, may direct the vote of such Owner's Interests, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the Owner's Interests to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

iii. A person who in the ordinary course of his business is a pledgee of Owner's Interests under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged Owner's Interests until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged Owner's Interests will be exercised, provided, that:

A. The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with any transaction having such purpose or effect, including any transaction subject to Rule 13d-3(b);

B The pledgee is a Person specified in Rule 13d-1(b)(ii), including Persons meeting the conditions set forth in paragraph (G) thereof; and

C The pledgee agreement, prior to default, does not grant to the pledgee;

1. The power to vote or to direct the vote of the pledged Owner's Interests; or

2. The power to dispose or direct the disposition of the pledged Owner's Interests, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended subject to regulation T (12 CFR 220.1

to 220.8) and in which the pledgee is a broker or dealer registered under section 15 of the Securities Act of 1933.

iv. A Person engaged in business as an underwriter of Owner's Interests who acquires Owner's Interests through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933 shall not be deemed to be the beneficial owner of such Owner's Interests until the expiration of forty days after the date of such acquisition.

"Blank Check Company" means an Entity that:

a. Is a development stage company that has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other Entity or Person; and

b. Is issuing Penny Stock.

"Botanically Derived Compounds" are organic chemicals that typically have a high vapor pressure at room temperature and are likely to be dispersed into the air. Botanically Derived Compounds include, but are not limited to terpenes, terpenoids, ketones, esters, and other molecules which are naturally occurring in plants and are used to affect the flavor and aroma of Regulated Marijuana.

"Branding" means promotion of a Regulated Marijuana Business's brand through publicizing the Regulated Marijuana Business's name, logo, or distinct design feature of the brand.

"Cannabinoid" means any of the chemical compounds that are the active principles of marijuana.

"Centralized Distribution Permit" means a permit issued to a Medical Marijuana Cultivation Facility pursuant to section 44-10-502, C.R.S., or a Retail Marijuana Cultivation Facility pursuant to section 44-10-602, C.R.S., authorizing temporary storage of Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer or Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores or Retail Marijuana Stores. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person has a minimum of five percent ownership in both the Medical Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Medical Marijuana Store, or in both the Retail Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Retail Marijuana Store.

"Child-Resistant" means special packaging that is:

a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995). Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of the applicable federal regulations, which is available to the public;

b. Opaque so that the packaging does not allow the product to be seen without opening the packaging material; and

c. Resealable for any product intended for more than a single use or containing multiple servings.

"Commercially Reasonable Royalty" means a right to compensation in the form of a royalty payment for the use of intellectual property with a direct nexus to the cultivation, manufacture, Transfer or testing of Regulated Marijuana. A Commercially Reasonable Royalty must be limited to specific intellectual property the Commercially Reasonable Royalty interest owns or is otherwise authorized to license or to a product or line of products. A Commercially Reasonable Royalty must not cause reasonable consumer confusion or violate any federal copyright, trademark or patent law or regulation will not be approved. To determine whether the Commercially Reasonable Royalty is reasonable, the Division will consider the totality of the circumstances, including but not limited to the following factors:

a. The percentage of royalties received by the recipient for the licensing of the intellectual property.

b. The rates paid by the Licensee for the use of other intellectual property.

c. The nature and scope of the license, as exclusive or non-exclusive; or as restricted or non-restricted in terms of territory or with respect to whom the product may be sold.

d. The licensor's established policy and marketing program to maintain an intellectual property monopoly by not licensing others or by granting licenses under special conditions designed to preserve that monopoly.

e. The commercial relationship between the recipient and Licensee, such as, whether they are competitors in the same territory in the same line of business.

f. The effect of selling the intellectual property in promoting sales of other products of the Licensee; the existing value of the intellectual property to the recipient as a generator of sales of his non-intellectual property items; and the extent of such derivative sales.

g. The duration of the term of the license for use of the intellectual property.

h. The established or projected profitability of the product made using the intellectual property; its commercial success; and its current popularity.

i. The utility and advantages of the intellectual property over products or businesses without the intellectual property.

j. The nature of the intellectual property; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who have used the intellectual property.

k. The portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the intellectual property.

l. The portion of the realizable profit that should be credited to the intellectual property as distinguished from non-intellectual property elements, the manufacturing process, business risks, or significant features or improvements added by the Licensee.

"Consumer Education Materials" means any informational materials that seek to educate consumers about Regulated Marijuana generally, including but not limited to education regarding the safe consumption of marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana

Products, provided it is not distributed or made available to individuals under twenty-one years of age.

"Consumption Area" means a designated and secured area within the Licensed Premises of a Licensed Hospitality Business where consumers can use and consume marijuana and where no one under the age of 21 is permitted. A Consumption Area may, but is not required to, be part of a Restricted Access Area.

"Container" means the receptacle directly containing Regulated Marijuana that is labeled according to the requirements in the 3-1000 Series Rules.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting Owner's Interests, by contract, or otherwise. This definition of Control includes Controls, Controlled, Controlling, Controlled by, and under common Control with.

"Controlling Beneficial Owner" means a Person that satisfies one or more of the following criteria:

a. A natural person, an Entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, a trust, the trustee of a trust, a Publicly Traded Corporation, or a Qualified Private Fund that is not a Qualified Institutional Investor:

   i. Acting alone or Acting In Concert, that owns or Acquires Beneficial Ownership of ten percent or more of the Owner's Interest of a Regulated Marijuana Business;

   ii. That is an Affiliate that Controls a Regulated Marijuana Business and includes, without limitation, any Manager; or

   iii. That is otherwise in a position to Control the Regulated Marijuana Business except as authorized in section 44-10-506 or 44-10-606, C.R.S.; or

b. A Qualified Institutional Investor acting alone or Acting In Concert that owns or Acquires Beneficial Ownership of more than thirty percent of the Owner's Interest of a Regulated Marijuana Business.

c. Unless the context otherwise requires, the defined term Controlling Beneficial Owner includes Direct Beneficial Interest Owner.

"Corrective Action" means a reactive action implemented to eliminate the root cause of a Nonconformance and to prevent recurrence.

"Court Appointee" means a Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person; acting in accordance with section 44-10-401(3), C.R.S., and these rules; and authorized by court order to take possession of, operate, manage, or control a licensed Regulated Marijuana Business.

"Covered Securities" means:

a. A Security designated as qualified for trading in the national market system pursuant to section 78k-1(a)(2) of the Securities Act of 1933 that is listed, or authorized for listing, on a national securities exchange (or tier or segment

thereof); or a Security of the same issuer that is equal in seniority or that is a senior Security to a Security designated as qualified for trading in the national market system.

b. A Security issued by an investment company that is registered, or that has filed a registration statement under the federal Investment Company Act of 1940.

c. A Security as defined by the Federal Securities Exchange Commission by rule pursuant to 15 U.S.C. §77r(b)(3).

d. A Security pursuant to 15 U.S.C. §77r(b)(4).

"Decontamination" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana without changing the product type of the Regulated Marijuana.

"Delivery Motor Vehicle" means any self-propelled vehicle that is designed primarily for travel on the public highways, that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle that is used for delivery of Regulated Marijuana to patients or consumers; except that the term does not include electric assisted bicycles, wheelchairs, or vehicles moved solely by human power.

"Denied Applicant" means any Person whose application for licensure, permit, or registration pursuant to the Marijuana Code has been denied, any Person whose application for a responsible vendor program has been denied, or any Licensee whose application for any of the following non-exhaustive list has been denied: An initial license application pursuant to Rule 2-220, a renewal application pursuant to Rule 2-225, the request for a finding of suitability pursuant to Rule 2-235, a change of owner pursuant to Rule 2-245; a change of location of the Licensed Premises pursuant to Rule 2-255; a change, alteration, or modification of the Licensed Premises pursuant to Rule 2-260; or a production management tier increase request pursuant to Rule 5-225 or 6-220.

"Department" means the Colorado Department of Revenue.

"Designated ~~Sample~~ Test Batch Collection Area" means an area that has been designated within the Limited Access Area of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Medical Marijuana Products Manufacturer that is under surveillance and used for purposes of organizing and combining Sample Increments to create Test Batches, and which has been cleaned and sanitized prior to preparing Test Batches.

"Designated Test Batch Collector" means an Owner Licensee or an Employee Licensee who has been designated by a Regulated Marijuana Business and completed training required by Rule 4-110 to engage in Sample Increment Collection for the purpose of creating Test Batches.

"Director" means the Director of the Marijuana Enforcement Division.

"Disproportionate Impacted Area" means a census tract in the top 15th percentile for that state in at least two of the following categories as measured by the United States Census Bureau:

a. the percent of residents in the census tract receiving public assistance;

b. the percent of residents in the census tract falling below the federal poverty level;

c. the percent of residents in the census tract failing to graduate from High School; and

d. the percent of residents in the census tract who are unemployed.

"Division" means the Marijuana Enforcement Division.

"Edible Medical Marijuana Product" means any Medical Marijuana Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

"Edible Retail Marijuana Product" means any Retail Marijuana Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

"Employee License" means a license granted by the State Licensing Authority pursuant to section 44-10-401, C.R.S., to a natural person who is not a Controlling Beneficial Owner. Any person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana, who is authorized to input data into a Regulated Marijuana Business's Inventory Tracking System or point-of-sale system, or who has unescorted access in the Restricted Access Area or Limited Access Area must hold an Employee License. Employee License includes both Key Licenses and Support Licenses.

"Entity" means a domestic or foreign corporation, cooperative, general partnership, limited liability partnership, limited liability company, limited partnership, limited liability limited partnership, limited partnership association, nonprofit association, nonprofit corporation, or any other organization or association that is formed under a statute or common law of the state of Colorado or any other jurisdiction as to which the laws of this state of Colorado or the laws of any other jurisdiction governs relations among owners and between the owners and the organization or association and that is recognized under the laws of the state of Colorado or the other jurisdiction as a separate legal entity.

"Executive Officer" means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function, or any other person who performs similar policy making functions for the Regulated Marijuana Business.

"Exit Package" means an Opaque bag or other similar Opaque covering provided at the point of sale, in which Regulated Marijuana already in a Container is placed. If Regulated Marijuana flower, trim or seeds are placed into a Container that is not Child-Resistant, then the Exit Package must be Child-Resistant. The Exit Package is not required to be labeled in accordance with the 3-100 Series Rules.

"Fibrous Waste" means any roots, stalks, and stems from a Regulated Marijuana plant.

"Final Agency Order" means an Order of the State Licensing Authority issued in accordance with the Marijuana Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

"Flammable Solvent" means a liquid that has a flash point below 100 degrees Fahrenheit.

"Flowering" means the reproductive state of the cannabis plant in which there are physical signs of flower budding out of the nodes of the stem.

"Food-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

"Food-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

"Foreign Private Issuer" means any foreign issuer other than a foreign government except an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter:

a. More than 50 percent of the outstanding voting Securities of such issuer are directly or indirectly owned of record by residents of the United States; and

b. Any of the following:

i. The majority of the executive officers or directors are United States citizens or residents;

ii. More than 50 percent of the assets of the issuer are located in the United States; or

iii. The business of the issuer is administered principally in the United States.

"Good Cause" for purposes of denial of an initial, renewal, or reinstatement of a license, registration, or permit application, means:

a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Marijuana Code, any rules promulgated pursuant to the Marijuana Code, or any supplemental relevant state or local law, rule, or regulation;

b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local jurisdiction; or

c. The Licensee's Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good Moral Character" means having a criminal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

"Greenhouse" means a hoop house or other structure with non-rigid walls that utilizes natural light, in whole or in part, for the cultivation of Regulated Marijuana.

"Harvest Batch" means a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Harvest Batch may also include a Manicure Batch that was harvested prior to the creation of the Harvest Batch.

"Harvested Marijuana" means Regulated Marijuana flower reported as a package in the Inventory Tracking System or post-harvest Regulated Marijuana not including wet whole plant, trim,

concentrate, waste, or Fibrous Waste that remains on the premises of the Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility or its off-premises storage location beyond 90 days from harvest.

"Heat/Pressure-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of heat and/or pressure. The method of extraction may be used by only a Medical Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes ~~Water~~Physical Separation-Based Medical Marijuana Concentrate or Solvent-Based Medical Marijuana Concentrate.

"Heat/Pressure-Based Retail Marijuana Concentrate" means Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of heat and/or pressure. This method of extraction may be used by only a Retail Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes ~~Water~~Physical Separation-Based Retail Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

"Identification Badge" means a physical badge issued to any natural person possessing an Owner License or Employee License, used to verify the identity of the natural persons on the Licensed Premises of a Regulated Marijuana Business.

"Identity Statement" means the name of the business as it is commonly known and used in any Advertising.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping or seedling and is in a cultivating container.

"Indirect Financial Interest Holder" means a Person that is not an Affiliate, a Controlling Beneficial Owner, or a Passive Beneficial Owner of a Regulated Marijuana Business and that:

a. Holds a Commercially Reasonable Royalty in exchange for a Regulated Marijuana Business's use of the Person's intellectual property;

b. Holds a Permitted Economic Interest that was issued prior to January 1, 2020, and that has not been converted into an Owner's Interest or holds any unsecured convertible debt option, option agreement or warrant that establishes a right for a Person to obtain an interest that might convert to an ownership interest in a Regulated Marijuana Business obtained after January 1, 2020;

c. Is a contract counterparty with a Regulated Marijuana Business, other than a customary employment agreement, that has a direct nexus to the cultivation, manufacture, sale, or testing of Regulated Marijuana, including, but not limited to, a lease of real property on which the Regulated Marijuana Business operates, a lease of equipment used in the cultivation, manufacture, or testing of Regulated Marijuana, a secured or unsecured financing agreement with the Regulated Marijuana Business, a security contract with the Regulated Marijuana Business, or a management agreement with the Regulated Marijuana Business, provided that no such contract compensates the contract counterparty with a percentage of revenue for profits of the Regulated Marijuana Business.

    i. Any secured interest in Regulated Marijuana must expressly provide that it is subject to all required suitability and application requirements.

d. Unless the context otherwise requires, the defined term Indirect Financial Interest Holder includes Indirect Beneficial Interest Owner.

"Industrial Fiber Products" means intermediate or finished products made from Fibrous Waste that are not intended for human or animal consumption and are not usable or recognizable as Regulated Marijuana. Industrial Fiber Products include, but are not limited to, cordage, paper, fuel, textiles, bedding, insulation, construction materials, compost materials, and industrial materials.

"Industrial Fiber Products Producer" means a Person who produces Industrial Fiber Products using Fibrous Waste.

"Industrial Hemp" means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

"Industrial Hemp Product" means a finished product containing Industrial Hemp that:

a. Is a cosmetic, food, food additive, or herb;

b. Is for human use or consumption;

c. Contains any part of the hemp plant, including naturally occurring Cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives; and

d. Contains a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent.

"Industrial Hygienist" means a natural person who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from an accredited college or university.

a. The special studies and training of such persons must be sufficient in the cognate sciences to provide the ability and competency to:

   i. Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;

   ii. Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;

   iii. Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.

b. Any person who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in the definition above.

c. Any person who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the

scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in the definition above.

"Ineligible Issuer" means:

a. Any issuer that is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 that has not filed all reports and other materials required to be filed during the preceding 12 months, other than reports on Form 8-K required solely pursuant to an item specified in General Instruction I.A.3(b) of Form S-3;

b. The issuer is, or during the past three years the issuer or any of its predecessors was:

i. A Blank Check Company;

ii. A Shell Company;

iii. An issuer of an offering of Penny Stock;

c. The issuer is a limited partnership that is offering and selling its Securities other than through a firm commitment underwriting;

d. Within the past three years, a petition under the federal bankruptcy laws or any state insolvency law was filed by or against the issuer, or a court appointed a receiver, fiscal agent or similar officer with respect to the business or property of the issuer subject to the following:

i. In the case of an involuntary bankruptcy in which a petition was filed against the issuer, ineligibility will occur upon the earlier to occur of:

A. 90 days following the date of the filing of the involuntary petition (if the case has not been earlier dismissed); or

B. The conversion of the case to a voluntary proceeding under federal bankruptcy or state insolvency laws; and

ii. Ineligibility will terminate if an issuer has filed an annual report with audited financial statements subsequent to its emergence from that bankruptcy, insolvency, or receivership process;

e. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was convicted of any felony or misdemeanor described in paragraphs (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934;

f. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that:

i. Prohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws;

ii. Requires that the Person cease and desist from violating the anti-fraud provisions of the federal securities laws; or

iii. Determines that the Person violated the anti-fraud provisions of the federal securities laws;

g. The issuer has filed a registration statement that is the subject of any pending proceeding or examination under section 8 of the Securities Act of 1933 or has been the subject of any refusal order or stop order under section 8 of the Securities Act of 1933 within the past three years; or

h. The issuer is the subject of any pending proceeding under section 8A of the Securities Act of 1933 in connection with an offering.

"Infused Pre-Rolled Marijuana" means pre-rolled Regulated Marijuana that was produced by rolling, filling, or stuffing Harvested Marijuana flower, shake, and/or trim with Regulated Marijuana Concentrate(s) into paper, leaves or an equivalent wrapper and is intended for consumption by inhalation.

"Ingredient" means any non-marijuana derived substance that is added to Regulated Marijuana to achieve a desired effect. The term Ingredient includes all Additives.

"Initial Decision" means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing. Either party may file exceptions to the Initial Decision. The State Licensing Authority will review the Initial Decision and any exceptions filed thereto, and will issue a Final Agency Order.

"Inventory Tracking System" means the required seed-to-sale tracking system that tracks Regulated Marijuana from either the seed or immature plant stage until the Regulated Marijuana is sold to a patient at a Medical Marijuana Store or to a consumer at a Retail Marijuana Store, Transferred to a Medical Marijuana Testing Facility or Retail Marijuana Testing Facility, Transferred to a Sampling Manager, Transferred to an Industrial Fiber Products Producer, Transferred to a Pesticide Manufacturer, or destroyed by a Regulated Marijuana Business, or used in a Research Project by a Marijuana Research and Development Facility.

"Inventory Tracking System Trained Administrator" means an Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, each of whom has attended and successfully completed Inventory Tracking System training and has completed any additional training required by the Division.

"Inventory Tracking System User" means an Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, who is granted Inventory Tracking System User account access for the purposes of performing inventory tracking functions in the Inventory Tracking System. Each Inventory Tracking System User must have been successfully trained by an Inventory Tracking System Trained Administrator in the proper and lawful use of Inventory Tracking System.

"Kief" means a subset of Physical Separation-Based Marijuana Concentrate that consists of the resinous crystal-like trichomes that ~~are found on~~ have been physically separated from Regulated Marijuana flower, shake, or~~and~~ trim that ~~are accumulated,~~ result~~sing~~ in a higher concentration of cannabinoids.

"License" means to grant a license, permit, or registration pursuant to the Marijuana Code.

"Licensed Hospitality Business" means a Marijuana Hospitality Business or Retail Marijuana Hospitality and Sales Business.

"Licensed Premises" means the premises specified in an application for a license pursuant to the Marijuana Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, or test Medical Marijuana, or to cultivate, manufacture, distribute, sell, store, transport, test, or allow the use or consumption of Retail Marijuana, in accordance with the provisions of the Marijuana Code, and these rules. Not all areas of the Licensed Premises are Limited Access Areas or Restricted Access Areas.

"Licensee" means any Person licensed, registered, or permitted pursuant to the Marijuana Code including an Owner Licensee and an Employee Licensee.

"Limited Access Area" means a building, room, or other contiguous area upon the Licensed Premises where Regulated Marijuana and Regulated Marijuana Products are grown, cultivated, manufactured, stored, weighed, packaged, sold, possessed for sale, Transferred, or processed for Transfer, under control of the Licensee, with access limited to only those persons licensed by the State Licensing Authority and those visitors Escorted by a person licensed by the State Licensing Authority. All areas of ingress or egress to limited access areas must be clearly identified as such by a sign as designated by the State Licensing Authority.

"Limit of Detection" or "LOD" means the lowest quantity of a substance that can be distinguished from the absence of that substance (a blank value) within a stated confidence limit (generally 1%).

"Limit of Quantitation" or "LOQ" means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

"Liquid Edible Medical Marijuana Product" means an Edible Medical Marijuana Product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

"Liquid Edible Retail Marijuana Product" means an Edible Retail Marijuana Product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

"Local Jurisdiction" means a locality as defined in section 16 (2)(e) of article XVIII of the state constitution.

"Local Licensing Authority" means an authority designated by municipal, county, or city and county charter, ordinance, or resolution, or the governing body of a municipality or city and county, or the board of county commissioners of a county if no such authority is designated.

"Manager" means:

a. A member of a limited liability company in which management is not vested in managers rather than members;

b. A manager of a limited liability company in which management is vested in managers rather than members;

c. A member of a limited partnership association in which management is not vested in managers rather than members;

d. A manager of a limited partnership association in which management is vested in managers rather than members;

e. A general partner;

f. An officer or director of a corporation, a nonprofit corporation, a cooperative, or a limited partnership association; or

g. Any Person whose position with respect to an Entity, as determined under the constituent documents and organic statutes of the Entity, without regard to the Person's title, is the functional equivalent of any of the positions described in this definition.

"Manicure Batch" means a Harvest Batch or a part of a Harvest Batch of a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Manicure Batch consists of Regulated Marijuana that has been harvested from plants that have not yet been cut down and/or used in a Harvest Batch. A Manicure Batch may be considered a Harvest Batch by itself, or it may be combined with a Harvest Batch containing the same plant from which the Manicure Batch was created.

"Marijuana Code" means the Colorado Marijuana Code found at sections 44-10-101 *et seq.*, C.R.S.

"Marijuana Consumer Waste" means any component left after the consumption of a Regulated Marijuana Product, including but not limited to Containers, packages, cartridges, pods, cups, batteries, all-in-one disposable devices, and any other waste component left after the Regulated Marijuana is consumed.

"Marijuana Hospitality Business" means a facility, which may be mobile, licensed to permit the consumption of marijuana pursuant to article 10; rules promulgated pursuant to article 10; and the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

"Marketing Layer" means packaging in addition to the Container that is the outermost layer visible to the consumer at the point of sale. The Marketing Layer is optional, but if used by a Licensee in addition to the required Container, it must be labeled according to the requirements in the 3-1000 Series Rules.

"Marijuana Research and Development Facility" means a Person that is licensed pursuant to the Marijuana Code to grow, cultivate, manufacture, and possess Medical Marijuana, and to Transfer Medical Marijuana to another Marijuana Research and Development Facility all for limited research purposes authorized pursuant to section 44-10-507, C.R.S.

"Material Change" means any change that would require a substantive revision to a Regulated Marijuana Business's standard operating procedures for the cultivation of Regulated Marijuana or the production of Regulated Marijuana Product.

"Medical Marijuana" means marijuana that is grown and sold pursuant to the provisions of article 10 and for a purpose authorized by section 14 of article XVIII of the state constitution but shall not be considered a nonprescription drug for purposes of section 12-42.5-102(21) or 39-26-717, or an over-the-counter medication for purposes of section 25.5-5-322. If the context requires, Medical Marijuana includes Medical Marijuana Concentrate and Medical Marijuana Products.

"Medical Marijuana Business" means any of the following entities licensed pursuant to article 10: A Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Product Manufacturer, a Medical Marijuana Testing Facility, a Marijuana Research and Development Licensee, a Medical Marijuana Business Operator, or a Medical Marijuana Transporter.

"Medical Marijuana Business Operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a medical marijuana business for direct remuneration from the Medical Marijuana Business(es). A Medical Marijuana Business Operator is not, by virtue of its status as a medical marijuana business operator, a controlling beneficial owner or a passive beneficial owner of any medical marijuana business it operates.

"Medical Marijuana Concentrate" means a subset of Medical Marijuana that is separated from the medical marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Medical Marijuana Concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in medical marijuana plants that have been separated from medical marijuana. Medical Marijuana Concentrate may also include residual amounts of the types of solvents, as permitted by the marijuana rules. The State Licensing Authority may further define by rule subcategories of Medical Marijuana Concentrate and authorize limited ingredients based on the method of production of Medical Marijuana Concentrate. Unless the context otherwise requires, Medical Marijuana Concentrate is included when article 10 of the Colorado Revised Statutes refers to Medical Marijuana Product. ~~means a specific subset of Medical Marijuana that was produced by extracting Cannabinoids from Medical Marijuana. Categories of Medical Marijuana Concentrate include Water-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, Solvent-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate. Medical Marijuana Concentrate includes Medical Marijuana Concentrate consumed using a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler~~.

"Medical Marijuana Cultivation Facility" means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-502, C.R.S.

"Medical Marijuana Product" means a product infused with Medical Marijuana and other Ingredients that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures.

"Medical Marijuana Products Manufacturer" means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-503, C.R.S.

"Medical Marijuana Store" means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-501, C.R.S., and sells Medical Marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

"Medical Marijuana Testing Facility" means a public or private laboratory licensed and certified, or approved by the Division, to perform testing and research on Medical Marijuana.

"Medical Marijuana Transporter" means an entity or Person ~~that is~~ licensed to transport Medical Marijuana and Medical Marijuana Products from one Medical Marijuana Business to another Medical Marijuana Business and to temporarily store the transported Medical Marijuana and Medical Marijuana Products at its Licensed Premises, but is not authorized to sell Medical Marijuana or Medical Marijuana Products under any circumstances.

"Mobile Premises" means a Licensed Premises operated by a Marijuana Hospitality Business in a motor vehicle, which includes any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; but does not include electrical assisted bicycles, electric scooters, low-power scooters, wheelchairs, or vehicles moved solely by human power. A Marijuana Hospitality Business operating a Mobile Premises must comply with all requirements in Rule 6-940.

"Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Regulated Marijuana Business Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

"Monitoring Company" means a person in the business of providing security system Monitoring services for the Licensed Premises of a Regulated Marijuana Business.

"Multiple-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing no more than 10 milligrams of active THC and no more than 100 milligrams of active THC. If the overall Edible Retail Marijuana Product unit for sale to the consumer consists of multiple pieces where each individual piece may contain less than 10 milligrams of active THC, yet in total all pieces combined within the unit for sale contain more than 10 milligrams of active THC, then the Edible Retail Marijuana Product shall be considered a Multiple-Serving Edible Retail Marijuana Product.

"Nonconformance" means a non-fulfillment of a requirement or departure from written procedures, work instructions, or quality system, as defined by the Licensee's written Corrective Action and Preventive Action procedures.

"Non-objecting Beneficial Owner" means a Beneficial Owner who gives permission to a financial intermediary to release their name and address to the company(ies) or issuer(s) in which they have bought Securities.

"Notice of Denial" means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

"Opaque" means that the packaging does not allow the product to be seen without opening the packaging material.

"Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee's license.

"Owner's Interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

"Owner License" means a license issued to a natural person who is a Controlling Beneficial Owner of a Regulated Marijuana Business or who is a Passive Beneficial Owner electing to be subject to licensure.

"Passive Beneficial Owner" means any Person Acquiring any Owner's Interest in a Regulated Marijuana Business that is not otherwise a Controlling Beneficial Owner or in Control.

"Penny Stock" means any equity security other than a Security:

a. That is a~~n~~ National Market System stock, provided that:

i. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange that has been continuously registered as a national securities exchange since April 20, 1992; and the national securities exchange has maintained quantitative listing

standards that are substantially similar to or stricter than those listing standards that were in place on that exchange on January 8, 2004; or

ii. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange, or is listed, or approved for listing upon notice of issuance on, an automated quotation system sponsored by a registered national securities association, that:

A. Has established initial listing standards that meet or exceed the following criteria:

1. The issuer shall have: (a) stockholders' equity of $5,000,000; (b) market value of listed Securities of $50 million for 90 consecutive days prior to applying for a listing (market value means the closing bid price multiplied by the number of Securities listed); or (c) net income of $750,000 (excluding non-recurring items) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years;

2. The issuer shall have an operating history of at least one year or a market value of listed Securities of $50 million (market value means the closing bid price multiplied by the number of Securities listed);

3. The issuer's stock, common or preferred, shall have a minimum bid price of $4 per share;

4. In the case of common stock, there shall be at least 300 round lot holders of the Security (a round lot holder means a holder of a normal unit of trading);

5. In the case of common stock, there shall be at least 1,000,000 publicly held shares and such shares shall have a market value of at least $5 million (market value means the closing bid price multiplied by the number of publicly held shares, and shares held directly or indirectly by an officer or director of the issuer and by any Person who is the Beneficial Owner of more than 10 percent of the total shares outstanding are not considered to be publicly held);

6. In the case of a convertible debt security, there shall be a principal amount outstanding of at least $10 million;

7. In the case of rights and warrants, there shall be at least 100,000 issued and the underlying security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;

8. In the case of put warrants (that is, instruments that grant the holder the right to sell to the issuing company a

specified number of shares of the company's common stock, at a specified price until a specified period of time), there shall be at least 100,000 issued and the underlying Security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;

9. In the case of units (that is, two or more Securities traded together), all component parts shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition; and

10. In the case of equity Securities (other than common and preferred stock, convertible debt securities, rights and warrants, put warrants, or units), including hybrid products and derivative products, the national securities exchange or registered national securities association shall establish quantitative listing standards that are substantially similar to those found in paragraph (a)(ii) of this definition; and

B. Has established quantitative continued listing standards that are reasonably related to the initial listing standards set forth in paragraph (a)(ii) of this definition, and that are consistent with the maintenance of fair and orderly markets;

b. That is issued by an investment company registered under the Federal Investment Company Act of 1940;

c. That is a put or call option issued by the Options Clearing Corporation;

d. That has a price of five dollars or more;

i. For purposes of this paragraph (d):

A. A Security has a price of five dollars or more for a particular transaction if the Security is purchased or sold in that transaction at a price of five dollars or more, excluding any broker or dealer commission, commission equivalent, mark-up, or mark-down; and

B. Other than in connection with a particular transaction, a Security has a price of five dollars or more at a given time if the inside bid quotation is five dollars or more; provided, however, that if there is no such inside bid quotation, a Security has a price of five dollars or more at a given time if the average of three or more interdealer bid quotations at specified prices displayed at that time in an interdealer quotation system, by three or more market makers in the Security, is five dollars or more.

C. The term “inside bid quotation” shall mean the highest bid quotation for the Security displayed by a market maker in the Security on an automated interdealer quotation system that has the characteristics set forth in section 17B(b)(2) of the Federal Securities Exchange Act of 1934, or such other automated interdealer quotation system designated by the Federal Securities Exchange Commission for purposes of this definition, at any time in which at least two market makers are contemporaneously displaying on such system bid and offer quotation for the Security at specified prices.

ii. If a Security is a unit composed of one or more Securities, the unit price divided by the number of shares of the unit that are not warrants, options, rights, or similar Securities must be five dollars or more as determined in accordance with paragraph (d)(i), and any share of the unit that is a warrant, option, right, or similar security, or a convertible security, must have an exercise price or conversion price of five dollars or more;

e. That is registered, or approved for registration upon notice of issuance, on a national securities exchange that makes transaction reports available provided that:

i. Price and volume of information with respect to transactions in that security is required to be reported on a current and continuing basis and is made available to vendors of market information pursuant to the rules of the national securities exchange;

ii. The Security is purchased or sold in a transaction that is effected on or through the facilities of the national securities exchange, or that is part of the distribution of the Security; and

iii. The Security satisfies the requirements of paragraphs (a)(i) or (a)(ii);

f. That is a security futures product listed on a national securities exchange or an automated quotation system sponsored by a registered national securities association; or

g. Whose issuer has:

i. Net tangible assets in excess of $2,000,000, if the issuer has been in continuous operation for at least three years, or $5,000,000 if the issuer has been in continuous operation for less than three years; or

ii. Average revenue of at least $6,000,000 for the last three years.

“Permitted Economic Interest” means any unsecured convertible debt option, option agreement or warrant that establishes a right for a Person to obtain an interest that might convert to an ownership interest in a Regulated Marijuana Business issued prior to January 1, 2020 where the holder is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent on the holder qualifying as a Controlling Beneficial Owner or Passive Beneficial Owner under the Retail Code or Medical Code. This definition is repealed effective January 1, 2020.

“Person” means a natural person, an estate, a trust, an Entity, or a state or other jurisdiction.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; except that the term "pesticide" does not include any article that is a "new animal drug" as designated by the United States Food and Drug Administration.

"Pesticide Manufacturer" means a Person who (1) manufactures, prepares, compounds, propagates, or processes any Pesticide or device or active ingredient used in producing a Pesticide; (2) who possesses an establishment registration number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*; (3) who conducts research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana; (4) who has applied for and received any necessary license, registration, certifications, or permits from the Colorado Department of Agriculture, pursuant to the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S. and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.; (5) who is authorized to conduct business in the State of Colorado; and (6) who has physical possession of the location in the State of Colorado where its research activities occur. A Pesticide Manufacturer is neither a Regulated Marijuana Business, nor a Licensee.

"Physical Separation-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by separating Cannabinoids from Medical Marijuana through the use of physical separation by grinding, sifting, or a similar process and may use water, ice, or dry ice. Physical Separation-Based Medical Marijuana Concentrate does not include Solvent-Based Medical Marijuana Concentrate or Heat/Pressure-Based Medical Marijuana Concentrate.

"Physical Separation-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by separating Cannabinoids from Retail Marijuana through the use of physical separation by grinding, sifting, or a similar process and may use water, ice, or dry ice. Physical Separation-Based Retail Marijuana Concentrate does not include Solvent-Based Retail Marijuana Concentrate or Heat/Pressure-Based Retail Marijuana Concentrate.

"Pre-Rolled Marijuana" means pre-rolled Regulated Marijuana that was produced by rolling, filling, or stuffing Harvested Marijuana flower, shake, and/or trim into paper, leaves or an equivalent wrapper and is intended for consumption by inhalation.

"Pressurized Metered Dose Inhaler" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients, and a pressurized propellant inside a device that administers a dose of an aerosolized composition.

"Preventive Action" means a proactive action implemented to eliminate the cause of a potential Nonconformance or other quality problem before it occurs.

"Production Batch" means (a) any amount of Regulated Marijuana Concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of Harvest Batch(es) of Medical Marijuana or Retail Marijuana; or (b) any amount of Regulated Marijuana Product of the same exact type, produced using the same Ingredients, standard operating procedures, and the same Harvest Batch(es) of Harvested Marijuana (single strain or multiple strain) and/or Production Batch(es) of Regulated Marijuana Concentrate; or (c) any amount of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana produced using the same standard operating procedures.

"Professional Engineer" means a natural person who is licensed by the State of Colorado as a professional engineer pursuant to sections 12-25-101 *et seq.*, C.R.S.

"Proficiency Testing" means an assessment of the performance of a Medical Marijuana Testing Facility's or Retail Marijuana Testing Facility's methodology and processes. Proficiency Testing is

also known as inter-laboratory comparison. The goal of Proficiency Testing is to ensure results are accurate, reproducible, and consistent.

"Propagation" means the reproduction of Regulated Marijuana plants by seeds, cuttings, or grafting.

"Public Institution," for purposes of the 5-700 Series Rules, means any entity established or controlled by the federal government, a state government, or a local government or municipality, including but not limited to an institution of higher education or a public higher education research institution.

"Public Money," for purposes of the 5-700 Serie Rules, means any funds or money obtained by the holder from any governmental entity, including but not limited to research grants.

"Publicly Traded Corporation" means any Person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia or another country that authorizes the sale of marijuana that:

a. Has a class of Securities registered pursuant to ~~section 12 of the Securities Exchange Act of 1934, as amended~~15 U.S.C. sec. 77a et seq., that:

   i. Constitutes Covered Securities; or

   ii. Is qualified and quoted on the OTCQX or OTCQB tier of the OTC markets if:

      A. The Person is then required to file reports and is filing reports on a current basis with the Federal Securities Exchange Commission pursuant to 15 U.S.C. sec. 78a et seq. ~~the Federal Securities Exchange Act of 1934, as amended~~, as if the Securities constituted Covered Securities; and

      B. The Person has established and is in compliance with corporate governance measures pursuant to corporate governance obligations imposed on Securities qualified and quoted on the OTCQX tier of the OTC markets.

b. Is an Entity that has a class of Securities listed on the Canadian Securities Exchange, Toronto Stock Exchange, TSX Venture Exchange, or NEO Exchange, if:

   i. The Entity constitutes a Foreign Private Issuer whose Securities are exempt from registration pursuant to 15 U.S.C. sec. 78a et seq. ~~section 12 of the Federal Securities Exchange Act of 1934, as amended~~, pursuant to 17 CFR 240.12g3-2 ~~Rule 12g3-2(b) promulgated pursuant to the federal Securities Exchange Act of 1934, as amended~~; and

   ii. The Entity has been, for the preceding three hundred sixty-five days or since the formation of the Entity, in compliance with all governance and reporting obligations imposed by the relevant exchange on such Entity; or

c. Publicly Traded Corporation does not include:

i. An Ineligible Issuer, unless such Publicly Traded Corporation satisfies the definition of Ineligible Issuer solely because it is one or more of the following, and the Person is filing reports on a current basis with the Federal Securities and Exchange Commission pursuant to 15 U.S.C. sec. 78a et seq.~~the Federal Securities Exchange Act of 1934, as amended~~, as if the Securities constituted Covered Securities, and prior to becoming a Publicly Traded Corporation, the Person for at least two years was licensed by the State Licensing Authority as a Regulated Marijuana Business with a demonstrated history of operations in the state of Colorado, and during such time was not subject to suspension or revocation of the business license:

A. a Blank Check Company;

B. an issuer in an offering of Penny Stock; or

C. a Shell Company.

ii. A Person disqualified as a Bad Actor.

"Qualified Institutional Investor" means:

a. A bank as defined in 15 U.S.C. sec. 78c (a)(6)~~Section 3(a) (6) of the Federal Securities Exchange Act of 1934, as amended~~, if the bank is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

b. A bank holding company as defined in 12 U.S.C. sec. 1841 (a)(1)~~the Federal Bank Holding Company Act of 1956, as amended~~, if the bank holding company is registered and current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

c. An insurance company as defined in 15 U.S.C. sec. 80a-2 (a)(17) ~~Section 2(a) (17) of the Investment Company Act of 1940, as amended~~, if the insurance company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

d. An investment company registered ~~under Section 8 of the Investment Company Act of 1940, as amended,~~ and subject to 15 U.S.C. sec. 80a-1, et seq. ~~to 80a-64~~, if the investment company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

e. An employee benefit plan or pension fund subject to 29 U.S.C. sec. 1001 et seq. ~~the Federal Employee Retirement Income Security Act of 1974~~, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary or holding company licensee which directly or indirectly owns ten percent or more of a licensee;

f. A state or federal government pension plan; or

g. A group comprised entirely of persons specified in (a) through (g) of this definition; or

h. Any other entity identified by rule by the state licensing authority.

"Qualified Private Fund" means an issuer that would be an investment company, as defined in section 3 of the Federal Investment Company Act of 1940, but for the exclusions provided under sections 3(c)(1) or 3(c)(7) of that Act, and that:

a. Is advised or managed by an investment adviser as defined and registered ~~under sections 80b-1-21, title 15 of the Federal Investment Advisors Act of 1940~~pursuant to 15 U.S.C. sec. 80b-1 et seq., and for which the registered investment adviser is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder; and

b. Satisfies one or more of the following:

i. Is organized under the law of a state or the United States;

ii. Is organized, operated, or sponsored by a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended; or

iii. Sells Securities to a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended.

"Reduced Testing Allowance" means a Regulated Marijuana Business can conduct less than the required amount of testing based upon a process pursuant to established standard operating procedures that result in consistent passing test results during a certain time frame as set forth in Rules 4-120 and 4-125.

"R&D Co-Location Permit" means a permit issued to a Marijuana Research and Development Facility authorizing it to co-locate with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility pursuant to Rule 5-705. A separate R&D Co-Location Permit is required for each location at which a Marijuana Research and Development Facility seeks to share a single Licensed Premises.

"Reasonable Cause" means just or legitimate grounds based in law and in fact to believe that the particular requested action furthers the purposes of the Marijuana Code or protects the public safety.

"Regulated Marijuana" means Medical Marijuana and Retail Marijuana. If the context requires, Regulated Marijuana includes Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana Concentrate, and Retail Marijuana Product.

"Regulated Marijuana Business" means Medical Marijuana Businesses and Retail Marijuana Businesses.

"Regulated Marijuana Concentrate" means Medical Marijuana Concentrate and Retail Marijuana Concentrate.

"Regulated Marijuana Product" means Medical Marijuana Product and Retail Marijuana Product.

"Regulated Marijuana Testing Facility" means a Medical Marijuana Testing Facility and Retail Marijuana Testing Facility.

"Remediation" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana while changing the product type of the regulated marijuana.

"Resealable" means that the Container maintains its Child-Resistant effectiveness for multiple openings.

"Research Project" means a discrete scientific endeavor to answer a research question or a set of research questions. A Research Project must include a description of a defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date. The description must demonstrate that the Research Project will comply with all requirements in the 5-700 Series Rules – Marijuana Research and Development Facility. All research and development conducted by a Marijuana Research and Development Facility must be conducted in furtherance of an approved Research Project.

"Respondent" means a Person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument, or a Licensee who is subject to an Order to Show Cause.

"Responsible Vendor Program Provider" means a Person offering an Approved Training Program, in accordance with section 44-10-1201, C.R.S., to Licensees seeking to be designated a responsible vendor.

"Restricted Access Area" means a designated and secure area within a Licensed Premises in a Medical Marijuana Store where Medical Marijuana is sold to patients, possessed for sale, and displayed for sale, and where no one without a valid patient registry card is permitted, and 2) in a Retail Marijuana Store or a Retail Marijuana Hospitality and Sales Business where Retail Marijuana is sold to consumers, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

"Retail Food Establishment" means a retail operation that stores, prepares, or packages food for human consumption or serves or otherwise provides food for human consumption to consumers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food. "Retail food establishment" does not mean:

a. Any private home;

b. Private boarding house;

c. Hospital and health facility patient feeding operations licensed by the department;

d. Child care centers and other child care facilities licensed by the department of human services;

e. Hunting camps and other outdoor recreation locations where food is prepared in the field rather than at a fixed based of operation;

f. Food or beverage wholesale manufacturing, processing, or packaging plants, or portions thereof, that are subject to regulatory controls under state or federal laws or regulations;

g. Motor vehicles used only for the transport of food;

h. Establishments preparing and serving only hot coffee, hot tea, instant hot beverages, and nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling;

i. Establishments that handle only nonpotentially hazardous prepackaged food and operations serving only commercially prepared, prepackaged foods requiring no

preparation other than the heating of the food within its original container or package;

j. Farmers markets and roadside markets that offer only uncut fresh fruit and vegetables for sale;

k. Automated food merchandising enterprises that supply only prepackaged nonpotentially hazardous food or drink in bottles, cans, or cartons only, and operations that dispense only chewing gum or salted nuts in their natural protective covering;

l. The donation, preparation, sale, or service of food by a nonprofit or charitable organization in conjunction with an event or celebration if such donation, preparation, sale, or service of food:

i. Does not exceed the duration of the event or celebration or a maximum of fifty-two days within a calendar year; and

ii. Takes place in the county in which such nonprofit or charitable organization resides or is principally located.

m. A home, commercial, private, or public kitchen in which a person produces food products sold directly to consumers pursuant to the "Colorado Cottage Foods Act," section 25-4-1614, C.R.S.

"Retail Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including but not limited to Retail Marijuana Concentrate, that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Business. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other Ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product. If the context requires, Retail Marijuana includes Retail Marijuana Concentrate and Retail Marijuana Product.

"Retail Marijuana Business" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturer, a Marijuana Hospitality Business, a Retail Marijuana Hospitality and Sales Business, a Retail Marijuana Testing Facility, a Retail Marijuana Business Operator, and a Retail Marijuana Transporter.

"Retail Marijuana Business Operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a Retail Marijuana Businesses for direct remuneration from the Retail Marijuana Business.

"Retail Marijuana Concentrate" means a subset of Retail Marijuana that is separated from the retail marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Retail Marijuana Concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in Retail Marijuana plants that have been separated from Retail Marijuana. Retail Marijuana Concentrate may also include residual amounts of the types of solvents, as permitted by the marijuana rules. The State Licensing Authority may further define by rule subcategories of Retail Marijuana Concentrate and authorize limited ingredients based on the method of production of Retail Marijuana Concentrate. Unless the context otherwise requires, Retail Marijuana Concentrate is included when article 10 of the Colorado Revised Statutes refers to Retail Marijuana Product. ~~means a specific subset of Retail Marijuana that was produced by extracting Cannabinoids from Retail Marijuana. Categories of~~

~~Retail Marijuana Concentrate include Water-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate Solvent-Based Retail Marijuana Concentrate, and Heat/Pressure-Based Retail Marijuana Concentrate. Retail Marijuana Concentrate includes Retail Marijuana Concentrate consumed using a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.~~

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Products Manufacturers, and to other Retail Marijuana Cultivation Facilities, but not to consumers.

"Retail Marijuana Hospitality and Sales Business" means a facility, which cannot be mobile, licensed to permit the consumption of only the retail marijuana or retail marijuana products it has sold pursuant to the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

"Retail Marijuana Product" means a product that is comprised of Retail Marijuana and other Ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

"Retail Marijuana Products Manufacturer" means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and Transfer Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product only to other Retail Marijuana Products Manufacturers, Retail Marijuana Stores, Retail Marijuana Hospitality and Sales Businesses and Pesticide Manufacturers.

"Retail Marijuana Store" means an entity licensed to purchase Retail Marijuana and Retail Marijuana Concentrate from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product and Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer, and to Transfer Retail Marijuana to Retail Marijuana Hospitality and Sales Businesses and to consumers.

"Retail Marijuana Testing Facility" means an entity licensed to analyze and certify the safety and potency of marijuana.

"Retail Marijuana Transporter" means a Person ~~that is~~ licensed to transport Retail Marijuana from one Retail Marijuana Business to another Retail Marijuana Business or to a Pesticide Manufacturer, and to temporarily store the transported Retail Marijuana at its Licensed Premises, but is not authorized to sell, give away, buy, or receive complimentary Retail Marijuana under any circumstances. A Retail Marijuana Transporter does not include a Licensee that transports and distributes its own Retail Marijuana.

"RFID" means Radio Frequency Identification.

"Sample Increment" means a single portion or unit that is removed from a Harvest Batch or Production Batch by a Designated Test Batch Collector for the creation of a Test Batch. For Harvest Batches, a Sample Increment shall be 500 milligrams of flower or trim. For Regulated Marijuana Products, Audited Products, and Alternative Use Products, a Sample Increment shall be a single serving of the product as defined by the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer, but shall contain no more than 10 milligrams of active THC per serving for Edible Retail Marijuana Products. For Regulated Marijuana Concentrate, a Sample Increment shall be 250 milligrams of concentrate.

"Sample Increment Collection" means the gathering of Sample Increments to combine into a larger, composite Test Batch.

"Sampling Manager" means an Owner Licensee or management personnel holding an Employee Licensee designated by a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer to receive Transfers of Sampling Units pursuant to Rules 5-230, 5-320, 6-225, and 6-320.

"Sample Plan" means a written, documented plan generated by Designated Test Batch Collector(s) in line with the Regulated Marijuana Business' Standard Operating Procedure for Sample Increment Collection.

"Sampling Unit" means a unit of Regulated Marijuana Transferred to a Sampling Manager for purposes of quality control and product development pursuant to Rules 5-230 and 5-320, sections 44-10-502(4) and 44-10-503(10), C.R.S., and Rules 6-225 and 6-320, and sections 44-10-602(6) and 44-10-603(10), C.R.S.

"Security(ies)" means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

"Shell Company" means a registrant, other than an asset-backed issuer as defined in Item 1101(b) of Regulation AB, that has:

a. No or nominal operations; and

b. Either:

   i. No or nominal operations;

   ii. Assets consisting solely of cash and cash equivalents; or

   iii. Assets consisting of any amount of cash and cash equivalents and nominal other assets.

"Shipping Container" means a hard-sided container with a lid or other enclosure that can be secured in place. A Shipping Container is used solely for the transport of Regulated Marijuana between Regulated Marijuana Businesses or a Pesticide Manufacturer.

"Single-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing no more than 10mg of active THC.

"Social Equity Licensee" means a natural person who meets the criteria established pursuant to section 44-10-308(4), C.R.S. A person qualified as a Social Equity Licensee may participate in the accelerator program established pursuant to the Marijuana Code or may hold a Regulated Marijuana Business License or permit issued pursuant to the Marijuana Code.

"Solvent-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of a solvent approved by the Division pursuant to Rule 5-315.

"Solvent-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of a solvent approved by the Division pursuant to Rule 6-315.

"Standardized Graphic Symbol" means a graphic image or small design adopted by a Licensee to identify its business.

"Standardized Serving of Marijuana" means a standardized single serving of active THC in Retail Marijuana. The size of a Standardized Serving of Marijuana shall be no more than 10mg of active THC.

"State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of Regulated Marijuana in Colorado, pursuant to section 44-10-201, C.R.S.

"Target Potency" means the potency that a Medical Marijuana Products Manufacturer intends for an individual Medical Marijuana Product, or a Retail Marijuana Products Manufacturer intends for an individual Retail Marijuana Product, prior to testing, which is also outlined in the Licensee's standard operating procedures.

"Temporary Appointee Registration" means a registration issued to a Court Appointee pursuant to section 44-10-401(3)(a), C.R.S.

"THC" means tetrahydrocannabinol.

"THCA" means tetrahydrocannabinolic acid.

"Test Batch" means a group of Samples that are derived from a single Harvest Batch, Production Batch, or Inventory Tracking System package, and that are collectively submitted to a Regulated Marijuana Testing Facility for testing purposes.

"Total THC" means the following:

The sum of the percentage by weight of ~~THCA~~ Delta-9-tetrahydrocannabinolic acid (D9-THCA) multiplied by 0.877,

P~~p~~lus the percentage by weight of ~~THC~~Delta-8-tetrahydrocannabinol (D8-THC),

Plus the percentage by weight of Delta-9-tetrahydrocannabinol (D9-THC),

Plus the percentage by weight of Exo-tetrahydrocannabinol (Exo-THC),

Plus the percentage by weight of Delta-10-tetrahydrocannabinol (D10-THC).

i.e.~~,~~ Total THC = (% D9-THCA ~~x~~* 0.877) + % D8-THC + % D9-THC + % Exo–THC + % D10-THC.

"Transfer(s)(ed)(ing)" means to grant, convey, hand over, assign, sell, exchange, donate, or barter, in any manner or by any means, with or without consideration, any Regulated Marijuana from one Licensee to another Licensee, to a patient, or to a consumer. A Transfer includes the movement of Regulated Marijuana from one Licensed Premises to another, even if both premises are contiguous, and even if both premises are owned by a single entity or individual or group of individuals and also includes a virtual Tt~~t~~ransfer that is reflected in the Inventory Tracking System, even if no physical movement of the Regulated Marijuana occurs.

"Universal Symbol" means the image established by the Division and made available to Licensees through the Division's website indicating the Regulated Marijuana contains marijuana.

"Unrecognizable" means ~~marijuana or *Cannabis* plant material~~ Regulated Marijuana that has been rendered indistinguishable from any other plant material.

"U.S. Person" means:

a. Any natural person resident in the United States;

b. Any partnership or corporation organized or incorporated under the laws of the United States;

c. Any estate of which any executor or administrator is a U.S. natural person;

d. Any trust of which any trustee is a U.S. natural person;

e. Any agency or branch of a foreign entity located in the United States;

f. Any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. natural person;

g. Any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if a natural person) resident in the United States; and

h. Any partnership or corporation if:

i. Organized or incorporated under the laws of any foreign jurisdiction; and

ii. Formed by a U.S. natural person principally for the purpose of investing in Owner's Interests not registered under the Securities Act of 1933, unless it is organized or incorporated, and owned, by accredited investors (as defined in § 230.501(a)) who are not natural persons, estates or trusts.

"Vaporizer Delivery Device" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients inside a device that uses a heating element to create a vapor including, but not limited to, vaporizer cartridges and vaporizer pens.

"Vegetative" means the state of the *Cannabis* plant during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

~~"Water-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of only water or ice.~~

~~"Water-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of only water or ice.~~

Basis and Purpose – 1-120

The statutory authority for this rule includes but is not limited to sections 24-4-105(11) and 44-10-201, C.R.S. The purpose of this rule is to establish a system by which a Licensee may request the Division to issue a formal statement of position and, subsequently, petition the State Licensing Authority for a declaratory order. Typically, a position statement or declaratory order would address matters that are likely to be applicable to other Licensees. The approach is similar to that utilized by other divisions within the Department of Revenue. This Rule 1-120 was previously Rules M and R 104, 1 CCR 212-1 and 1 CCR 212-2.

1-120 – Declaratory Orders Concerning the Marijuana Code

A. Who May Request a Statement of Position. Any person as defined in section 24-4-102(12), C.R.S., may request the Division to issue a statement of position concerning the applicability to the petitioner of any provision of the Marijuana Code, or any regulation of the State Licensing Authority.

B. Division Response. The Division will determine, in its sound discretion, whether to respond with a written statement of position. Following receipt of a proper request, the Division will respond by issuing a written statement of position or by declining to issue such a statement.

C. Petition for Declaratory Order. Any person who has properly requested a statement of position, and who is dissatisfied with the Division's response, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. The petition shall be filed within 30 days of the Division's response, or may be filed at any time before the Division's response if the Division has not responded within 60 days of receiving a proper request for a statement of position, and shall set forth the following:

1. The name and address of the petitioner.

2. Whether the petitioner is licensed pursuant to the Marijuana Code, and if so, the type of license and address of the Licensed Premises.

3. Whether the petitioner is involved in any pending administrative hearings with the State Licensing Authority or relevant Local Jurisdiction.

4. The statute, rule, or order to which the petition relates.

5. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule, or order to which the petition relates.

6. A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies.

7. A concise statement of the declaratory order sought by the petitioner.

D. State Licensing Authority Retains Discretion Whether to Entertain Petition. The State Licensing Authority will determine, in its discretion without prior notice to the petitioner, whether to entertain any petition. If the State Licensing Authority decides it will not entertain a petition, it shall notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

1. The petitioner failed to properly request a statement of position from the Division, or the petition for declaratory order was filed with the State Licensing Authority more than 30 days after the Division's response to the request for a statement of position.

2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule, or order in question.

3. The petition involves a subject, question or issue that is relevant to a pending hearing before the state or any Local Licensing Authority, an on-going investigation conducted by the Division, or a written complaint previously filed with the State Licensing Authority.

4. The petition seeks a ruling on a moot or hypothetical question.

5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule, or order.

E. State Licensing Authority May Adopt Division Position Statement. The State Licensing Authority may adopt the Division Position Statement as a Final Agency Action subject to judicial review pursuant to section 24-4-106, C.R.S.

F. If State Licensing Authority Entertains Petition. If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall so notify the petitioner within 30 days, and any of the following procedures may apply:

1. The State Licensing Authority may expedite the matter by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing.

2. In the event the State Licensing Authority determines that an evidentiary hearing is necessary to a ruling on the petition, a hearing shall be conducted in accordance with Rules 8-220 – Administrative Hearings, 8-225 – Administrative Subpoenas, and 8-230 – Administrative Hearing Appeals. The petitioner will be identified as Respondent.

3. The parties to any proceeding pursuant to this Rule shall be the petitioner/Respondent and the Division. Any other interested person may seek leave of the State Licensing Authority to intervene in the proceeding and such leave may be granted if the State Licensing Authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.

4. The declaratory order shall constitute a Final Agency Order subject to judicial review pursuant to section 24-4-106, C.R.S.

G. Public Inspection. Files of all requests, petitions, statements of position, and declaratory orders will be maintained by the Division. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

H. Posted on Website. The Division shall post a copy of all statements of position and all declaratory orders on the Division's website.

Basis and Purpose – 1-125

The statutory authority for this rule includes but is not limited to section 44-10-202(1)(c), C.R.S. The purpose of this rule is to clarify that any reference to days means calendar days. This Rule 1-125 was previously Rules M and R 105, 1 CCR 212-1 and 1 CCR 212-2.

1-125 – Computation of Time

The word "days" as used in these rules means calendar days.

Basis and Purpose – 1-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c) and 44-10-801(4), C.R.S. The purpose of this rule is to establish the basic fees that must be paid at the time of service of any subpoena (including a subpoena for testimony and/or a subpoena duces tecum) upon the State Licensing Authority, and for production of documents pursuant to any such subpoena. This rule also establishes additional fees for meals, mileage, and each day's testimony. The service fee is not applicable when a subpoena is served by a governmental agency. This Rule 1-130 was previously Rules M and R 106, 1 CCR 212-1 and 1 CCR 212-2.

1-130 – Subpoena Fees

A. Required Fees for Subpoenas. The following fees must be paid at the time of service of any subpoena on the Division or State Licensing Authority:

1. Subpoenas for records only (*subpoenas duces tecum*):

a. Responsive records - $0.25/page. The Division and State Licensing Authority may use discretion when electronic copies are requested.

b. The Division or State Licensing Authority may charge $30/hour to retrieve and review voluminous records.

2. Subpoenas requiring any Division or State Licensing Authority employee to attend any proceeding:

a. $200/day attendance;

b. Current state mileage reimbursement fee; and

c. Current state meal reimbursement fee.

B. When Subpoena-Related Fees Are Due.

1. Subpoenas duces tecum fees must be paid before the Division or State Licensing Authority will release the records.

2. All other subpoena-related fees are due at the time of service of the subpoena.

C. Service Complete Only When Fees Are Paid. The Division or State Licensing Authority will not consider service to be complete unless ~~and until~~ all applicable fees are paid.

D. State Employees and Private Litigation. Division and State Licensing Authority employees will not serve as expert witnesses in private litigation. In addition, the Division and State Licensing Authority may move to quash any subpoena that seeks fact testimony from Division or State Licensing Authority employees in private litigation.

E. Not Applicable to Government-Issued Subpoenas. This Rule does not apply to subpoenas issued by any governmental agency.

Basis and Purpose – 1-135

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), and 44-10-301, C.R.S. This rule gives general instructions regarding Regulated Marijuana Business administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement's authority to investigate and take any necessary action with regard to Regulated Marijuana Businesses remains unaffected by the Marijuana Code or any rules promulgated pursuant to it. This Rule 1-135 was previously Rules M and R 1401(A) through (D), 1 CCR 212-1 and 1 CCR 212-2.

1-135 – Instructions for Local Licensing Authorities and Local Jurisdictions

A. Division Protocol for Regulated Marijuana Businesses.

1. The Division shall forward a copy of all new Regulated Marijuana Business applications to the relevant Local Licensing Authority or Local Jurisdiction.

2. The Division shall forward half of the total application fee with the copy of the Retail Marijuana Business application to the relevant Local Jurisdiction.

3. The Division shall notify the relevant Local Licensing Authority or Local Jurisdiction when an application for a Regulated Marijuana Business is either approved or denied. This includes new business applications, renewal business applications, change of location applications, change of owner applications, premises modification applications, and off-premises storage permit applications.

4. Conditioned on Local Approval. Any license issued or renewed by the Division for a Regulated Marijuana Business shall be conditioned upon relevant Local Licensing Authority or Local Jurisdiction approval of the application.

B. Local Licensing Authority/Local Jurisdiction Protocol for Regulated Marijuana Businesses.

1. As soon as practicable, a Local Licensing Authority or Local Jurisdiction that has prohibited the operation of a Regulated Marijuana Business license authorized by the Marijuana Code shall inform the Division, in writing, of such prohibition and shall include a copy of the applicable ordinance or resolution.

2. If a Local Licensing Authority or Local Jurisdiction will authorize the operation of a Regulated Marijuana Business license authorized by the Marijuana Code, it shall inform the Division of the local point-of-contact on Regulated Marijuana regulatory matters. The Local Jurisdiction shall include, at minimum, the name of the division or branch of local government, the mailing address of that entity, and telephone number.

3. Local Licensing Authorities or Local Jurisdictions may impose separate local licensing requirements related to the time, place, and manner of Regulated Marijuana Businesses, and shall otherwise determine if an application meets all those local requirements.

4. The relevant Local Licensing Authority or Local Jurisdiction shall notify the Division, in writing, of whether an application for a Regulated Marijuana Business complies with local restrictions and requirements, and whether the application is approved or denied based on that review. If a Local Licensing Authority or Local Jurisdiction makes any written findings of fact, a copy of those written findings shall be included with the notification.

C. Local Licensing Authority Inspections. The relevant Local Licensing Authorities or Local Jurisdiction and their investigators may inspect Regulated Marijuana Businesses during all business hours and other times of apparent activity, for the purpose of inspection or investigation.

D. Local Licensing Authority Powers. Nothing in these rules shall be construed to limit the authority of Local Licensing Authorities or Local Jurisdictions as established by the Marijuana Code or otherwise by law.

Basis and Purpose – 1-140

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f) 44-10-203(1)(g), and 44-10-301(1), C.R.S. This rule gives general instructions regarding Regulated Marijuana Business administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement's authority to investigate and take any necessary action with regard to Regulated Marijuana Businesses remains unaffected by the Marijuana Code or any rules promulgated pursuant to it. This Rule 1-140 was previously Rules M and R 1401(E), 1 CCR 212-1 and 1 CCR 212-2.

1-140 – Local Law Enforcement's Authority Not Impaired by Marijuana Code

Nothing in the Marijuana Code or any rules promulgated pursuant to it shall be construed to limit the ability of local police departments, sheriffs, or other state or local law enforcement agencies to investigate unlawful activity in relation to a Regulated Marijuana Business and such agencies shall have the ability to run a Colorado Crime Information Center criminal history check of an Applicant or Licensee during an investigation of unlawful activity related to Regulated Marijuana or a Regulated Marijuana Business to ensure they are in compliance with all Local Licensing Authority regulations related to time, place, and manner.

Part 2 – Applications and Licenses

2-200 Series – Applications and Licenses Rules

Basis and Purpose – 2-205

The statutory basis for this rule includes but is not limited to sections 44-10-103, 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(kj), 44-10-203(1)(i), 44-10-203(2)(b), 44-10-203(2)(h), 44-10-203(2)(q), 44-10-203(2)(w), 44-10-203(2)(dd)(XII), 44-10-303(2)(b), 44-10-310(7), 44-10-313, 44-10-401, 44-10-801, 44-10-802, 44-10-803, 44-10-1201, 44-10-1202, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish fees required for applications, renewals, licenses fees, permits, and other fees required to accompany applications and submissions to the Division. The Division anticipates evaluating all fees in connection with a fee analysis. Any recommendations from the fee analysis will be considered during subsequent rulemaking proceedings. This Rule 2-205 was previously Rules M 207, 208, 209, 210, 235, and 236, 1 CCR 212-1, and Rules R 207, 208, 209, 210, 234, and 235, 1 CCR 212-2.

2-205 – Fees

A. Regulated Marijuana Business Initial Application and License Fees.

1. Medical Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Medical Marijuana Store	$5,000.00	$2,440.00	$7,440.00
Medical Marijuana Products Manufacturer	$1,000.00	$1,830.00	$2,830.00

Medical Marijuana Cultivation Facility Class 1 (1-500 plants)	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Testing Facility	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Transporter	$1,000.00	$5,368.00	$6,368.00
Medical Marijuana Business Operator	$1,000.00	$2,684.00	$3,684.00
Marijuana Research and Development Facility	$1,000.00	$1,830.00	$2,830.00

2. Retail Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Retail Marijuana Store	$5,000.00	$2,440.00	**Separate Checks** $4,940.00 State $2,500.00 Local
Retail Marijuana Products Manufacturer	$5,000.00	$1,830.00	**Separate Checks** $4,330.00 State $2,500.00 Local
Retail Marijuana Cultivation Facility Tier 1 (1-1,800 plants)	$5,000.00	$1,830.00	**Separate Checks** $4,330.00 State $2,500.00 Local
Retail Marijuana Testing Facility	$1,000.00	$1,830.00	**Separate Checks** $2,330.00 State $500.00 Local
Retail Marijuana Transporter	$1,000.00	$5,368.00	**Separate Checks** $5,868.00 State $500.00 Local
Retail Marijuana Business Operator	$1,000.00	$2,684.00	**Separate Checks** $3,184.00 State $500.00 Local
Marijuana Hospitality Business (Eff. Jan. 1, 2020)	$1,000.00	$1,220.00	**Separate Checks** $1,720.00 State $500.00 Local

Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)	$5,000.00	$2,440.00	**Separate Checks** $4,940.00 State $2,500.00 Local

B. Regulated Marijuana Business Renewal Application and License Renewal Fees.

1. Medical Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Medical Marijuana Store	$300.00	$1,830.00	$2,130.00
Medical Marijuana Products Manufacturer	$300.00	$1,830.00	$2,130.00
Medical Marijuana Cultivation Facility Class 1 (1-500 plants)	$300.00	$1,830.00	$2,130.00
Class 2 (501-1,500 plants)		$2,806.00	$3,106.00
Class 3 (1,501-3,000 plants)		$4,270.00	$4,570.00
Expanded Production Management (for each class of 3,000 plants over Class 3)		$4,270.00 [Plus $976.00 for each additional class of 3,000 plants over Class 3]	$4,570.00 [Plus $976.00 for each additional class of 3,000 plants over Class 3]
Medical Marijuana Testing Facility	$300.00	$1,830.00	$2,130.00
Medical Marijuana Transporter	$300.00	$5,368.00	$5,668.00
Medical Marijuana Business Operator	$300.00	$2,684.00	$2,984.00
Marijuana Research and Development Facility	$300.00	$1,830.00	$2,130.00

2. Retail Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Retail Marijuana Store	$300.00	$1,830.00	$2,130.00

Retail Marijuana Products Manufacturer	$300.00	$1,830.00	$2,130.00
Retail Marijuana Cultivation Facility Tier 1 (1-1,800 plants)	$300.00	$1,830.00	$2,130.00
Tier 2 (1,801-3,600 plants)		$2,806.00	$3,106.00
Tier 3 (3,601-6,000 plants)		$3,660.00	$3,960.00
Tier 4 (6,001-10,200 plants)		$5,490.00	$5,790.00
Tier 5 (10,201-13,800 plants)		$7,930.00	$8,230.00
Expanded Production Management (for each additional tier of 3,600 plants over Tier 5)		$7,930.00 [Plus $976.00 for each additional tier of 3,600 plants over Tier 5]	$8,230.00 [Plus $976.00 for each additional tier of 3,600 plants over Tier 5]
Retail Marijuana Testing Facility	$300.00	$1,830.00	$2,130.00
Retail Marijuana Transporter	$300.00	$5,368.00	$5,668.00
Retail Marijuana Business Operator	$300.00	$2,684.00	$2,984.00
Marijuana Hospitality Business (Eff. Jan. 1, 2020)	$300.00	$915.00	$1,215.00
Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)	$300.00	$1,830.00	$2,130.00

C. Owner Request for a Finding of Suitability, Owner License, and Owner Identification Badge – Initial Application and Renewal Fees.

1. Controlling Beneficial Owner Request for a Finding of Suitability Fee.

a. $800.00 per Natural Person

b. $400.00 per Natural Person in possession of a valid Owner's License and seeking to have the existing Owner's License designated as a Social Equity Licensee.

c. $800.00 for an Entity that is not a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person subject to suitability

d~~c~~. $5,000.00 for a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person or Entity subject to suitability.

2. Passive Beneficial Owner Request for Finding of Suitability Fee. A Passive Beneficial Owner may, but is not required to, apply for an Owner License and Identification Badge, and if the Passive Beneficial Owner chooses to do so, must submit the fees required by subparagraph (C)(1).

3. Renewal Fee for an Owner License. All Controlling Beneficial Owners and licensed Passive Beneficial Owners - $500.00.

D. Employee License – Initial Fees and Renewal Fees.

1. Employee License Initial Application and License Fee – $105.00

a. Of the total Employee License application and license fee, $75.00 is the application fee and $30.00 is the license fee. An individual submitting an application for an Employee License may submit the total fee of $105.00 in one form of payment.

2. Employee License Renewal Fee – $80.00

a. Of the total Employee License Renewal fee, $50.00 is the application fee and $30.00 is the license fee. An individual submitting an application for an Employee License renewal may submit the total fee of $80.00 in one form of payment.

b. All Key Licenses and Support Licenses issued before January 1, 2020 will be converted to an Employee License upon the first license renewal following January 1, 2020.

3. Conditional Employee License Fee - $200.00 ~~All Key Licenses and Support Licenses issued before January 1, 2020 will be converted to an Employee License upon the first license renewal following January 1, 2020.~~

E. Temporary Appointee Registration – Request for Finding of Suitability Fees.

1. Natural Person – $274.00

2. Entity – $976.00

F. Other Fees. The following other fees apply:

1. Permits.

a. Off Premises Storage Permit – $1,830.00

b. Transporter Off Premises Storage Permit – $2,684.00

c. Centralized Distribution Permit Initial and Renewal Fee – $24.00

d. R&D Co-Location Permit Initial and Renewal Fee – $61.00

e. Delivery Permit:

i. Initial Fee if the Store or Transporter Business License ~~that~~ will expire in 6 months or less - $2,440.00.

ii. Initial Fee if the Store or Transporter Business License ~~that~~ will expire in more than 6 months - $4,880.00.

iii. All Renewals - $2,440.00

f. Transition Permit – $305.00

2. Regulated Marijuana Business Changes. The following fees apply per license:

a. Change of Controlling Beneficial Owner – $1,952.00

b. Changes Exempt from Change of Owner Application Requirement – $976.00

c. Change of Trade Name – $61.00

d. Change of Location – $610.00

e. Modification of Licensed Premises – $122.00

3. Marijuana Research and Development Facility Research Project Proposal – $610.00

4. Responsible Vendor Provider Applications.

a. Responsible Vendor Program Provider Initial Application – $1,037.00

b. Responsible Vendor Program Provider Renewal Application – $427.00

5. Duplicate License, Identification Badge, Certificate, Regulated Marijuana Business License Reinstatement.

a. Duplicate Business License – $24.00

b. Duplicate Owner or Employee Identification Badge – $24.00

c. Responsible Vendor Program Provider Duplicate Certificate – $61.00

d. Reinstatement of Regulated Marijuana Business License - $305.00

6. Outdoor Contingency Plan Review - $1,200.00

G. When Fees are Due. All fees in this Rule are due at the time the application or request is submitted.

Basis and Purpose – 2-210

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(~~k~~j), 44-10-203(2)(w), 44-10-305, 44-10-901(2), and 24-4-105(2) C.R.S. The purpose of this rule is to clarify the duties that Applicants and Licensees have when reporting to the State Licensing Authority information that is necessary for the issuance of a state license. These duties include but are not limited to reporting and keeping a mailing address current, reporting a felony conviction or other disqualifying event, cooperating with the State Licensing Authority and his or her employees, and notifying the State Licensing Authority of any change of registered agent in the State of Colorado. This rule further provides that all communications or notifications that the State Licensing Authority or Division send an Applicant or Licensee will be sent to the last known address. The Applicant's or Licensee's

failure to notify the Division of a change of address does not relieve the Applicant or Licensee from timely responding to any correspondence or notification.

2-210 – Duties of All Applicants and Licensees

A. Duty to Keep Mailing Address Current: All Applicants and Licensees.

1. Timing of Notification. An Applicant or Licensee must provide a physical mailing address to the Division and may provide an electronic mailing address to the Division. A Licensee must inform the Division in writing of any change to its physical mailing address and/or electronic mailing address within 28 days of the change. The Division will not change a Licensee's information without written notice from the Licensee or its authorized agent.

2. State Licensing Authority and Division Communications. The State Licensing Authority and Division will send any formal notifications or determinations regarding any application or an administrative action to the last mailing address and to the last electronic mailing address, if any, furnished to the Division by the Applicant or Licensee.

3. Failure to Change Address Does Not Relieve Applicant's or Licensee's Obligations. An Applicant's or Licensee's failure to notify the Division of a change of physical or electronic mailing address does not relieve the Applicant or Licensee from the obligation of responding to a Division communication or a State Licensing Authority communication.

B. Duty to Report Felony - Convictions, Deferred Sentences and Judgments. An Applicant or Licensee must notify the Division in writing of any felony conviction or deferred sentence or judgment regarding a felony against him or her within seven days of the conviction or deferred sentence or judgment. The notification must include disposition documents. Failure to make required notification to the Division may be grounds for administrative action.

C. Duty to Report Any Disqualifying Event. Applicants and Licensees must notify the Division within seven days of any change of fact that would result in the Applicant or Licensee being disqualified from holding a license, permit, or registration pursuant to the Marijuana Code, or these Rules.

D. Duty to Cooperate. Applicants and Licensees must cooperate in any investigation conducted by the Division. Failure to cooperate with a Division investigation may be grounds for denial of an application or for administrative action against a Licensee.

E. Duty to Report Change of Registered Agent. A Regulated Marijuana Business must disclose any change of its registered agent in the State of Colorado within seven days of the change.

Basis and Purpose – 2-215

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(a), 44-10-203(2)(c), 44-10-203(2)(k), 44-10-203(2)(w), 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, 44-10-314 and 44-10-316, C.R.S. The purpose of this rule is to establish requirements for all applications including: required application fees; complete, accurate and truthful applications; notification of the applicable local licensing authority or local jurisdiction; that the Applicant or Licensee establish he, she or it is not a person prohibited from licensure; submission of additional information or documents upon request by the Division; and notification that all application material may be disclosed consistent with the Marijuana Code.

2-215 – All Applications Requirements

A. Applicability. This Rule 2-215 applies to all applications submitted to the Division for a license, permit, or registration provided by the Marijuana Code.

B. Division Forms Required. All applications for licenses, registrations, or permits authorized by subsections 44-10-401(2) and (3), C.R.S., must be made on current Division forms.

C. Application Fees Required. Applications must be accompanied by full remittance of the required application and license fees. *See* Rule 2-205.

D. Complete, Accurate, and Truthful Applications Required. Applications must be complete, accurate, and truthful and include all attachments and supplemental information. Incomplete applications may not be accepted by the Division.

E. Local Licensing Authority/Local Jurisdiction.

1. Each application must identify the applicable Local Licensing Authority or Local Jurisdiction.

2. If the Local Licensing Authority or Local Jurisdiction requires a physical copy of the application, the Applicant or Licensee must submit the original application and one identical copy to the Division. Otherwise the Applicant or Licensee must submit only the original application to the Division.

F. Applicant Not Prohibited From Licensure. Applicants must provide information establishing the Applicant is not a Person prohibited from licensure by section 44-10-307, C.R.S. Each natural person required to obtain an Owner License or an Employee License must provide proof of lawful presence or citizenship, and Colorado residency, if required.

G. Additional Information and Documents May Be Required.

1. Upon request by the Division, an Applicant must provide additional information or documents required to process and investigate the application. The additional information or documents must be provided within seven days of the request, however, this deadline may be extended for a period of time commensurate with the scope of the request.

2. An Applicant's failure to provide requested information or documents by the deadline may be grounds for denial of the application.

H. Application Forms Accessible. All application forms provided by the Division and filed by an Application for a license, registration, or permit, including attachments and any other documents associated with the investigation, may be used for a purpose authorized by the Marijuana Code, for investigation or enforcement of any international, federal, state, or local securities law or regulation, for any other state or local law enforcement purpose, or as otherwise required by law.

Basis and Purpose – 2-220

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-301, 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, and 44-10-316, C.R.S. The purpose of this rule is to establish the general requirements and processes for submission of an initial application for a Regulated Marijuana Business to the State Licensing Authority.

2-220 – Initial Application Requirements for Regulated Marijuana Businesses

A. Documents and Information Requested. Every initial application for a Regulated Marijuana Business license must include all required documents and information including, but not limited to:

1. A copy of the local license application, if required, for a Regulated Marijuana Business.

2. Certificate of Good Standing from the jurisdiction in which the Entity was formed, which must be one of the states of the United States, territories of the United States, District of Columbia, or another country that authorizes the sale of marijuana.

3. If the Applicant is an Entity, the identity and physical address of its registered agent in the state of Colorado.

4. Organizational Documents. Articles of Incorporation, by-laws, and any shareholder agreement for a corporation; articles of organization and operating agreement for a limited liability company; or partnership agreement for a partnership.

5. Corporate Governance Documents.

    a. A Regulated Marijuana Business that is a Publicly Traded Corporation must maintain corporate governance documents as required by the securities exchange on which its securities are listed and traded, and section 44-10-103(50), C.R.S., and must provide those corporate governance documents with each initial application.

    b. A Regulated Marijuana Business that is not a Publicly Traded Corporation is not required to maintain any corporate governance documents. However, if the Regulated Marijuana Business that is not a Publicly Traded Corporation voluntarily maintains corporate governance documents, the Division encourages inclusion of such documents with each initial application.

6. The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the Applicant is, or will be, entitled to possession of the premises for which the application is made.

7. Legible and accurate diagram for the facility. The diagram must include a plan for the Licensed Premises and a separate plan for the security/surveillance plan including camera location, number and direction of coverage. If the diagram is larger than 8.5 x 11 inches, the Applicant must also provide a copy of the diagram in a portable document format (.pdf).

8. All required findings of suitability issued by the Division.

9. If the Applicant is a Publicly Traded Corporation:

    a. Documents establishing the Publicly Traded Corporation qualifies to hold a Regulated Marijuana Business license including but not limited to disclosure of securities exchange(s) on which its Securities are listed and traded, the stock symbol(s), the identity of all regulators with regulatory oversight over its Securities; and

    b. Divestiture plan for any Controlling Beneficial Owner that is a Person prohibited by the Marijuana Code, has had her or his Owner License revoked, or has been found unsuitable.

10. Financial Statements. Consolidated financial statements (which may be prepared on either a calendar or fiscal year basis) that were prepared in the preceding 365 days, and which must include a balance sheet, an income statement, and a cash flow statement. If the Applicant or Regulated Marijuana Business is required to have audited financial

statements by another regulator (e.g. United States Securities and Exchange Commission or the Canadian Securities Administrators) the financial statements provided to the Division must be audited and must also include all footnotes, schedules, auditors' report(s), and auditor's opinion(s). If the financial statements are publicly available on a website (e.g. EDGAR or SEDAR), the Applicant or Regulated Marijuana Business may provide notification of the website link where the financial statements can be accessed in lieu of hardcopy submission.

11. Tax Documents. Documentation establishing compliant return filing and payment of taxes related to any Regulated Marijuana Business in which the Person is, or was, required to file and pay taxes.

B. Local Licensing/Approval Required.

1. Regulated Marijuana Business Local Licensing Authority Approval Required.

a. If the Division grants a license to a Regulated Marijuana Business before the Local Licensing Authority or Local Jurisdiction approves the application or grants a local license, the state license will be conditioned upon local approval. If the Local Licensing Authority denies the application, the state license will be revoked.

b. An Applicant is prohibited from operating a Regulated Marijuana Business prior to obtaining all necessary licenses, registrations, permits, or approvals from both the State Licensing Authority and the Local Licensing Authority or Local Jurisdiction.

2. Retail Marijuana Business One Year to Obtain Local Jurisdiction Approval Required.

a. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing from the Local Jurisdiction. If the Applicant fails to obtain Local Jurisdiction approval or licensing within one year from grant of the state license, the state license expires and may not be renewed.

C. Social Equity License Qualification.

1. A natural person who can establish he or she qualifies as a Social Equity Licensee may apply for either a Regulated Marijuana Business License or an Accelerator License.

2. Qualifications. To qualify as a Social Equity Licensee, the Applicant must be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules, and must meet the following minimum eligibility requirements:

a. The Applicant is a Colorado Resident and has established Colorado residency by providing the items required by Rule 2-265(H).

b. The Applicant has not been the Beneficial Owner of a license subject to administrative action issued by the State Licensing Authority resulting in the revocation of a license issued pursuant to the Marijuana Code;

c. The Applicant has demonstrated at least one of the following:

i. The Applicant has resided for at least fifteen years between the years 1980 and 2010 in a census tract designated by the office of economic

development and international trade as an opportunity zone or a census tract designated as a Disproportionate Impacted Area;

ii. The Applicant or the Applicant's parent, legal guardian, sibling, spouse, child, or minor in their guardianship was arrested for a marijuana offense, convicted of a marijuana offense, or was subject to civil asset forfeiture related to a marijuana investigation; or

iii. The Applicant's household income in the year prior to application did not exceed 50% of the state median income as measured by the number of people who reside in the Applicant's household.

d. The Social Equity Licensee, or collectively one or more Social Equity Licensees, holds at least fifty-one percent of the Beneficial Ownership of the Regulated Marijuana Business License.

3. Information Required to Establish Qualification as a Social Equity Licensee.

a. To demonstrate the Applicant qualifies as a Social Equity Licensee based on residence during the relevant time period, the Applicant must demonstrate his or her residency which may include either:

i. Provide information or documents including but not limited to a copy of school records, rental agreements, lease agreements, utility bills, mortgage statements, loan documents, bank records, tax returns, or any other document which proves the Applicant's place of residence; or

ii. Affirm, under penalty of perjury, the Applicant's place of residence and provide the name(s) and contact information for at least one individual who can verify the Applicant's place of residence during the time period at issue.

b. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on a prior marijuana conviction of a family member, the Applicant must provide affirmation of the familial relationship and court or other documents demonstrating the family member's arrest or conviction for a marijuana offense or that the family member was subject to a civil asset forfeiture related to a marijuana investigation.

c. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on his or her income, the Applicant must provide the Applicant's tax return for the prior year.

4. Denial of an Application on the Basis of a Marijuana Conviction. The State Licensing Authority will not deny an application for a Social Equity License or a related request for a finding of suitability on the sole basis of a marijuana conviction.

D. Accelerator License Application and Qualification.

1. License Issuance.

a. Beginning January 1, 2021, a Social Equity Licensee may apply for an Accelerator License. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.

b. An Accelerator Licensee may exercise the privileges of a Retail Marijuana Cultivation Facility License, Retail Marijuana Products Manufacturer License, or Retail Marijuana Store License on the premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store that has been approved as an Accelerator-Endorsed Licensee.

2. Qualifications. To qualify for an Accelerator License, an Applicant must:

a. Be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules; and

b. Be approved as a Social Equity Licensee pursuant to this Rule.

3. Information Required to Establish Qualification as an Accelerator Licensee. To establish that an Applicant qualifies as an Accelerator Licensee, he or she must establish:

a. Qualification as a Social Equity Licensee; and

b. An affirmation that the Applicant has not been the Beneficial Owner of a Regulated Marijuana Business License issued pursuant to the Marijuana Code.

Basis and Purpose – 2-225

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(2)(a), 44-10-203(2)(c), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-307, 44-10-308, 44-10-309, 44-10-313, 44-10-314, and 44-10-316 C.R.S. The purpose of this rule is to establish the requirements and procedures for the license renewal process, including the circumstances under which an expired license may be reinstated.

2-225 – Renewal Application Requirements for All Licensees

A. License Periods.

1. Regulated Marijuana Business and Owner Licenses are valid for one year from the date of issuance.

2. Medical Marijuana Transporters, Retail Marijuana Transporters, and Employee Licenses are valid for two years from the date of issuance.

B. Division Notification Prior to Expiration.

1. The Division will send a notice of license renewal 90 days prior to the expiration of an existing Regulated Marijuana Business or Owner License by first class mail to the Licensee's physical address of record.

2. Failure to receive the Division notification does not relieve the Licensee of the obligation to timely renew the license.

C. Renewal Deadline.

1. A Licensee must apply for the renewal of an existing license prior to the License's expiration date.

2. A renewal application submitted to the Division prior to the license's expiration date shall be deemed timely pursuant to subsection 24-4-104(7), C.R.S., and the Licensee may continue to operate until Final Agency Order on the renewal application.

D. If License Not Renewed Before Expiration. A license is immediately invalid upon expiration if the Licensee has not filed a renewal application and remitted all of the required application and license fees prior to the license expiration date. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date must not operate unless it first obtains a new state license and any required local license.

1. Reinstatement of Expired Regulated Marijuana Business License. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date may request that the Division reinstate an expired license only in accordance to the following:

   a. The Regulated Marijuana Business license expired within the previous 30 days;

   b. The Regulated Marijuana Business License has submitted an initial application pursuant to Rule 2-220. The initial application must be submitted prior to, or concurrently with, the request for reinstatement;

   c. The Regulated Marijuana Business has paid the reinstatement fee in Rule 2-205; and

   d. Any license or approval from the Local Licensing Authority or Local Jurisdiction is still valid or has been obtained.

2. Reinstatement Not Available for Surrendered or Revoked Licenses. A request for reinstatement cannot be submitted and will not be approved for a Regulated Marijuana Business license that was surrendered or revoked.

3. Reinstatement Not Available for Owner Licenses or Employee Licenses. A request for reinstatement cannot be submitted and will not be approved for expired, surrendered, or revoked Owner Licenses or Employee Licenses.

4. Denial of Request for Reinstatement or Administrative Action. If the Licensee requesting reinstatement of a Regulated Marijuana Business license operated during a period that the license was expired, the request may be subject to denial and the Licensee may be subject to administrative action as authorized by the Marijuana Code or these Rules.

5. Approval of Request for Reinstatement. Upon approval of any request for reinstatement of an expired Regulated Marijuana Business License, the Licensee may resume operations until the final agency action on the Licensee's initial application for a Regulated Marijuana Business license.

   a. Approval of a request for reinstatement of an expired Regulated Marijuana Business license does not guarantee approval of the Regulated Marijuana Business L~~l~~icensee's initial application; and

   b. Approval of a request for reinstatement of an expired license does not waive the State Licensing Authority's authority to pursue administrative action on the expired license or initial application for a Regulated Marijuana Business license.

6. Final Agency Order on Initial Application for Regulated Marijuana Business.

a. If the initial application for a Regulated Marijuana Business license submitted pursuant to this Rule is approved, the new Regulated Marijuana Business license will replace the reinstated license.

b. If the initial application for a Regulated Marijuana Business license submitted pursuant to this Rule is denied, the Licensee must immediately cease all operations including but not limited to, Transfer of Regulated Marijuana. *See* Rule 2-270 – Application Denial and Voluntary Withdrawal; 8-115 – Disposition of Unauthorized Regulated Marijuana; 8-130 – Administrative Warrants.

E. Voluntarily Surrendered or Revoked Licenses Not Eligible for Renewal. Any license that was voluntarily surrendered or that was revoked by a Final Agency Order is not eligible for renewal. Any Licensee who voluntarily surrendered its license or has had its license revoked by a Final Agency Order may only submit an initial application. The State Licensing Authority will consider the voluntary surrender or the Final Agency Order and all related facts and circumstances in determining approval of any subsequent initial application.

F. Licenses Subject to Ongoing Administrative Action. Licenses subject to an administrative action are subject to the requirements of this Rule. Licenses that are not timely renewed expire and cannot be renewed.

G. Documents Required at Renewal. A Regulated Marijuana Business and all Controlling Beneficial Owner-Entities must provide the following documents with every renewal application:

1. Any document required by Rule 2-220(A)(1) through (~~9~~10) that has changed since the document was last submitted to the Division. It is a license violation affecting public safety to fail to submit any document that changed since the last submission for the purpose of circumventing the requirements of the Marijuana Code, or these Rules;

2. A copy of the Local Licensing Authority or Local Jurisdiction approval, licensure, and/or documentation demonstrating timely submission of pending local license renewal application;

3. A list of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency, including but not limited to the United States Securities and Exchange Commission or the Canadian Securities Administrators;

4. A Regulated Marijuana Business operating under a single Entity name with more than one license may submit the following documents only once each calendar year on the first license renewal in lieu of submission with every license renewal in the same calendar year:

   a. Tax documents and financial statements required by Rule 2-220(A)(10) and (11);

   b. If the Regulated Marijuana Business is a Publicly Traded Corporation, the most recent list of Non-Objecting Beneficial Owners possessed by the Regulated Marijuana Business;

   c. A copy of all management agreement(s) the Regulated Marijuana Business has entered into regardless of whether the Person is licensed or unlicensed~~.~~; and

   d. Contracts, agreements, royalty agreements, equipment leases, financing agreement, or security contract for any Indirect Financial Interest Holder that is required to be disclosed by Rule 2-230(A)(3).

H. Controlling Beneficial Owner Signature. At least one Controlling Beneficial Owner shall sign the renewal application. However, other Controlling Beneficial Owners may be required to sign authorizations and/or requests to release information.

I. Accelerator Program Renewal Application Requirements.

1. Accelerator License Renewal. Accelerator Cultivator, Accelerator Manufacturer, and Accelerator Store licenses are required to be renewed annually. In addition to the documents and information required to be submitted with a renewal application, an Accelerator Licensee must also disclose to the Division copies of any agreements between the Accelerator Licensee and the Accelerator-Endorsed Licensee under which it operated during the previous year.

2. Accelerator-Endorsed Licensee Additional Renewal Requirements.

a. An endorsement issued to an Accelerator-Endorsed Licensee is required to be renewed annually.

b. At the time of submitting a renewal application for the endorsement, an Accelerator-Endorsed Licensee must submit the following:

i. The name and license number of any Accelerator Licensee for which it served as an Accelerator-Endorsed Licensee during the previous year;

ii. The equity assistance proposal if there have been any updates or amendments since the proposal was last submitted to the Division;

iii. Copies of any agreements between the Accelerator-Endorsed Licensee and the Accelerator Licensee(s), including the equity partnership agreement; and

iv. Any required Local Jurisdiction approvals.

c. In addition to any other basis for denial of a renewal application, the State Licensing Authority may also consider the following facts and circumstances as additional bases for denial of an endorsement renewal application:

i. The Accelerator-Endorsed Licensee violated the terms of any equity partnership agreement it entered into with an Accelerator Licensee;

~~-~~ii. The Accelerator-Endorsed Licensee ended the equity partnership agreement with an Accelerator Licensee prematurely; and

iii. The Accelerator-Endorsed Licensee provided false or misleading statements, records, or information to an Accelerator Licensee.

Basis and Purpose – 2-230

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(~~j~~k), 44-10-203(2)(c), 44-10-203(2)(t), 44-10-203(2)(u), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-308, 44-10-309, and 44-10-316, C.R.S. Section 44-10-309, C.R.S., establishes varying disclosure requirements for Applicants and Licensees regarding disclosure of financial interests and ownership in a Regulated Marijuana Business. The purpose of this rule is to clarify information an Applicant or Licensee must disclose to the State Licensing Authority at the various levels, which include mandatory disclosure, disclosure in the State Licensing Authority's discretion, and

disclosure for reasonable cause. This rule also provides factors that will be considered in determining whether a Regulated Marijuana Business exercised reasonable care and whether a Person is in control of a Regulated Marijuana Business.

2-230 – Disclosure of Financial Interests in a Regulated Marijuana Business

A. Mandatory Disclosures. Information required to be disclosed by section 44-10-309, C.R.S., must be identified in every initial, renewal, and change of owner application. Mandatory disclosures include, but are not limited:

1. All Regulated Marijuana Businesses (including Publicly Traded Corporations and Entities that are not Publicly Traded Corporations) must disclose an organizational chart including the identity and ownership percentages of all Controlling Beneficial Owners;

2. All Controlling Beneficial Owners.

a. For any Controlling Beneficial Owner that is an Entity (including Publicly Traded Corporations and entities that are not Publicly Traded Corporations):

i. The Controlling Beneficial Owner's Executive Officers; and

ii. Beneficial Owners of ten percent or more of the Controlling Beneficial Owner.

b. Natural persons:

i. Name;

ii. Address;

iii. Date of birth;

iv. Social Security Number or other Federal Government-issued identification number.

c. Qualified Private Fund: Organizational chart reflecting the identity and ownership percentages of the Qualified Private Fund's Executive Officers, investment advisers, investment adviser representatives, any trustee or equivalent, and any other Person that controls the investment in, or management or operations of, a Regulated Marijuana Business.

d. Trust: A copy of any documents required to establish the trust, a certification of the trust, and any additional documents necessary to demonstrate the type of trust, the identity and age of the trustee and all beneficiaries of the trust.

3. Any Person that is an Indirect Financial Interest Holder that:

a. Holds two or more indirect financial interests;

b. Is also a Passive Beneficial Owner; or

c. That is contributing debt financing, secured or unsecured, that has not previously been disclosed and exceeds fifty percent of the operating capital of the

Regulated Marijuana Business or if the calculation yields a negative number. Operating capital is defined as total current and fixed assets less total liabilities (as presented on the balance sheet consistent with the business's past practices), measured as of the nearest month's end prior to the date of the applicable loan document(s).

B. Discretionary Disclosure. In his or her reasonable discretion, the State Licensing Authority may require disclosure following an initial or renewal application for a Regulated Marijuana business as follows:

1. For a Regulated Marijuana Business or a Controlling Beneficial Owner, neither of which is a Publicly Traded Corporation, its:

   a. Affiliates;

   b. Beneficial Owners of a Controlling Beneficial Owner;

2. Qualified Private Fund's Affiliates; and

3. Managers of a Controlling Beneficial Owner.

C. Reasonable Cause Disclosure. An Applicant will be notified by the State Licensing Authority of Reasonable Cause to require additional disclosure. The State Licensing Authority's notification will identify the facts and law supporting Reasonable Cause for the disclosure and the deadline for disclosure. The following may be required to be disclosed by the State Licensing Authority's notification:

1. An updated list of all Non-objecting Beneficial Owners in a Publicly Traded Corporation that is either a Regulated Marijuana Business or a Controlling Beneficial Owner reflecting ownership as of the date of request;

2. All Passive Beneficial Owners in a Regulated Marijuana Business that is not a Publicly Traded Corporation. If the Passive Beneficial Owner is not a natural person, the members of the board of directors, general partners, managing members, or Managers or Executive Officers and Beneficial Owners of ten percent or more of the Passive Beneficial Owner;

3. A list of all Beneficial Owners of a Qualified Private Fund;

4. All Indirect Financial Interest Holders of a Regulated Marijuana Business, and, for any Indirect Financial Interest Holder that is an Entity, the Beneficial Owners of ten percent or more of the Indirect Financial Interest Holder.

D. Affirmation of Reasonable Care.

1. Reasonable Care Affirmation for a Regulated Marijuana Business That is Not a Publicly Traded Corporation. A Regulated Marijuana Business that is not a Publicly Traded Corporation must affirm it exercised reasonable care to confirm its Passive Beneficial Owner(s), including any Qualified Institutional Investor(s), and Indirect Financial Interest Holder(s) are not Persons prohibited from holding a license under these Rules or the Marijuana Code. A Regulated Marijuana Business exercises reasonable care if it:

   a. Receives documentation from each Passive Beneficial Owner, including any Qualified Institutional Investor, and each Indirect Financial Interest Holder

affirming each is not a Person prohibited from holding a license by these Rules or the Marijuana Code; and

b. The Regulated Marijuana Business does not know or reasonably should not know facts that would contradict the Passive Beneficial Owner or Indirect Financial Interest Holder's affirmation.

2. Reasonable Care Affirmation for a Regulated Marijuana Business That is a Publicly Traded Corporation. A Regulated Marijuana Business that is a Publicly Traded Corporation must affirm it exercised reasonable care to confirm its Passive Beneficial Owners, including any Qualified Institutional Investor(s), both of which are Non-Objecting Beneficial Owners, and Indirect Financial Interest Holder(s) are not Person prohibited from holding a license by these Rules and the Marijuana Code. A Regulated Marijuana Business that is a Publicly Traded Corporation exercises reasonable care if it:

a. At least annually, checks a list of its Passive Beneficial Owners, including any Qualified Institutional Investor(s), both of which are Non-Objecting Beneficial Owners, against the Specially Designated Nationals and Blocked Persons List (SDN List) on the United States Treasury Office of Foreign Assets Control (OFAC) website and the Financial Industry Regulatory Authority (FINRA) website for Persons Barred by FINRA to determine if there are any prohibited Persons;

b. Receives documentation from its Indirect Financial Interest Holder(s) affirming each is not a Person prohibited from holding a license by these Rules or the Marijuana Code; and

c. The Regulated Marijuana Business does not know or reasonably should not know facts that would contradict the Indirect Financial Interest Holder's affirmation.

E. Control. The State Licensing Authority will consider all facts and circumstances in determining whether a Person has Control of a Regulated Marijuana Business or is a Controlling Beneficial Owner by virtue of common control.

1. Non-Exhaustive Factors. Non-exhaustive facts and circumstances that will be considered when evaluating Control include, but are not limited to:

a. The Person's percentage of ownership, if any;

b. The Person's ability to influence the decision of the Regulated Marijuana Business;

c. The Person is a Manager of the Regulated Marijuana Business;

d. The Person has a close relationship, familial tie, or common purpose or motive with one or more Persons in Control of the Regulated Marijuana Business;

e. The Person has substantial business relationship(s) with the Regulated Marijuana Business;

f. The Person has the ability to control the proxy machinery or to win a proxy contest;

g. The Person is a primary creditor of the Regulated Marijuana Business; or

h. The Person is the original incorporator of the Regulated Marijuana Business.

2. Totality of the Evidence. The State Licensing Authority may consider the totality of the evidence when determining whether a Person has Control of a Regulated Marijuana Business or is a Controlling Beneficial Owner by virtue of common control.

Basis and Purpose – 2-235

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(2)(c), 44-10-203(2)(ee), 44-10-309, 44-10-310, and 44-10-312(4), C.R.S. Section 44-10-310, C.R.S., requires that persons disclosed or who should have been disclosed to the State Licensing Authority obtain a finding of suitability from the State Licensing Authority. The purpose of this rule is to explain the conditions under which a Person is subject to either a mandatory finding of suitability or a finding of suitability for reasonable cause, to identify exemptions from an otherwise required finding of suitability and to identify the information and documents that, at a minimum, must be submitted in connection with any Person's request for a finding of suitability.

2-235 – Suitability

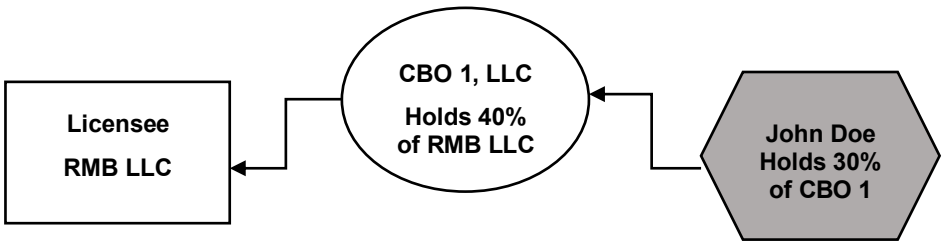
A. Persons Subject to a Mandatory Finding of Suitability for Regulated Marijuana Businesses That Are Not Publicly Traded Corporations.

1. Except as provided in subparagraph (A)(1)(a), any Person intending to become a Controlling Beneficial Owner by submitting an initial application for any Regulated Marijuana Business that is not a Publicly Traded Corporation must first obtain a finding of suitability from the State Licensing Authority.

a. Members of the Board of Directors and Executive Officers of a Regulated Marijuana Business. An individual who is a Controlling Beneficial Owner because he or she is a member of the board of directors or an Executive Officer of a Regulated Marijuana Business or is Controlling a Regulated Marijuana Business but who does not possess ten percent or more of the Owner's Interest in a Regulated Marijuana Business must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming such a Controlling Beneficial Owner.

2. Indirect Ownership of Ten Percent or More Owner's Interests in an Entity.

a. For a Controlling Beneficial Owner that is an Entity, the Entity's request for finding of suitability must include all information necessary for the State Licensing Authority to determine whether that Entity's Executive Officers and any Person that directly or indirectly owns ten percent or more of the Owner's Interest in the Regulated Marijuana Business are suitable. For example, assuming the scenario depicted below, Licensee RMB LLC has one-thousand outstanding ownership interests and CBO 1, LLC owns 40,000 of those ownership interests. John Doe owns 30% of CBO 1, LLC. Therefore, John Doe indirectly owns 12% of the outstanding ownership interests of Licensee RMB LLC, and must apply to the State Licensing Authority for a finding of suitability.



3. Any Person that has not received a finding of suitability and who intends to become a Controlling Beneficial Owner of a Regulated Marijuana Business that is not a Publicly Traded Corporation must submit their request for a finding of suitability prior to or contemporaneously with the change of owner application, unless exempt from the change of owner application requirement under Rule 2-245(C).

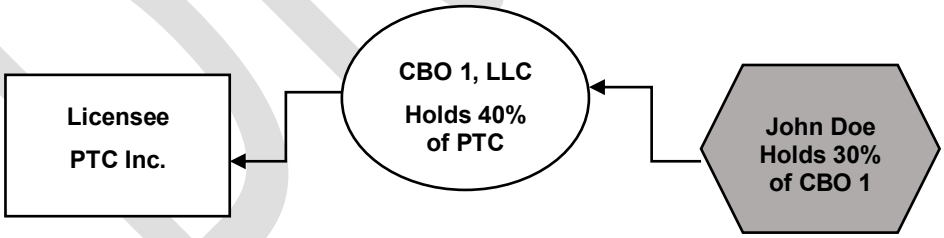
4. For a Controlling Beneficial Owner that is a trust, the trust's request for a finding of suitability must include all documents and information required or requested by the State Licensing Authority to permit a determination of whether or not the trustee and any beneficiary who may exercise control over the trust is suitable. A trust will not be found suitable if any person prohibited by section 44-10-307 is the trustee, otherwise controls the trust, or is positioned to receive distributions from the trust while a person prohibited.

B. Persons Subject to a Mandatory Finding of Suitability for Regulated Marijuana Businesses That Are Publicly Traded Corporations.

1. The following Persons must apply to the State Licensing Authority for a finding of suitability:

a. Any Person that becomes a Controlling Beneficial Owner of any Regulated Marijuana Business that is a Publicly Traded Corporation; and

b. Any Person that indirectly Beneficially Owns ten percent or more of the Regulated Marijuana Business that is a Publicly Traded Corporation through direct or indirect ownership of its Controlling Beneficial Owner. For example, assuming the scenario depicted below, Licensee PTC Inc. has one-million shares of outstanding Securities and CBO 1 owns 400,000 of those securities. John Doe owns 30% of CBO 1. Therefore, John Doe indirectly owns 12% of the outstanding securities of Licensee PTC Inc., and must apply to the State Licensing Authority for a finding of suitability.



2. For a Controlling Beneficial Owner that is an Entity, the Entity's request for finding of suitability must include all information necessary for the State Licensing Authority to determine whether its Executive Officers and any Person that indirectly owns ten percent or more of the Owner's Interest in the Regulated Marijuana Business are suitable.

3. Timing of Request for Finding of Suitability Involving Publicly Traded Corporation.

a. Unless exempted under Rule 2-235(E), all Persons that will be a Controlling Beneficial Owner in a Regulated Marijuana Business that is entering into a Publicly Traded Corporation transaction described in Rule 2-245(C)(1) must first

obtain a finding of suitability by the State Licensing Authority before the transaction can close or the public offering can occur.

b. A Person who becomes a Controlling Beneficial Owner in a Regulated Marijuana Business that is a Publicly Traded Corporation must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming a Controlling Beneficial Owner.

c. An individual who is a Controlling Beneficial Owner because he or she is a member of the board of directors or an Executive Officer of a Regulated Marijuana Business or is Controlling a Regulated Marijuana Business but who does not possess ten percent or more of the Owner's Interest in a Regulated Marijuana Business must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming such a Controlling Beneficial Owner.

C. Finding of Suitability for Reasonable Cause. For Reasonable Cause, any other Person that was disclosed or should have been disclosed pursuant to subsections 44-10-309(1) or (2) or that was required to be disclosed based on previous notification of Reasonable Cause must submit a request to the State Licensing Authority for a finding of suitability. Any Person required to submit a request for a finding of suitability pursuant to this Rule must submit such request within 45 days from notice of the State Licensing Authority's determination of Reasonable Cause for the finding of suitability.

D. Information Required in Connection with a Request for a Finding of Suitability. When determining whether a Person is suitable or unsuitable for licensure, the State Licensing Authority may consider the Person's criminal character or record, licensing character or record, or financial character or record. To consider a Person's criminal character or record, licensing character or record, and financial character or record, all requests for a finding of suitability must, at a minimum, be accompanied by the following information:

1. Criminal Character or Record:

a. A set of the natural person's fingerprints for purposes of a fingerprint-based criminal history record check.

2. Licensing Character or Record:

a. Affirmation that the Person is not prohibited from holding a license under section 44-10-307, C.R.S.

b. A list of all Colorado Department of Revenue-issued business licenses held in the three years prior to submission of the request for a finding of suitability;

c. A list of all Department of Regulatory Agencies business, professional, or occupational licenses held in the three years prior to submission of the request for a finding of suitability;

d. A list of any marijuana business or personal license(s) held in any other state or territory of the United States or District of Columbia or another country, where such license is or was at any time subject to a denial, suspension, revocation, surrender, or equivalent action by the licensing agency, commission, board, or similar authority; and

e. Disclosure of any civil lawsuits in which the Person was named a party where pleadings included allegations involving any Regulated Marijuana Business.

3. Financial Character or Record:

a. Disclosure of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency other than the United States Securities Exchange Commission;

b. If the Person's request for a finding of suitability is for purposes of acquiring ten percent or more of the Owner's Interest in the Regulated Marijuana Business, copies of the Person's financial account statements for the preceding one-hundred eighty days for any accounts serving as a source of funding used to acquire the Owner's Interest in the Regulated Marijuana Business; or, if the Person is contributing one or more asset(s) to the Regulated Marijuana Business in exchange for the Owner's Interests, documents establishing the Person has owned such asset(s) for the preceding one-hundred eighty days.

E. Exemptions from a Finding of Suitability.

1. The following Persons are exempt from an otherwise required finding of suitability:

a. Any Person that currently possesses an approved Owner License issued by the State Licensing Authority and such Owner License has not, in the preceding 365 days, been subject to suspension or revocation.

2. Exemptions from an otherwise required finding of suitability are limited to those listed in this Rule. The State Licensing Authority will consider other factors that may inform amendments to this Rule through the Department's formal rulemaking session.

F. Timing to Approve or Deny a Request for Finding of Suitability. Absent Reasonable Cause, the State Licensing Authority must approve or deny a request for a finding of suitability within 120 days from the date of submission of the request for such finding, where such request was accompanied by all information required under subsection (D) of this Rule.

G. Executive Officer Considerations. Whether an individual is an Executive Officer subject to a mandatory finding of suitability is based on the definition in these rules and the facts and circumstances. In determining whether an individual is an Executive Officer, the State Licensing Authority will consider the following, non-exhaustive factors:

1. Title is not dispositive, however, the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, president, the General Counsel, and any individual with similar policy making authority are Executive Officers;

2. The level of decision-making authority the individual possesses;

3. The Controlling Beneficial Owner and/or Regulated Marijuana Business's organizational chart; and

4. Any relevant guidance from the United States Securities and Exchange Commission or similar securities regulator, securities rules or securities case law.

H. Finding of Suitability Valid for One Year. A finding of suitability is valid for one year from the date it is issued by the State Licensing Authority. If more than one year has passed since the State Licensing Authority issued a finding of suitability to a Person and such Person has not during that

time applied to become a Controlling Beneficial Owner of a Regulated Marijuana Business pursuant to an initial business license application or change of owner application, then such Person shall submit a new request for finding of suitability to the State Licensing Authority and obtain a new finding of suitability before submitting any application to become a Controlling Beneficial Owner of a Regulated Marijuana Business.

Basis and Purpose – 2-240

The statutory basis for this rule includes but is not limited to sections 44-10-103(53), 44-10-203(2)(ee)(C), 44-10-309(3), and 44-10-310(10), C.R.S. The purpose of this rule is to clarify factors the State Licensing Authority will consider when determining whether reasonable cause exists to require disclosure, to require a finding of suitability or to extend the 120-day deadline for granting or denying a request for a finding of suitability.

2-240 – Factors Considered in Determining Reasonable Cause for Disclosure, Finding of Suitability, and Extension of 120 Day Deadline for Finding of Suitability

A. Non-Exhaustive Factors Informing Reasonable Cause Considerations. The State Licensing Authority may consider the following non-exhaustive factors when evaluating whether Reasonable Cause exists for disclosure, requiring a reasonable cause finding of suitability or extension of time to provide a finding of suitability:

1. The Person provided materially inaccurate or incomplete documents to the Division;

2. The Person failed to provide required documents to the Division;

3. The request for a finding of suitability is sufficiently complex such that a determination cannot be completed within the 120-day deadline specified;

4. Information that an undisclosed Person is controlling or has the ability to control the Regulated Marijuana Business;

5. Information indicating one or more Persons prohibited holds an interest in the Regulated Marijuana Business;

6. Inability to obtain documents or information expected to be available from third-parties or publicly available sources;

7. The Person interfered with, obstructed, or impeded a Division investigation; or

8. The Person failed to make any filing required by a securities regulator or securities exchange that has regulatory oversight over the Person.

Basis and Purpose – 2-245

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(1)(d), 44-10-203(1)(kj), 44-10-203(2)(ee)(I)(A) and (E), 44-10-203(7), 44-10-308(3)(b), 44-10-309, 44-10-310, 44-10-311, and 44-10-312, C.R.S. The purpose of this rule is to define the application process and conditions an Applicant or Licensee must meet when changing Beneficial Ownership in a Regulated Marijuana Business. This rule further describes requirements in the event of a dispute between the Controlling Beneficial Owners of a Regulated Marijuana Business.

2-245 – Change of Controlling Beneficial Owner Application or Notification

A. Application for Change of Controlling Beneficial Owner(s) – Not a Publicly Traded Corporation.

1. Division Approval Required Prior to Transfer of Owner's Interest. Unless excepted pursuant to subparagraph (C) of this Rule, a Regulated Marijuana Business that is not a Publicly Traded Corporation must obtain Division approval before it transfers the Owner's Interests of any Controlling Beneficial Owner(s) or before a trust that is a Controlling Beneficial Owner changes its trustee.

2. Documents Required. Any change of owner application regarding a Controlling Beneficial Owner of a Regulated Marijuana Business that does not involve a Publicly Traded Corporation must include the following documents:

    a. Asset purchase agreement, merger, sales contract, agreement, or any other document necessary to effectuate the change of owner;

    b. Request for a finding of suitability for each proposed Controlling Beneficial Owner(s) who has not already submitted a request for a finding of suitability, who has not already been found suitable, or who does not already hold an Owner License;

    c. Operating agreement, by-laws, partnership agreement, or other governing document(s) as will apply to the Regulated Marijuana Business if the change of owner application is approved;

    d. Request for voluntary surrender form of the Owner License of any Controlling Beneficial Owner that will not remain a Controlling Beneficial Owner, or Passive Beneficial Owner electing to hold an Owner License in a Regulated Marijuana Business if the change of owner application is approved; and.

    e. Copy of current Medical Marijuana or Retail Marijuana State Sales Tax or Wholesale license and any other documents necessary to verify tax compliance.; and

    f. Any required finding of suitability for any proposed Controlling Beneficial Owner that does not already hold a valid Owner License.

3. Licensee Initiates Change of Owner for Permitted Economic Interests Issued Prior to January 1, 2020. All natural persons holding a Permitted Economic Interest who seek to become a Controlling Beneficial Owner are subject to this Rule. The Regulated Marijuana Business must initiate the change of owner process for a natural person holding a Permitted Economic Interest who seeks to convert its interest and become a Controlling Beneficial Owner in a Regulated Marijuana Business. Prior to submitting a change of owner application, the Permitted Economic Interest holder must obtain a finding of suitability pursuant to Rule 2-235 including any required criminal history record check. Permitted Economic Interest holders who fail to obtain a finding of suitability to become a Controlling Beneficial Owner may remain as a Permitted Economic Interest holder.

B. Change of Owner Involving a Publicly Traded Corporation. This Rule applies to transactions involving any Publicly Traded Corporation.

1. Publicly Traded Corporation Transactions. A Regulated Marijuana Business may transact with a Publicly Traded Corporation in the following ways:

    a. Merger with a Publicly Traded Corporation. A Regulated Marijuana Business or a Controlling Beneficial Owner that intends to receive, directly or indirectly, an investment from a Publicly Traded Corporation, or that intends to merge or consolidate with a Publicly Traded Corporation, whether by way of merger,

combination, exchange, consolidation, reorganization, sale of assets or otherwise, including but not limited to any shell company merger.

b. Investment by a Publicly Traded Corporation. A Regulated Marijuana Business that intends or that has a Controlling Beneficial Owner that intends to transfer, directly or indirectly, ten percent or more of the Securities in the Regulated Marijuana Business to a Publicly Traded Corporation, whether by sale or other transfer of outstanding Securities, issuance of new Securities, or otherwise.

c. Public Offering. A Regulated Marijuana Business that intends or that has a Controlling Beneficial Owner that intends to become, directly or indirectly, a Publicly Traded Corporation, whether by effecting a primary or secondary offering of its Securities, uplisting of outstanding Securities, or otherwise.

2. Required Finding(s) of Suitability.

a. Pre-Transaction Findings of Suitability Required. Any Person intending to become a Controlling Beneficial Owner in a Regulated Marijuana Business in connection with any transaction identified in subparagraph (B)(1)(a) through (c) above, must obtain a finding of suitability prior to the Publicly Traded Corporation transaction closing or becoming effective.

b. Ongoing Suitability Requirements. Any Person who becomes a Controlling Beneficial Owner of a Publicly Traded Corporation that is a Regulated Marijuana Business must apply to the State Licensing Authority for a finding of suitability or an exemption from a finding of a suitability pursuant to Rule 2-235 within forty-five days of becoming a Controlling Beneficial Owner. A Publicly Traded Corporation that is a Regulated Marijuana Business must notify any Person that becomes a Controlling Beneficial Owner of the suitability requirements as soon as the Regulated Marijuana Business becomes aware of the ownership subjecting the Person to this requirement; however, the Controlling Beneficial Owner's obligation to timely request the required finding of suitability is independent of, and unaffected by, the Regulated Marijuana Business's failure to make the notification.

3. Change of Owner Application Required. A Licensee entering into a transaction permitted in subparagraph (B)(1)(a)-(c) above with Publicly Traded Corporation must submit any required change of owner application to the Division prior to the transaction closing. The change of owner application may be submitted simultaneously with the requests for finding(s) of suitability required by subparagraph (B)(2) or after the request(s) for findings of suitability were submitted to the Division.

4. Mandatory Disclosure of Required, United States Securities and Exchange Commission, Canadian Securities Administrators and/or Securities Exchange Filings. A Regulated Marijuana Business and any Controlling Beneficial Owner that is required to file any document with the United States Securities and Exchange Commission, the Canadian Securities Administrators, any other similar securities regulator or any securities exchange regarding any change of owner in subparagraphs (B)(1)(a) through (c) above must also provide a notice to the Division at the same time as the filing with the United States Securities and Exchange Commission, the Canadian Securities Administrators or the securities exchange.

5. Ordinary Broker Transactions. Resales or transfers of Securities of a Publicly Traded Corporation that is a Regulated Marijuana Business or Controlling Beneficial Owner or Passive Beneficial Owner in ordinary broker transactions through an established trading

market do not require a change of owner application or prior approval from the State Licensing Authority.

C. Exemptions to the Change of Owner Application Requirement.

1. Entity Conversions or Change of Legal Name. A Regulated Marijuana Business or a Controlling Beneficial Owner may combine with or convert, including but not limited to under sections 7-90-201 et seq., C.R.S., for the exclusive purpose of changing its Entity jurisdiction to one of the states or territories of the United States or the District of Columbia, its Entity type or change the legal name of an Entity without filing a change of owner application. These exemptions apply only if the Controlling Beneficial Owners and their Owner's Interests will remain the same after the combination, conversion, or change of legal name, and there will not be any new Controlling Beneficial Owners (individuals or Entities). Within fourteen days of the combination, conversion, or change of legal name the Regulated Marijuana Business must submit the following to the Division:

   a. A copy of the transaction documents;

   b. Documents submitted to the Colorado Secretary of States;

   c. Any document submitted to the secretary of state or similar regulator if the Entity is organized under the laws of a state of the United States other than Colorado, a territory of the United States, or the District of Columbia;

   d. Identification of the Regulated Marijuana Business's or Controlling Beneficial Owner's registered agent;

   e. Identification of any Passive Beneficial Owner and Indirect Financial Interest Holder for which disclosure is required by Rule 2-230; and

   f. The fee required by Rule 2-205(F)(2)(b).

2. Reallocation of Owner's Interests Among Controlling Beneficial Owners. A Regulated Marijuana Business may reallocate Owner's Interests among existing Controlling Beneficial Owners holding valid Owner Licenses if it provides notification of the reallocation to the Division with its next application submission as long as there are no new Controlling Beneficial Owners. A reallocation under this rule is subject to the following requirements:

   a. All Owner's Interests of a Controlling Beneficial Owner may be reallocated to other existing Controlling Beneficial Owners;

   b. Only consensual reallocations where all Controlling Beneficial Owners whose ownership percentages will change agree to the reallocation are permitted under this Rule. Proof that the transfer was consensual may include affirmation from all Controlling Beneficial Owners for which the Owner's Interests were reallocated in the required disclosure at the next application submission.

   c. If any Controlling Beneficial Owner will not hold any Owner's Interest in a Regulated Marijuana Business following the reallocation, that Controlling Beneficial Owner shall voluntarily surrender his or her Owner's License and identification badge within 30 days of the reallocation;

   d. All Controlling Beneficial Owners remain responsible for all actions of the Regulated Marijuana Business while they were a Controlling Beneficial Owner

and are subject to administrative action based on the same regardless of the reallocation; and

e. Disclosure and submission of the fee required by Rule 2-205(F)(2)(b) at the next application submission which shall not be longer than 365 days.

3. Passive Beneficial Owner Licensed Prior to August 1, 2019. A Passive Beneficial Owner who was issued an Owner License prior to August 1, 2019, and who has continuously maintained that license, is not required to submit a change of owner application if he or she becomes a Controlling Beneficial Owner in the business license(s) with which the Owner License is associated but must disclose and submit the fee required by Rule 2-205(F)(2)(b) at the next application submission, which shall not be longer than 365 days.

4. Change of Executive Officer or Member of the Board of Directors. A change of owner application is not required for a change of an Executive Officer or member of the board of directors of a Regulated Marijuana Business or an Entity Controlling Beneficial Owner of a Regulated Marijuana Business so long as the new Executive Officer or member of the board of directors does not possess ten percent or more of the Owner's Interest in the Regulated Marijuana Business or is otherwise Controlling the Regulated Marijuana Business. However, a change of Executive Officer or member of the board of directors is subject to the following requirements:

a. Any such Executive Officer or member of the board of directors of the Regulated Marijuana Business must submit a request for a finding of suitability as required by Rule 235-1 or, if exempt from a finding of suitability pursuant to Rule 235-1(E), the Regulated Marijuana Business subject to any such change of the Executive Officer or members of their board of directors must provide notice to the Division of the new Controlling Beneficial Owner within forty-five days.

b. The fee required by Rule 2-205(F)(2)(b).

5. Change of Passive Beneficial Owner. Persons are not required to submit an application or obtain prior approval of their ownership if: (1) the person was not a Direct Beneficial Interest Owner prior to November 1, 2019, (2) the Person will remain a Passive Beneficial Owner after the acquisition of Owner's Interests is complete, (3) the transfer will not create any previously undisclosed Controlling Beneficial Owner, and (4) disclosure is not otherwise required by section 44-10-309, C.R.S., or Rule 2-230.

D. Change of Owner Requirements, Restrictions and Procedures Applicable to All Regulated Marijuana Businesses.

1. Application Signature Requirements. All applications for change of Controlling Beneficial Owner(s) must be executed by every Controlling Beneficial Owner whose Owner's Interests are proposed to change and any Person proposed to become a Controlling Beneficial Owner(s). Controlling Beneficial Owners whose Owner's Interest will not change are not required to execute the change of owner application; however, at least one Controlling Beneficial Owner and all Persons proposed to become a Controlling Beneficial Owner must execute every change of owner application.

2. Process for Approval. Upon completion of the investigation of a change of owner application, the State Licensing Authority will issue a contingent approval letter. However, the State Licensing Authority will not issue the state license until:

a. Local Approval Required. If local approval is required, the proposed Controlling Beneficial Owner(s) demonstrates to the State Licensing Authority that local

approval has been obtained and notifies the State Licensing Authority of the date by which the change of owner will be completed, which must be within thirty days of the notification. The proposed Controlling Beneficial Owner's notification to the Division must be within 365 days of the issuance of the Division's contingent approval letter.

i. If a Local Licensing Authority or Local Jurisdiction requires a change of owner application and that application is denied, the State Licensing Authority will deny the State change of owner application;

b. No Local Approval Required. If local approval is not required, the proposed Controlling Beneficial Owner(s) demonstrates that such approval is not required and notifies the State Licensing Authority of the date by which the change of owner will be completed, which must be within thirty days of the of the notification. However, the proposed Controlling Beneficial Owner's notification to the Division must be made within 365 days of issuance of the Division's contingent approval letter.

3. Operational Restrictions Pending All Required Approvals. Unless otherwise provided under these Rules, any proposed new Controlling Beneficial Owner cannot operate the Regulated Marijuana Business for which it intends to become a Controlling Beneficial Owner until it receives any required finding of suitability and is issued all approvals and/or license(s) pursuant to any change of owner application required by this Rule. Controlling Beneficial Owners that have already been approved in connection with ownership of the Regulated Marijuana Business may continue to operate the Regulated Marijuana Business. A violation of this requirement is grounds for denial of the change of owner application, may be a violation affecting public safety, and may result in disciplinary action against existing license(s).

4. Modifications to Change of Owner Applications. If anything in a change of owner application is modified or changed after the Division approves the application, the Licensee must submit a new change of owner application, unless exempted by the Division prior to completing the change of owner.

5. Regulated Marijuana Business Subject to Investigation or Administrative Action. If a Regulated Marijuana Business or any of its Controlling Beneficial Owner(s) apply for a change of owner and is involved in an administrative investigation or administrative action, the following may apply:

a. The change of owner application may be delayed or denied until the administrative action is resolved; or

b. If the change of owner application is approved by the Division, the transferor, the transferee, or both may be responsible for the actions of the Regulated Marijuana Business and its prior Controlling Beneficial Owner(s), and subject to discipline based upon the same.

6. Medical Marijuana Transporters and Retail Marijuana Transporters Not Eligible for Change of Owner. Medical Marijuana Transporters and Retail Marijuana Transporters are not eligible to transfer the entire Beneficial Ownership of their Regulated Marijuana Business.

E. Refundable and Nonrefundable Deposits Permitted. A proposed Controlling Beneficial Owner may provide a selling Controlling Beneficial Owner with a refundable or nonrefundable deposit in connection with a change of owner application.

F. Controlling Beneficial Owner Dispute.

1. In the event of a dispute between Controlling Beneficial Owner(s) not involving divestiture under Rule 2-275 and precluding or otherwise impeding the ability to comply with these Rules, a Regulated Marijuana Business that is not a Publicly Traded Corporation must submit a change of owner application, notification pursuant to subparagraph (C) of this Rule, or initiate mediation, arbitration, or a judicial proceeding within 90 days of the dispute. The 90-day period may be extended for an additional 90 days upon a showing of good cause by the Regulated Marijuana Business.

2. A Regulated Marijuana Business that is not a Publicly Traded Corporation must submit a change of owner application or notification pursuant to subparagraph (C) of this Rule within forty-five days of entry of a final court order, final arbitration award, or full execution of a settlement agreement altering the Controlling Beneficial Owner(s) of a Regulated Marijuana Business. Any change of owner application or notification based on a final court order, final arbitration award, or fully executed settlement agreement must include a copy of the order or settlement agreement and remains subject to approval by the Division. In this circumstance, the change of owner application or notification needs to be executed by at least one remaining Controlling Beneficial Owner.

3. If mediation, arbitration, or a judicial proceeding is not timely initiated, or if a change of owner application or notification pursuant to subparagraph (C) of this Rule is not timely submitted following entry of a final court order, final arbitration award, or full execution of a settlement agreement altering the Controlling Beneficial Owner(s) of a Regulated Marijuana Business that is not a Publicly Traded Corporation, the Regulated Marijuana Business and its Owner Licensee(s) may be subject to fine, suspension, or revocation of their license(s).

Basis and Purpose – 2-250

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(2)(ee)(I), 44-10-203(7), and 44-10-309(6), C.R.S. The purpose of this rule is to require notification to the State Licensing Authority of any filing with a securities regulator by an Applicant or Licensee.

2-250 – Regulated Marijuana Business that is a Publicly Traded Corporation – Notification of Non-Confidential Securities Filings

A. A Regulated Marijuana Business that is a Publicly Traded Corporation must provide notice on Division forms within two business days of any non-confidential filing with the United States Securities and Exchange Commission, the Canadian Securities Administrators, any other securities regulator, or any security exchange on which the Securities are listed or traded. The notice must identify the title of the document and include a hyperlink to the website where the document is publicly available (example EDGAR or SEDAR link for the Publicly Traded Corporation).

B. In addition to any other administrative or investigative requests or inquiries, the Division may contact a Regulated Marijuana Business that is a Publicly Traded Corporation to obtain clarification of a securities filing.

C. This Rule is currently limited to require notice of securities filings that are not confidential. However, this Rule may be evaluated during subsequent rulemaking proceedings and/or in connection with development of a policy regarding confidential securities filings.

Basis and Purpose – 2-255

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(kj), 44-10-203(2)(a), 44-10-203(2)(e), 44-10-203(2)(w), 44-10-203(2)(cc), 44-10-305, 44-10-313(8), and 44-10-313(13), C.R.S. The purpose of this rule is to clarify the application process for changing location of a Licensed Premises. This rule also provides the requirements for a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility to obtain a transition permit.

2-255 – Change of Location of a Regulated Marijuana Business

A. Application Required Before Changing Location of Licensed Premises. A Regulated Marijuana Business must apply for and receive Division approval before changing the location of its Licensed Premises.

B. Application Requirements. A change of location application must include the following:

1. At least one signature of a Controlling Beneficial Owner and representation that the signing Controlling Beneficial Owner(s) is/are authorized to submit the application on behalf of the Regulated Marijuana Business.

2. Evidence the Local Licensing Authority and/or Local Jurisdiction in which the Regulated Marijuana Business proposes to move have approved the proposed new location.

3. The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the Licensee is, or will be, entitled to possession of the premises for which the application is made.

4. Legible and accurate diagram for the proposed licensed Premises that complies with the requirements of the 3-200 Series Rules. The diagram must include a plan for the proposed Licensed Premises and a separate plan for the security/surveillance plan including camera location, number and direction of coverage. If the diagram is larger than 8.5 inches x 11 inches, the Applicant must also provide the diagram in a portable document format (.pdf).

C. Change of Location Permit Required.

1. A Regulated Marijuana Business cannot change the location of its Licensed Premises until it receives a change of location permit from the Division.

2. The permit is effective on the date of issuance, and the Licensee must, within 120 days, change the location of its Regulated Marijuana Business to the place specified in the change of location permit and at the same time cease to operate a Regulated Marijuana Business at the former location. For good cause shown, the 120-day deadline may be extended an additional 120 days.

3. If the Regulated Marijuana Business does not change the location of its Licensed Premises within the time period granted by the Division, including any extension, the Regulated Marijuana Business must submit a new application, pay the change of location fee, and receive a new change of location permit prior to changing the location of its Licensed Premises.

4. A Regulated Marijuana Business cannot operate or exercise any of the privileges of its license(s) in both locations, unless a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility has received a transition permit.

D. Medical Marijuana Cultivation Facilities and Retail Marijuana Cultivation Facilities - Transition Permit ~~Requirements~~. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation

Facility that has obtained an approved change of location from the State Licensing Authority may operate one License at two geographical locations for the purpose of transitioning operations from one location to the other, subject to the following requirements:

1. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility may apply for a transition permit and a change of location at the same time. The Division will not accept an application for a transition permit unless it is submitted prior to or concurrently with a change of location application. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility is prohibited from exercising the privileges of a transition permit until it has also received all required approvals for a change of location.

2. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility that has an approved change of location and a transition permit must comply with the following requirements:

    a. The total plants cultivated at both locations do not exceed any plant count limit imposed on the Licensee by the Marijuana Code and these rules;

    b. The Licensed Premises of both geographical locations comply with all surveillance, security, and inventory tracking requirements imposed by the Marijuana Code and these rules at the Rule 3-200 Series and 3-800 Series;

    c. Both geographical locations shall track all Regulated Marijuana plants in transition in the Inventory Tracking System to ensure proper tracking for taxation purposes;

    d. Operation at both geographical locations does not exceed 180 days, unless Licensee demonstrates good cause to extend the deadline an additional 180 days; and

    e. The Licensee obtains a transition permit pursuant to this Rule and any local permit or license, as required by the Local Licensing Authority or Local Jurisdiction.

3. Change of Location in the Same Local Jurisdiction. If the change of location is within the same local jurisdiction, the Licensee must:

    a. First obtain a transition permit pursuant to this Rule; and

    b. If required by the Local Licensing Authority or Local Jurisdiction, obtain a transition permit or other form of approval from the Local Licensing Authority or Local Jurisdiction.

4. Change of Location to a Different Local Jurisdiction. If the change of location is to a different local jurisdiction, the Licensee must:

    a. First obtain a license from the Local Licensing Authority or Local Jurisdiction where the Licensee intends to locate;

    b. Obtain a transition permit pursuant to this Rule; and

    c. If required by the Local Licensing Authority or Local Jurisdiction, obtain a transition permit or other form of approval from the Local Licensing Authority or Local Jurisdiction for the local jurisdiction where it intends to locate.

5. Conduct at either location may be basis for fine, suspension, revocation, or other sanction against the License.

E. Violation Affecting Public Safety. It is a violation affecting public safety if a Regulated Marijuana Business changes the location of its Licensed Premises without first obtaining a change of location permit from the Division, and any required approval(s) from the Local Licensing Authority and/or Local Jurisdiction.

Basis and Purpose – 2-260

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(e), 44-10-203(1)(kj), 44-10-203(2)(a), 44-10-203(2)(h), 44-10-203(2)(w), 44-10-305, 44-10-313(8)(b), and 44-10-313(2) C.R.S. The purpose of this rule is to establish guidelines for changing, altering, modifying, or transitioning the Licensed Premises. This Rule 2-260 was previously Rules M and R 303, 1 CCR 212-1 and 1 CCR 212-2.

2-260 – Changing, Altering, or Modifying Licensed Premises

A. Application Required to Change, Alter, or Modify Licensed Premises. After obtaining a license, the Licensee shall make no physical change, alteration, or modification of the Licensed Premises that ~~materially or substantially~~significantly alters the Licensed Premises or the usage of the Licensed Premises from the plans originally approved, without the Division's prior written approval and, written approval or written acknowledgement from the relevant Local Licensing Authority or Local Jurisdiction. The Licensee whose Licensed Premises are to be ~~materially~~ significantly ~~or substantially~~ changed is responsible for filing an application for approval on current forms provided by the Division. Changes to the Licensed Premises which do not require an application must be disclosed on a floorplan submitted with the Licensee's renewal application.

1. Emergency Exemption. A Regulated Marijuana Business making temporary modifications to its Licensed Premises to effectuate social distancing measures in response to COVID-19 and applicable executive orders and public health orders in effect at the time of the temporary modifications, is exempt from State Licensing Authority application and prior-approval requirements in this Rule. The exemption provided under this subparagraph (A)(1) shall remain effective until repealed by the State Licensing Authority upon notice to the Secretary of State.

B. What Constitutes a ~~Material~~ Significant Change. This Rule does not exempt Licensees from complying with any Local Licensing Authority or Local Jurisdiction requirements regarding changes, alterations, or modifications to the Licensed Premises. ~~Material~~ Significant ~~or substantial~~ changes, alterations, or modifications requiring Division approval include, but are not limited to, the following:

1. Any increase or decrease in the total physical size or capacity of the Licensed Premises;

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, walk-up window or drive-up window, when such common entryway, doorway, passage, walk-up or drive-up window alters or changes Limited Access Areas, such as the cultivation, harvesting, manufacturing, testing, or sale of Regulated Marijuana within the Licensed Premises; or

3. Any physical modification of the Licensed Premises which would require the installation of additional video surveillance cameras. *See* Rule 3-225 – Video Surveillance.

C. Attachments to Application. The Division and relevant Local Licensing Authority or Local Jurisdiction may grant approval for the types of changes, alterations, or modifications described

herein upon the filing of an application by the Licensee and payment of any applicable fee. The Licensee must submit all information requested by the Division, including but not limited to, documents that verify the following:

1. The Licensee will continue to have possession of the Licensed Premises, as changed, by ownership, lease, or rental agreement; and

2. The proposed change conforms to any local restrictions related to the time, manner, and place of Regulated Marijuana Business regulation.

Basis and Purpose – 2-265

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(2)(b)-(c), 44-10-203(2)(e), 44-10-203(2)(t)-(u), 44-10-203(2)(w), 44-10-307, 44-10-308(2), 44-10-313(6), 44-10-401(2)(c), 44-10-901(1), and 24-76.5-101 et seq., C.R.S. Historically, natural persons who held an Owner's Interest in a Regulated Marijuana Business were required to hold an Associated Key License. This Rule transitions the Associated Key designation to an Owner License designation after August 1, 2019. The purpose of this rule is to clarify the requirements and procedures a Person must follow when applying for or possessing either an Owner License or an Employee License. This rule also identifies factors the State Licensing Authority will consider in determining whether a natural person is a resident and whether such person possess good moral character.

2-265 – Owner and Employee License: License Requirements, Applications, Qualifications, and Privileges

A. Associated Key Licenses. Associated Key licenses remain valid until the first renewal following August 1, 2019, after which such licenses will be renewed as an Owner License.

B. Owner Licenses Required.

1. Each Controlling Beneficial Owner must hold a valid Owner License.

2. If a Controlling Beneficial Owner is an Entity, then its Executive Officer(s) and any natural person who indirectly holds ten percent or more of the Owner's Interests in the Regulated Marijuana Business must also hold a valid Owner's License.

3. A Passive Beneficial Owner who is a natural person may elect to hold an Owner License and obtain an Owner Identification Badge provided that such Person agrees to be disclosed as holding an Owner's Interest in the Regulated Marijuana Business.

4. Only Controlling Beneficial Owners and Passive Beneficial Owners can obtain an Owner License.

C. Owner License and Identification Badge or Employee License and Identification Badge Required. The following natural persons must possess a valid Owner License and Identification Badge or an Employee License and Identification Badge:

1. Any natural person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana or Regulated Marijuana Products as permitted by privileges of a Regulated Marijuana Business license;

2. Any natural person who has access to the Inventory Tracking System or a Regulated Marijuana Business point-of-sale system; and

3. Any natural person with unescorted access in the Limited Access Area.

D. Escort or Monitoring Required.

1. Any natural person in a Limited Access Area that does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge is a visitor and must be escorted at all times by a person who holds a valid Owner License and Identification Badge or Employee License and Identification Badge. Failure by a Regulated Marijuana Business to continuously escort an individual who does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge in the Limited Access Area is a license violation affecting public safety.

2. Patients and consumers in a Restricted Access Area and third-party vendors in a Limited Access Area do not need to be escorted at all times but must be reasonably monitored to ensure compliance with these rules.

E. Employee License Required to Commence or Continue Employment. Any natural person required to obtain an Employee License by these rules must obtain such license before commencing activities permitted by his or her Employee License.

1. Conditional License. Applicants for an Employee License may be issued a conditional License and Identification Badge upon results of an initial investigation that demonstrates the Applicant is qualified to hold such License in compliance with Rule 2-215, subject to the following requirements:

i. Applications for a conditional Employee License must be submitted in person to the Division to facilitate the issuance and physical transfer of the conditional License to the Applicant. Applications for a conditional Employee License must be accompanied by the Conditional Employee License Fee in Rule 2-205.

ii. The Employee's application remains subject to a Notice of Denial pending the complete results of the Applicant's initial fingerprint-based criminal history record check.

iii. If the Division issues the Applicant a Notice of Denial, the Employee License Applicant shall return the conditional License and Identification Badge within seven (7) days of the Division's mailing of the Notice of Denial.

F. Owner License and Employee License Identification Badges Are Property of the State Licensing Authority. All Owner Licenses and Employee Licenses, and all Identification Badges are property of the State Licensing Authority.

G. Owner and Employee Initial and Renewal Applications Required. Owner Licensees and Employee Licensees must submit initial license applications and renewal applications on Division forms and in accordance with this Rule and Rules 2-215, 2-220, and 2-225.

H. Licenses Requiring Proof of Residency. Where a license issued by the State Licensing Authority requires the Applicant to establish Colorado residency, an Applicant may demonstrate his or her residency by the following methods including, but are not limited to:

1. Current valid Colorado driver's license or current Colorado identification card with a current address; or

2. A government issued photo identification and two of the following documents showing the Applicant's correct name, current date, and current Colorado address:

a. Utility bill or phone bill;

b. Car registration;

c. Voter registration card;

d. Statement from a major creditor;

e. Bank statement;

f. Recent County tax notice;

g. Recent contract/mortgage statement.

I. Owner License Qualifications and Privileges.

1. Owner License Qualifications. Each Controlling Beneficial Owner, or Passive Beneficial Owner who elects to be subject to disclosure and licensure, must meet the following criteria before receiving an Owner License:

a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;

b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application;

c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.

d. Each Controlling Beneficial Owner required to hold an Owner License, and any Passive Beneficial Owner that elects to hold an Owner License, must be fingerprinted at least once every two years, and may be fingerprinted more often at the Division's discretion.

i. [Emergency rule expired 05/11/2021]

e. An Owner Licensee who exercises day-to-day operational control on the Licensed Premises of a Regulated Marijuana Business must possess an Identification Badge and must establish and maintain Colorado residency. Proof of residency may be accomplished by submission of the documents identified in Rule 2-265(H). A Controlling Beneficial Owner will not be deemed to exercise day-to-day operational control by reason of holding a title defined as an Executive Officer.

2. Owner License Exercising Privileges of an Employee License. A natural person who holds an Owner License and Identification Badge may exercise the privileges of an Employee License in a Regulated Marijuana Business, subject to the following limitations:

a. If the Owner Licensee is not a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an

Employee License, the Owner Licensee may exercise such Employee License privileges regardless of that Person's residency.

b. If the Owner Licensee is a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an Employee License, the Owner Licensee may only exercise such Employee License privileges if he or she is a Colorado resident.

3. Business License Required. A natural person cannot hold an Owner License without holding a Regulated Marijuana Business license, or without at least submitting an application for a Regulated Marijuana Business license.

J. Employee License Qualifications and Privileges.

1. Employee License Qualifications and Requirements. An Employee License Applicant must meet the following criteria before receiving an Employee License:

a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;

b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application.

c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.

2. Medical and Retail Employee Licenses. A natural person who holds a current, valid Employee License and Identification Badge issued pursuant to the Marijuana Code may work in any Regulated Marijuana Business.

K. Owner Licensees and Employee Licensees Required to Maintain Licensing Qualification. An Owner Licensee or Employee Licensee's failure to maintain qualifications for licensure may constitute grounds for discipline, including but not limited to, suspension, revocation, or fine.

L. Evaluating a Natural Person's Good Moral Character Based on Criminal History.

1. In evaluating whether a Person is prohibited from holding a license pursuant to sections subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's criminal history indicates she or he is not of Good Moral Character, the Division will not consider the following:

a. The mere fact a person's criminal history contains an arrest(s) or charge(s) of a criminal offense that is not actively pending;

b. A conviction of a criminal offense in which the Applicant/Licensee received a pardon;

c. A conviction of a criminal offense which resulted in the sealing or expungement of the record; or

d. A conviction of a criminal offense in which a court issued an order of collateral relief specific to the application for state licensure.

2. In evaluating whether a Person is prohibited from holding a license pursuant to subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's criminal history indicates he or she is not of Good Moral Character, the Division may consider the following history:

a. Any felony conviction(s);

b. Any conviction(s) of crimes involving moral turpitude;

c. Pertinent circumstances connected with the conviction(s); and

d. Conduct underlying arrest(s) or charge(s) or a criminal offense for which the criminal case is not actively pending.

3. When considering criminal history in subparagraph (L)(2) above, the Division will consider:

a. Whether there is a direct relationship between the conviction(s) and the duties and responsibilities of holding a state license issued pursuant to the Marijuana Code;

b. Any information provided to the Division regarding the person's rehabilitation, which may include but is not limited to the following non-exhaustive considerations:

i. Character references;

ii. Educational, vocational, and community achievements, especially those achievements occurring during the time between the person's most recent criminal conviction and the application for a state license;

iii. Successful participation in an alcohol and drug treatment program;

iv. That the person truthfully and fully reported the criminal conduct to the Division;

v. The person's employment history after conviction or release, including but not limited to whether the person was vetted and approved to hold a state or out-of-state license for the purposes of employment in a regulated industry;

vi. The person's successful compliance with any conditions of parole or probation imposed after conviction or release; or

vii. Any other facts or circumstances tending to show the Applicant has been rehabilitated and is ready to accept the responsibilities of a law-abiding and productive member of society.

Basis and Purpose – 2-270

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(kj), 44-10-203(2)(a), 44-10-203(2)(l)-(m), 44-10-203(2)(w), 44-10-305, 44-10-306, 44-10-

307, 44-10-313(8), 24-4-104, and 24-4-105, C.R.S. The purpose of this rule is to clarify the procedures and factors governing the denial process and voluntary withdrawal process for all licenses issued by the State Licensing Authority. This Rule 2-270 is similar to the previous Rules M and R 251, 1 CCR 212-1 and 1 CCR 212-2.

2-270 – Application Denial and Voluntary Withdrawal

A. Applicant Bears the Burden of Proving It Meets Licensure Requirements. A license, registration, or permit issued to a Person or a Regulated Marijuana Business is a revocable privilege. At all times during the application process, an Applicant must be capable of establishing it is qualified to hold a license.

B. Applicants Must Provide Information to the Division in a Full, Faithful, Truthful, and Fair Manner. An application may be denied where the Applicant made misstatements, omissions, misrepresentations, or untruths in the application or in connection with the Applicant's suitability investigation. Providing misstatements, misrepresentations, omissions, or untruths to the Division may be the basis for administrative action, or the basis of criminal charges against the Applicant.

C. Grounds for Denial.

1. The State Licensing Authority will deny an application for Good Cause.

2. The State Licensing Authority will deny an application from an Applicant that is statutorily disqualified from holding a license.

3. The State Licensing Authority will deny an application where the Applicant failed to provide all required information or documents, failed to obtain all required findings of suitability prior to submitting the application, provided inaccurate, incomplete, or untruthful information or documents, or failed to cooperate with the Division.

D. Voluntary Withdrawal of Application.

1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application in lieu of a denial proceeding.

2. Applicants must first submit a form to the Division requesting the voluntary withdrawal of the application. Applicants will submit the form with the understanding that they were not obligated to request the voluntary withdrawal and that any right to a hearing in the matter is waived once the voluntary withdrawal is approved.

3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.

4. The Division will notify the Applicant of its acceptance of the voluntary withdrawal and the terms thereof.

5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. A Denied Applicant May Appeal a Denial. A Denied Applicant may appeal a denial pursuant to the Administrative Procedure Act.

Basis and Purpose – 2-275

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(kj), 44-10-203(2)(q), 44-10-203(2)(t), 11-10-310, 44-10-401(3)(a)-(d), C.R.S. The purpose of this rule is to establish procedures and requirements for any Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person acting in accordance with sections 44-10-401(3)(a)-(d), C.R.S., and authorized by court order to take possession of, operate, manage, or control a Regulated Marijuana Business. This Rule 2-275 was previously Rules M and R 253, 1 CCR 212-1 and 1 CCR 212-2.

2-275 – Temporary Appointee Registrations for Court Appointees

A. Notice and Application Requirements for All Court Appointees.

1. Notice to the State and Local Licensing Authorities. Within seven days of accepting an appointment as a Court Appointee pursuant to sections 44-10-401(3), C.R.S., such Court Appointee must file a notice to the State Licensing Authority and the applicable Local Licensing Authority on a form required by the State Licensing Authority which must include at least:

   a. A copy of the order appointing the Court Appointee;

   b. A statement affirming the Court Appointee complied with the certification required by section 44-10-401(3)(a), C.R.S.;

   c. If the Court Appointee is an entity, a list of all natural persons responsible for taking possession of, operating, managing, or controlling the Regulated Marijuana Business; and

   d. A complete list of all Regulated Marijuana Businesses for which the Court Appointee was appointed and the respective dates during which the Court Appointee is currently serving, or has previously served, as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person.

2. Application for Finding of Suitability. Within 14 days of accepting an appointment as a Court Appointee pursuant to section 44-10-401(3), C.R.S., each Court Appointee must file an application for a finding of suitability with the State Licensing Authority on forms required by the State Licensing Authority. Each entity and natural person for whom a notice was filed pursuant to Rule 2-275(A) must file an application for a finding of suitability. The Division may in its discretion extend the 14-day deadline to file an application for a finding of suitability upon a showing of good cause. The Division may also in its discretion rely upon a recent licensing background investigation for Court Appointees that currently hold a license or Temporary Appointee Registration issued by the State Licensing Authority and may waive all or part of the application fee accordingly.

3. Effective Date. The Temporary Appointee Registration will be issued following the State Licensing Authority's receipt of the notice required by Rule 2-275(A)(1) and is effective as of the date of the court appointment.

B. Temporary Appointee Registration.

1. Entities. If the Court Appointee is an entity, the entity and all natural persons responsible for taking possession of, operating, managing, or controlling the Regulated Marijuana Business must receive a Temporary Appointee Registration. Every Court Appointee that is an entity must have at least one natural person with a Temporary Appointee Registration.

2. Temporary Appointee Registrations. Every Temporary Appointee Registration issued to a Person will be treated as an Owner License except where inconsistent with section 44-10-401(3), C.R.S., or this Rule.

3. Other employees. Any other person working under the direction of a Court Appointee who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, researches, or delivers Regulated Marijuana as permitted by privileges granted under a Regulated Marijuana Business license must have a valid Employee License.

4. Licensed Premises. A Court Appointee cannot establish an independent Licensed Premises but is authorized to exercise the privileges of the Temporary Appointee Registration in the Licensed Premises of the Regulated Marijuana Business for which it is appointed.

5. Medical Marijuana Business Operators or Retail Marijuana Business Operators. A Court Appointee may retain a Medical Marijuana Business Operator or a Retail Marijuana Business Operator. If the Medical Marijuana Business Operator or Retail Marijuana Business Operator is the Court Appointee, see subparagraph E of this Rule.

6. Marijuana Code and Rules Applicable. Court Appointees are subject to the requirements of the Marijuana Code and the rules promulgated thereto. Except where inconsistent with section 44-10-401(3), C.R.S., or this Rule, the State Licensing Authority may take any action with respect to a Temporary Appointee Registration that it could take with respect to any license issued under the Marijuana Code. In any action involving a Temporary Appointee Registration, these rules will be read to include the terms “registered”, “registration”, “registrant”, or any other similar terms in lieu of “licensed”, “licensee”, and any other similar terms as the context requires when applied to a Temporary Appointee Registration.

C. Administrative Actions.

1. Suspension, Revocation, Fine, or Other Administrative Action Regarding a Regulated Marijuana Business. In addition to any other basis for suspension, revocation, fine, or other administrative action, a Regulated Marijuana Business’s license may, pursuant to subsections 44-10-202(1)(b), 44-10-401(3)(b), and 44-10-901(1), C.R.S., be suspended, revoked, fined, or subject to other administrative action based upon its Court Appointee’s violations of the Marijuana Code, the rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration issued by the State Licensing Authority, or any order of the State Licensing Authority. Grounds for discipline include, but are not limited to, the Court Appointee’s failure to timely notify the Division of the appointment or failure to timely apply for and obtain a finding of suitability. Such administrative action may occur even after the Temporary Appointee Registration is expired or surrendered, if the action is based upon an act or omission that occurred while the Temporary Appointee Registration was in effect.

2. Suspension, Revocation, Fine, or Other Administrative Action Regarding a Temporary Appointee Registration. In addition to any other basis for suspension, revocation, fine, or other administrative action, a Temporary Appointee Registration may, pursuant to subsections 44-10-202(1)(b), 44-10-401(3)(b), and 44-10-901(1), C.R.S., be suspended, revoked, or subject to other administrative action based upon the Court Appointee’s violations of the Marijuana Code or the Rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration issued by the State Licensing Authority, or any order of the State Licensing Authority. Grounds for discipline include, but are not limited to, the Court Appointee’s failure to timely notify the Division of the appointment or failure to timely apply for and obtain a finding of suitability. Such administrative action may occur even after the Temporary

Appointee Registration is expired or surrendered, if the action is based upon an act or omission that occurred while the Temporary Appointee Registration was in effect. If a Person holding a Temporary Appointee Registration also holds any other Owner License or Employee License, the Owner License, the Employee License, and the Temporary Appointee Registration may be suspended, revoked, fined, or subject to other administrative action for any violations of the Marijuana Code or the rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration, Owner License, and/or Employee License issued by the State Licensing Authority, or any order of the State Licensing Authority.

3. Suitability. If the State Licensing Authority denies an application for a finding of suitability because the Court Appointee failed to timely apply for a finding of suitability, failed to timely provide all information requested by the Division in connection with an application for a finding of suitability, or was found unsuitable, the State Licensing Authority may also pursue administrative action as set forth in this Rule.

4. Court Appointee's Responsibility to Notify Appointing Court. The Court Appointee must notify the appointing court of any action taken against the Temporary Appointee Registration by the State Licensing Authority pursuant to sections 44-10-901 or 24-4-104, C.R.S., within two business days. Such actions include, without limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department's Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Court Appointee must forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

D. Expiration and Renewal.

1. Conclusion of Court Appointment. A Court Appointee's Temporary Appointee Registration expires upon the conclusion of a Court Appointee's court appointment. Each Court Appointee and each Regulated Marijuana Business that has a Court Appointee must notify the State Licensing Authority within two business days of the date on which a Court Appointee's court appointment ends, whether due to termination of the appointment by the court, substitution of another Court Appointee, closure of the court case, or otherwise. For a Court Appointee that is appointed in connection with multiple court cases, the notice must be filed with the State Licensing Authority with respect to each such case.

2. Annual Renewal. If it has not yet expired pursuant to Rule 2-270(D)(1), each Temporary Appointee Registration is valid for one year, after which it must be subject to annual renewal in accordance with the Marijuana Code and the rules promulgated pursuant to the Marijuana Code. If a Court Appointee is appointed in connection with multiple court cases, the Temporary Appointee Registration is subject to annual renewal unless all such appointments have ended, whether due to termination of the appointments by the courts, substitution of other Court Appointees, closure of the court cases, or otherwise.

3. Other Termination. A Temporary Appointee Registration may be valid for less than the applicable term if surrendered, revoked, suspended, or subject to similar action.

E. Medical Marijuana Business Operators and/or Retail Marijuana Business Operators as Court Appointees. By virtue of its privileges of licensure, a Medical Marijuana Business Operator, a Retail Marijuana Business Operator, and their respective Owner Licensees may serve as Court Appointees without a Temporary Appointee Registration subject to the following terms:

1. Notice to the State Licensing Authority of Appointment. The Medical Marijuana Business Operator or the Retail Marijuana Business Operator, and its Owner Licensee(s) are

responsible for notifying the State Licensing Authority within seven days of any court appointment to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Regulated Marijuana Business. Such notice must be accompanied by a copy of the order making the appointment and must identify each Regulated Marijuana Business regarding which the Medical Marijuana Business Operator and/or Retail Marijuana Business Operator is appointed.

2. Notice to the Appointing Court of State Licensing Authority Action. The Medical Marijuana Business Operator or the Retail Marijuana Business, and its Owner Licensee(s) are responsible for notifying the appointing court of any action taken against the Medical Marijuana Business Operator license, the Retail Marijuana Business Operator license and/or the Owner License by the State Licensing Authority pursuant to sections 44-10-901 or 24-4-104, C.R.S., within two business days. Such actions include, without limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department's Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Medical Marijuana Business Operator, the Retail Marijuana Business Operator and its Owner Licensee(s) must forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

Basis and Purpose – 2-280

The statutory basis for this rule includes but is not limited to sections 44-10-203(2)(c), 44-10-203(2)(l), 44-10-203(2)(t), 44-10-203(2)(ee)(D), 44-10-203(7), 44-10-307, 44-10-309(4)-(5), 44-10-310(5) and (11), 44-10-313(8)(a), and 44-10-901, C.R.S. The purpose of this rule is to clarify the conditions and procedures for divestiture of any Person prohibited from holding a license under section 44-10-307, C.R.S., or who is found unsuitable by the State Licensing Authority. This rule also requires that every Regulated Marijuana Business have at least one Controlling Beneficial Owner and provides what happens in the event of suspension of a Regulated Marijuana Business's Controlling Beneficial Owner(s). Finally, this rule provides that Licensees cannot have unlicensed persons take actions on their behalf or for their benefit that the Licensees themselves are prohibited from taking under these rules or the Marijuana Code.

2-280 – Controlling Beneficial Owners that are Persons Prohibited, Unsuitable, Revoked, or Suspended; At Least One Controlling Beneficial Owner Holding a Valid Owner License Required; and Prohibited Third-Party Acts

A. Controlling Beneficial Owners That Are Persons Prohibited, Unsuitable, or Revoked.

1. Less than 100% of all Controlling Beneficial Owners – Divestiture. If less than 100% of a Regulated Marijuana Business's Controlling Beneficial Owners are or become a Person prohibited from holding a license by these Rules or the Marijuana Code, have his or her Owner License revoked by a Final Agency Order, or are found unsuitable, the Regulated Marijuana Business must divest all of the Beneficial Ownership of that Controlling Beneficial Owner.

a. Unless extended for good cause, within 90 days of a Controlling Beneficial Owner becoming a Person prohibited from holding a license, having his or her Owner License revoked, or being found unsuitable, the Regulated Marijuana Business must either:

i. Submit a change of owner application, where required, and any document(s) necessary to transfer all of that Controlling Beneficial Owner's Interests to one or more Persons that are not prohibited from

holding a license or unsuitable. Any required change of owner application is subject to approval by the Division; or

ii. Where a change of owner application is not required, transfer all of that Controlling Beneficial Owner's Interests to one or more Persons that are not a Person prohibited from holding a license or unsuitable.

b. In determining whether good cause for an extension exists, the Division will consider whether there is any Owner Interest buy-back provision with the Controlling Beneficial Owner. If mediation, arbitration, or a legal proceeding has been initiated regarding the required divestiture, the 90-day deadline is extended until 90 days following execution of a settlement agreement, arbitration order, or final judgment concluding the mediation, arbitration, or legal proceeding.

c. A Regulated Marijuana Business that is a Publicly Traded Corporation must have a divestiture plan with its Controlling Beneficial Owners which must be disclosed to the Division pursuant to Rule 2-220(A).

d. A Regulated Marijuana Business that fails to divest a Controlling Beneficial Owner as required by this Rule may be subject to denial, fine, suspension, or revocation of its license(s). The State Licensing Authority may consider aggravating and mitigating factors surrounding measures taken to divest the unsuitable or Person prohibited from holding a license when determining the imposition of a penalty. However, a Regulated Marijuana Business that is unable to divest a Controlling Beneficial Owner that is a Person prohibited from holding a license or found unsuitable is prohibited from being issued or holding a license.

2. All Controlling Beneficial Owners are Unsuitable, Revoked, or Persons Prohibited From Holding a License. A Regulated Marijuana Business's License may be revoked if 100% of its Controlling Beneficial Owners are found unsuitable, have his or her Owner's License revoked, or are Persons prohibited from holding a license by these Rules or the Marijuana Code.

B. Suspension of Controlling Beneficial Owners.

1. Suspension of Less than 100% of the Controlling Beneficial Owner(s) of a Regulated Marijuana Business. In the event of the suspension of the Owner License of a Controlling Beneficial Owner, either (i) the Regulated Marijuana Business must comply with all requirements of rule 8-210 – Disciplinary Process: Summary Suspensions, or (ii) the non-suspended Owner Licensee(s) must control the Regulated Marijuana Business without participation from the suspended Controlling Beneficial Owner(s).

2. Suspension of 100% of the Controlling Beneficial Owners of a Regulated Marijuana Business. A Regulated Marijuana Business cannot operate or Transfer Regulated Marijuana if all Controlling Beneficial Owners are suspended.

C. At Least One Controlling Beneficial Owner Holding a Valid Owner License Required. No Regulated Marijuana Business may operate or be licensed unless it has at least one Controlling Beneficial Owner who holds a valid Owner License.

D. Loss Of Owner License As A Controlling Beneficial Owner Of Multiple Businesses. If an Owner License is suspended, revoked, or found unsuitable as to one Regulated Marijuana Business, that Owner License is automatically suspended, revoked, or found unsuitable as to any other Regulated Marijuana Business in which that Person is a Controlling Beneficial Owner.

E. Prohibited Third-Party Acts. No Licensee may employ, contract with, hire, or otherwise retain any Person, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit if the Licensee is prohibited by law or these rules from engaging in such conduct itself.

1. A Licensee may be held responsible for all actions and omissions of any Person the Licensee employs, contracts with, hires, or otherwise retains, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit.

2. A Licensee may be subject to license denial or administrative action, including but not limited to fine, suspension, or revocation of its license(s), based on the act and/or omissions of any Person the Licensee employs, contracts with, hires, or otherwise retains, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit.

Basis and Purpose – 2-285

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), 44-10-401(2)(b)(I), 44-10-401(2)(b)(VII), 44-10-401(2)(b)(VIII), 44-10-607, 44-10-608, 44-10-611 C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees participating in the accelerator program.

2-285 – Accelerator Endorsement Application, Qualification, and Eligibility

A. Beginning January 1, 2021, Retail Marijuana Store Licensees, Retail Marijuana Cultivation Facility Licensees, and Retail Marijuana Products Manufacturers Licensees may apply for an endorsement to participate in the accelerator program. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.

B. Qualifications and Eligibility. The State Licensing Authority may consider the following facts and circumstances for purposes of determining a Licensees' qualifications and eligibility to be an Accelerator-Endorsed Licensee.

1. The Applicant has not, in the previous two years, been subject to a license revocation or active suspension issued by the State Licensing Authority, any Local Licensing Authority or Local Jurisdiction, or any other state in which it operated.

2. Information demonstrating the Applicant operated its license for at least two years prior to the date of application; or if the Applicant is unable to demonstrate operations for a period of at least two years, it must satisfy at least one of the following:

a. The Applicant possesses a valid commercial marijuana license issued in another state and has operated such license for the preceding two years;

b. For the preceding two years the Applicant has participated in an accelerator, incubator, or social equity program that may, but is not required to be, associated with the commercial marijuana industry;

c. The Applicant has at least two years of regulated cannabis industry experience at a managerial or executive level; or

d. The Applicant has at least two years of business experience in a highly regulated industry other than the marijuana industry.

C. Application Requirements. In addition to all other application requirements outlined in the 2-200 Series Rules, an application to become an Accelerator-Endorsed Licensee must include the Applicant's equity assistance proposal, containing the information required by the 3-1100 Series Rules.

D. The Division will maintain a list of Accelerator-Endorsed Licensees on its website. By submitting an application to become an Accelerator-Endorsed Licensee, the Applicant authorizes the State Licensing Authority to publish the Applicant's name on the Division's website.

Part 3 – Regulated Marijuana Business Operations

3-100 Series – General Privileges and Limitations

Basis and Purpose – 3-105

The statutory authority for this rule includes but is not limited to sections 44-10-102(2), 44-10-102(3), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(a), 44-10-401(2), 44-10-701(2)(a), 44-10-701(2)(c), and 44-10-701(3)(e), C.R.S. The purpose of this rule is to establish that it is unlawful for any Regulated Marijuana Business Licensee to exercise any privileges other than those granted to it by the State Licensing Authority.

3-105 – Regulated Marijuana Businesses: Privileges Granted

A Regulated Marijuana Business shall only exercise those privileges granted to it by the State Licensing Authority.

Basis and Purpose – 3-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-401(2), 44-10-701(1)(a), 44-10-701(3)(d), and 44-10-701(3)(f), C.R.S. The purpose of this rule is to clarify that, except for in a Licensed Hospitality Business, it is unlawful for a Regulated Marijuana Business to allow consumption on the Licensed Premises.

3-110 – Regulated Marijuana Businesses: General Restrictions

A. Consumption Prohibited.

1. Applicability. This subparagraph (A) applies to all Regulated Marijuana Businesses, except Licensed Hospitality Businesses.

2. Licensees shall not permit the consumption of marijuana or marijuana product on the Licensed Premises or in transport vehicles, including any Sampling Units Transferred to a Sampling Manager.

B. Alcohol Beverage License Prohibited. A Person may not operate a license issued pursuant to the Marijuana Code and these rules at the same Licensed Premises as a license or permit issued pursuant to article 3, 4 or 5 of Title 44.

Basis and Purpose – 3-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2), and 44-10-701(2)(a), C.R.S.

The purpose of this rule is to clarify those acts that are limited or prohibited in some way and to make clear that a Regulated Marijuana Business shall not offer or receive complimentary Regulated Marijuana from a licensed transporter.

3-115 – Transporter Transfer Restriction

A Licensee shall not sell or give away Regulated Marijuana to a Medical Marijuana Transporter or Retail Marijuana Transporter, and shall not buy, or receive, complimentary Regulated Marijuana from a Medical Marijuana Transporter or Retail Marijuana Transporter.

3-200 Series – Licensed Premises

Basis and Purpose – 3-205

The statutory authority for this rule includes but is not limited to sections 44-10-103(14), 44-10-103(26), 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(p), and 44-10-203(2)(t), C.R.S. The purpose of this rule is to establish Limited Access Areas for Licensed Premises under the control of the Licensee to only individuals licensed by the State Licensing Authority. In addition, this rule clarifies that businesses and individuals cannot use the visitor system as a means to employ an individual who does not possess a valid and current Employee License. This Rule was previously Rules M and R 301, 1 CCR 212-1 and 1 CCR 212-2.

3-205 – Limited Access Areas

A. Proper Display of Identification Badge. All Persons in a Limited Access Area as provided for in section 44-10-103(26) C.R.S., shall be required to hold and properly display a current Identification Badge issued by the Division at all times. Proper display of the Identification Badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.

B. Visitors in Limited Access Areas.

1. Prior to entering a Limited Access Area, all visitors, including outside vendors, contractors or others, must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area.

2. Visitors shall be escorted by the Regulated Marijuana Business's licensed personnel at all times. No more than five visitors may be escorted by a single employee. Except that trade craftspeople not normally engaged in the business of cultivating, processing, or selling Regulated Marijuana need not be accompanied on a full-time basis, but only reasonably monitored.

3. A Regulated Marijuana Business and all Licensees employed by the Regulated Marijuana Business shall report to the Division any discovered plan or other action of any Person to (1) commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the subject Regulated Marijuana Business; or (2) compromise the integrity of the Inventory Tracking System. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (B) alters or eliminates any obligation a Regulated Marijuana Business or Licensee may have to report criminal activity to a local law enforcement agency.

4. The Licensee shall maintain a log of all visitor activity, for any purpose, within the Limited Access Area and shall make such logs available for inspection by the Division and relevant Local Licensing Authority or Local Jurisdiction.

5. All visitors admitted into a Limited Access Area must provide acceptable proof of age and must be at least 21 years of age. *See* Rule 3-405 – Acceptable Forms of Identification.

6. The Licensee shall check the identification for all visitors to verify that the name on the identification matches the name in the visitor log. *See* Rule 3-405 – Acceptable Forms of Identification.

7. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.

8. Use of a visitor badge to circumvent the Employee License requirements of Rule 2-265 is prohibited and may constitute a license violation affecting public safety.

C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premises shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter - Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors." A Licensee may comply with this paragraph (C) when that sign is conspicuously placed immediately within an exterior entrance that is locked against public entry and only accessible to limited, licensed personnel and escorted visitors.

D. Diagram for Licensed Premises. All Limited Access Areas shall be clearly identified to the Division and relevant Local Licensing Authority or Local Jurisdiction and described in a diagram of the Licensed Premises reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also reflect all Propagation, cultivation, manufacturing, testing, consumption, and Restricted Access Areas. *See* Rule 3-905 – Business Records Required.

E. Modification of Limited Access Area. A Licensee's proposed modification of designated Limited Access Areas must be approved by the Division, the Local Licensing Authority, and, if required, the relevant Local Jurisdiction prior to any modifications being made. *See* Rule 2-260 – Changing, Altering, or Modifying Licensed Premises.

F. Law Enforcement Personnel Authorized. Notwithstanding the requirements of subsection A of this Rule, nothing shall prohibit investigators and employees of the Division, authorities from relevant Local Jurisdiction or state or local law enforcement, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, from entering a Limited Access Area upon presentation of official credentials identifying them as such.

Basis and Purpose – 3-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-311(1)(b), and 44-10-311(2), C.R.S. The purpose of this rule is to establish and clarify the means by which the Licensee has lawful possession of the Licensed Premises. This Rule 3-210 was previously Rules M and R 302, 1 CCR 212-1 and 1 CCR 212-2.

3-210 – Possession of Licensed Premises

A. Evidence of Lawful Possession. Persons licensed pursuant to sections 44-10-501, 44-10-502, 44-10-503, 44-10-504, 44-10-507, 44-10-601, 44-10-602, 44-10-603, 44-10-604, 44-10-607, 44-10-608, 44-10-609, 44-10-610 C.R.S., or those applying for such licenses, must demonstrate proof of lawful possession of the premises to be licensed or Licensed Premises. Evidence of lawful

possession consists of properly executed deeds of trust, leases, or other written documents acceptable to state and local licensing authorities.

B. Relocation Prohibited. The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the Division and the relevant Local Jurisdiction. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an application and receiving approval to modify the Licensed Premises on current forms prepared by the Division, including any applicable processing fee. *See* Rule 2-260 - Changing, Altering, or Modifying Licensed Premises

C. Subletting Not Authorized. Licensees are not authorized to sublet any portion of Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Division and the relevant Local Licensing Authority or Local Jurisdiction.

Basis and Purpose – 3-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d)(I)-(VI), 44-10-401, 44-10-501, 44-10-502, 44-10-503, 44-10-504, 44-10-601, 44-10-602, 44-10-603, 44-10-604, C.R.S. The purpose of this rule is to establish guidelines for the manner in which a Medical Marijuana Business may share its existing Licensed Premises with a Retail Marijuana Business, and to ensure the proper separation of Regulated Marijuana Business operation operations. This Rule 3-215 was previously Rules M and R 304.1, 1 CCR 212-1 and 1 CCR 212-2.

3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation

A. Shared Licensed Premises fFor Medical Marijuana Stores and Retail Marijuana Stores.

1. Medical Marijuana Store that authorizes only patients that are over the age of 21. A Medical Marijuana Store that authorizes only Medical Marijuana patients who are over the age of 21 years to be on the Licensed Premises may also hold a Retail Marijuana Store license and operate at the same location under the following circumstances:

a. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

b. The Medical Marijuana Store and Retail Marijuana Store are commonly owned;

c. The Medical Marijuana Store and Retail Marijuana Store shall maintain physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory;

d. The Medical Marijuana Store and Retail Marijuana Store shall maintain separate displays between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory, but the displays may be on the same sale floor;

e. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Store and Retail Marijuana Store shall enable the Division and Local

Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Store from the inventories and business transactions of the Retail Marijuana Store; and

f. The Medical Marijuana Store shall post and maintain signage that clearly conveys that persons under the age of 21 years may not enter.

2. Medical Marijuana Store that authorizes patients under the age of 21. A Medical Marijuana Store that authorizes Medical Marijuana patients under the age of 21 years to be on the Licensed Premises may operate in the same location with a Retail Marijuana Store under the following conditions:

a. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

b. The Medical Marijuana Store and Retail Marijuana Store are commonly owned;

c. The Medical Marijuana Store and Retail Marijuana Store maintain physical separation, including separate entrances and exits, between their respective Restricted Access Areas;

d. No point of sale operations occur at any time outside the physically separated Restricted Access Areas;

e. All Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Product in a Restricted Access Area must be physically separated from all Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in a Restricted Access Area, and such physical separation must include separate entrances and exits;

f. Any display areas shall be located in the physically separated Restricted Access Areas;

g. In addition to the physically separated sales and display areas, the Medical Marijuana Store and Retail Marijuana Store shall maintain physical or virtual separation for storage of Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory from storage of Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

h. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Store and Retail Marijuana Store shall enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Store from the inventories and business transactions of the Retail Marijuana Store.

B. Shared Licensed Premises For Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility. A Medical Marijuana Cultivation Facility and a Retail Marijuana Cultivation Facility may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility are commonly owned;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation between (i) Medical Marijuana and Medical Marijuana Concentrate and (ii) Retail Marijuana and Retail Marijuana Concentrate; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility must enable the Division and relevant Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Cultivation Facility from the Retail Marijuana Cultivation Facility.

C. Shared Licensed Premises For Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer. A Medical Marijuana Products Manufacturer and a Retail Marijuana Products Manufacturer may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer are commonly owned;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory. Nothing in this Rule prohibits a Retail Marijuana Products Manufacturer and Medical Marijuana Products Manufacturer from sharing raw Ingredients in bulk, for example flour or sugar, except Retail Marijuana and Medical Marijuana may not be shared under any circumstances; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Products Manufacturer from the Retail Marijuana Products Manufacturer.

D. Shared Licensed Premises For Medical Marijuana Store, Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, and Retail Marijuana Products Manufacturer. A Medical Marijuana Store, Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer may share the common areas of a Licensed Premises where the cultivation, manufacture, packaging, storing, or Transfers to patients and consumers of Regulated Marijuana does not occur. For example, the shared common areas may include hallways, break rooms, bathrooms, etc. Licensees must maintain physical separation of all Regulated Marijuana inventory. Nothing in this paragraph D prohibits Licensees sharing premises in accordance with paragraphs (B) and (C) of this Rule.

E. Shared Licensed Premises For Medical Marijuana Testing Facility and Retail Marijuana Testing Facility. A Medical Marijuana Testing Facility and a Retail Marijuana Testing Facility may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit dual operation at the same location;

2. The Regulated Marijuana Testing Facilities are identically owned;

3. The Regulated Marijuana Testing Facilities shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

4. Record-keeping, inventory tracking, packaging and labeling for the Regulated Marijuana Testing Facilities must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Testing Facility from the Retail Marijuana Testing Facility.

F. Shared Licensed Premises Medical Marijuana Transporter and Retail Marijuana Transporter. A Medical Marijuana Transporter and a Retail Marijuana Transporter may share a single Licensed Premises and operate dual transporting, logistics, and temporary storage business operation at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit dual operation at the same location;

2. The Medical Marijuana Transporter and Retail Marijuana Transporter are identically owned;

3. The Medical Marijuana Transporter and Retail Marijuana Transporter shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Transporter and Retail Marijuana Transporter must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Transporter from the Retail Marijuana Transporter.

G. Shared Licensed Premises Marijuana Research and Development Facility. A Marijuana Research and Development Facility that has obtained an R&D Co-Location Permit pursuant to Rule 5-705(C) may share a single Licensed Premises and operate at the same location as another Regulated Marijuana Business to the extent permitted by the R&D Co-Location Permit and otherwise in compliance with all applicable rules. *See* 5-700 Series Rules.

H. Violation Affecting Public Safety. Violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose – 3-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c),44-10-203(1)(kj), 44-10-203(2)(e), and 29-2-114(8)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IV). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule establishes the minimum guidelines for security requirements for alarm systems and commercial locking mechanisms for maintaining adequate

security. This rule also establishes fencing and lighting requirements for outdoor cultivations. This Rule 3-220 was previously Rules M and R 305, 1 CCR 212-1 and 1 CCR 212-2.

3-220 – Security Alarm Systems and Lock Standards

A. Security Alarm Systems – Minimum Requirements. The following Security Alarm Systems and lock standards apply to all Regulated Marijuana Businesses, unless stated otherwise by these rules.

1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.

2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement.

3. A Licensee shall maintain up-to-date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. *See* Rule 3-905 – Business Records Required.

4. Upon request, Licensees shall make available to agents of the Division or relevant Local Licensing Authority or Local Jurisdiction or state or local law enforcement agency, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.

5. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this Rule. An outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. It shall be the responsibility of the Licensee to maintain physical security in a manner similar to a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility located in an indoor Limited Access Area so it can be fully secured and alarmed. The fencing requirements shall include, at a minimum, perimeter fencing designed to prevent the general public from entering the Limited Access Areas and shall meet at least the following minimum requirements:

a. The entire Limited Access Area shall be surrounded by a fence constructed of nine gauge or lower metal chain link fence or another similarly secure material. The fence shall measure at least eight feet from the ground to the top, or in the alternative, the fence may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands along the entire fence. All support posts shall be steel and securely anchored.

b. All gates of ingress or egress shall measure at least eight feet from the ground to the top of the entry gate, or in the alternative, the gate may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands, and shall be constructed of nine gauge or lower metal chain link fence or a similarly secure material.

c. The fence shall obscure the Limited Access Area so that it is not easily viewed from outside the fence.

d. All areas of ingress and egress of the fence shall either:

i. Be illuminated including a 20 foot radius from the point of ingress or egress. Lights may be, but are not required to be, motion sensing; or

ii. Have cameras with night vision capacity capable of recording a 20 foot radius from the point of ingress or egress.

e. A Licensee or Applicant for initial licensure may, in writing, request that the Division waive one or more of the security requirements described in these~~this~~ subparagraphs (a) through (d) of this Rule, by submitting on a form prescribed by the Division a security waiver request for Division approval. The Division may, in its discretion and on a case-by-case basis, approve the security waiver if it finds that the alternative safeguard proposed by the Licensee or Applicant for initial licensure meets the goals of the above security requirements or that the security requirements are in conflict with a local ordinance of general applicability. Approved security waivers expire at the same time as the underlying License and may be renewed at the time the License renewal application is submitted. The Licensee's or Applicant for initial licensure's request for a waiver shall include:

i. The specific rules and subsections of a rule that are~~is~~ requested to be waived;

ii. The reason for the waiver;

iii. A description of an alternative safeguard the Licensee will implement in lieu of the requirement that is the subject of the waiver; and

iv. An explanation of how and why the alternative safeguard accomplishes the goals of the security rules, specifically public safety, prevention of diversion, accountability, and prohibiting access to minors.

B. Lock Standards – Minimum Requirement.

1. At all points of ingress and egress, the Licensee shall ensure the use of ~~a~~ commercial-grade, non-residential door locks.

2. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must meet all of the requirements for the lock standards described in this Rule.

Basis and Purpose – 3-225

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(h), 44-10-203(1)(k~~j~~), 44-10-203(2)(e), and 44-10-1001, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule also establishes the minimum guidelines for security requirements for video surveillance systems for maintaining adequate security. This Rule 3-225 was previously Rules M and R 306, 1 CCR 212-1 and 1 CCR 212-2.

3-225 – Video Surveillance

A. Minimum Requirements. The following video surveillance requirements shall apply to all Regulated Marijuana Businesses, unless stated otherwise in these rules.

1. Prior to exercising the privileges of a Regulated Marijuana Business, an Applicant must install a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this Rule.

2. All video surveillance records and recordings must be stored in a secure area that is only accessible to a Licensee's management staff.

3. Video surveillance records and recordings must be made available upon request to the Division, the relevant Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose.

4. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the Division, except that the Division may provide such records and recordings to the Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code, or for any other state or local law enforcement purpose.

B. Video Surveillance Equipment.

1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this Rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

2. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.

3. Licensees are responsible for ensuring that all surveillance equipment is properly functioning and maintained, so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.

4. All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage. Licensee must notify the Division of any loss of video surveillance capabilities that extend beyond four hours.

C. Placement of Cameras and Required Camera Coverage.

1. Camera coverage is required for all areas identified as Restricted Access Areas or Limited Access Areas, point-of-sale areas, security rooms, all points of ingress and egress to Limited Access Areas, all areas where Regulated Marijuana is displayed for sale, and all points of ingress and egress to the exterior of the Licensed Premises.

2. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the Licensed Premises.

3. At each point-of-sale location, camera coverage must enable recording of the patients, caregivers or consumer(s), and employee(s) facial features with sufficient clarity to determine identity.

4. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.

5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Licensed Premises has a Regulated Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to Flowering areas remain constantly illuminated for recording purposes.

6. Areas where Regulated Marijuana is grown, tested, cured, manufactured, researched, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

7. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or tagging activities occur.

8. At least one camera must be dedicated to record the access points to the secured surveillance recording area.

9. All outdoor cultivation areas must meet the same video surveillance requirements applicable to any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment.

1. The surveillance room or surveillance area shall be a Limited Access Area.

2. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division, and the relevant Local Licensing Authority or Local Jurisdiction, state or local law enforcement agencies for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, and service personnel or contractors.

3. Licensees must keep a current list of all authorized employees and service personnel who have access to the surveillance system and/or room on the Licensed Premises. Licensees must keep a surveillance equipment maintenance activity log on the Licensed Premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.

4. Off-site Monitoring and video recording storage of the areas identified in this Rule 3-225(C) by the Licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site Monitoring.

5. Each Regulated Marijuana Business Licensed Premises located in a common or shared building, or commonly owned Regulated Marijuana Businesses located in the same Local Jurisdiction, must have a separate surveillance room/area that is dedicated to that specific Licensed Premises. Commonly-owned Regulated Marijuana Businesses located in the same Local Jurisdiction may have one central surveillance room located at one of the commonly owned Licensed Premises which simultaneously serves all of the commonly-owned Licensed Premises. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in this section apply to the review station.

6. Licensed Premises that combine both a Medical Marijuana Business and a Retail Marijuana Business may have one central surveillance room located at the shared

Licensed Premises. *See* Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation.

E. Video Recording and Retention Requirements.

1. All camera views of all Limited Access Areas must be continuously recorded 24 hours a day. The use of motion detection is authorized when a Licensee can demonstrate that monitored activities are adequately recorded.

2. All surveillance recordings must be kept for a minimum of 40 days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as legitimately captured video and guarantees that no alteration of the recorded image has taken place.

3. The Licensee's surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the areas identified in this Rule 3-225(C).

4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture. The date and time must be synchronized with any point-of-sale system.

5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: http://www.time.gov.

6. After the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to: sale or transfer of the facility or business to another Licensee; or being discarded or disposed of for any other purpose. Surveillance video recordings may not be destroyed if the Licensee knows or should have known of a pending criminal, civil, or administrative investigation, or any other proceeding for which the recording may contain relevant information.

F. Other Records.

1. All records applicable to the surveillance system shall be maintained on the Licensed Premises. At a minimum, Licensees shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list, and operating instructions for the surveillance equipment.

2. A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.

Basis and Purpose – 3-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), and 44-10-203(2)(h), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish waste disposal requirements for Regulated Marijuana Businesses and to provide more sustainable options including for Regulated Marijuana waste including composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification. This Rule 3-230 was previously Rules M and R 307, 1 CCR 212-1 and 1 CCR 212-2.

3-230 – Waste Disposal

A. All Applicable Laws Apply. Regulated Marijuana waste must be stored, secured, locked, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Liquid Waste. Liquid waste from Regulated Marijuana Businesses shall be disposed of in compliance with all applicable federal, state and local laws, regulations, rules, and other requirements.

C. Chemical, Dangerous and Hazardous Waste. Disposal of chemical, dangerous, and hazardous waste must be conducted in a manner consistent with federal, state and local laws, statutes, regulations, rules, and other requirements. This may include, but is not limited to, the disposal of all Pesticide and other agricultural chemicals, certain solvents and other chemicals used in the production of Regulated Marijuana Concentrate and any Regulated Marijuana soaked in a Flammable Solvent for purposes of producing a Regulated Marijuana Concentrate.

1. Elemental Impurities Remediation. All post extraction plant material generated from the elemental impurities Remediation process, and other Regulated Marijuana waste products (including but not limited to, still bottoms, lipids removed during winterization) generated from the Remediation process have the potential to be hazardous waste. Therefore, all such post extraction plant material must be subject to one of the following actions prior to leaving the Licensed Premises:

   i. Treated as hazardous waste in regard to storage, labeling, and disposal; or

   ii. Tested for elemental impurities content.

      a. Materials that meet the definition of hazardous waste, as defined by the Resource Conservation and Recovery Act or other applicable federal, state, or local regulations, must be treated as hazardous waste. Accordingly, they must be properly labeled, contained, stored, and disposed of in accordance with the Environmental Protection Agency, the Resource Conservation and Recovery Act, and other applicable regulations for hazardous waste.

      b. Materials that contain elemental impurities concentrations less than the allowable concentration limits specific in the Resource Conservation and Recovery Act, and are not designated hazardous waste by other applicable federal, state, or local regulations, may be disposed of in accordance with this rule.

D. Regulated Marijuana Waste Must Be Made Unusable and Unrecognizable. Unless expressly exempt by these rules, all Regulated Marijuana waste must be made unusable and Unrecognizable prior to leaving the Licensed Premises.

E. Methods to Make Waste Unusable and Unrecognizable. Regulated Marijuana waste shall be rendered unusable and Unrecognizable through one of the following methods:

1. Grind or Compact and Mix with Non-Marijuana Waste. A Regulated Marijuana Business may render its Regulated Marijuana waste unusable and Unrecognizable by grinding or compacting and incorporating the marijuana waste with non-consumable, solid wastes

listed below such that the resulting mixture is at least 50 percent non-marijuana waste, and such that the resulting mixture cannot easily be separated and sorted:

a. Paper waste;

b. Plastic waste;

c. Cardboard waste;

d. Food waste;

e. Grease or other compostable oil waste;

f. Bokashi or other compost activators;

g. Soil;

h. Sawdust;

i. Manure; and

j. Other wastes approved by the Division that will render the Regulated Marijuana waste unusable and Unrecognizable.

2. Other Permitted and Sustainable Methods for Rendering Regulated Marijuana Waste Unusable and Unrecognizable. A Regulated Marijuana Business may render its Regulated Marijuana waste unusable and Unrecognizable through the following methods and subject to the following requirements and restrictions:

a. The following methods are exempt from the 50/50 waste mixing requirement in subparagraph E(1) above and can be used to render Regulated Marijuana unusable and Unrecognizable:

i. On-site composting;

ii. Anaerobic digestion;

iii. Pyrolyze into biochar; or

iv. Biomass gasification.

b. Requirements for Other Permitted and Sustainable Methods to Render Regulated Marijuana Waste Unusable and Unrecognizable. A Regulated Marijuana Business using other methods of rendering Regulated Marijuana waste unusable and Unrecognizable must comply with the requirements of this rule.

i. A Regulated Marijuana Business may utilize on its own Licensed Premises or may Transfer Regulated Marijuana waste to another Regulated Marijuana Business for on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification.

ii. A Regulated Marijuana Business may transfer only the stalks, stems, fan leaves, and roots from Regulated Marijuana to an area outside the Licensed Premises that is under the Licensee's possession and control

or to an unlicensed third-party that is registered and in good standing with the Colorado Secretary of State for composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification.

iii. Regulated Marijuana waste that is transferred to a location under the Licensee's possession and control, to another Regulated Marijuana Business, or to a third-party pursuant to this rule is not required to comply with the 3-800 Series Rules - Inventory Tracking or the 3-1000 Series Rules - Labeling, Packaging, and Product Safety but must be recorded on the Transferring Regulated Marijuana Business' waste log.

iv. A Regulated Marijuana Business or an unlicensed third-party providing composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification shall ensure that the organic composition of the Regulated Marijuana waste is permanently altered so that it is rendered unusable and Unrecognizable.

v. Waste Management Plan. A Regulated Marijuana Business using on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification to render Regulated Marijuana waste unusable and Unrecognizable must establish and maintain on its Licensed Premises a waste management plan that includes at least the following information: A description of the Regulated Marijuana Business's methods for on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification and identification of the areas that will be used for these activities. The location of these activities may include areas used for other operational activities of the Regulated Marijuana Business or may be areas outside the Licensed Premises so long as such areas are within the Licensee's possession and control.

vi. Written Contract for Transfers to Unlicensed Third Parties. A Regulated Marijuana Business that is transferring stalks, stems, fan leaves, or roots from Regulated Marijuana to an unlicensed third-party for composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification must have a written contract with that third-party. The Regulated Marijuana Business must maintain on its Licensed Premises a copy of the written contract and copies of receipts and invoices related to such third-party services. The written contract with the third-party must document at least the following information:

A. The identity of the unlicensed third party receiving any transfer of Regulated Marijuana waste pursuant to this Rule;

B. A description of the services provided by the unlicensed third party and the agreed-upon methods for managing the Regulated Marijuana waste, including the end-use of such waste; and

C. A requirement that the third-party is registered with the Colorado Secretary of State and must remain in in good standing during the contract term.

F. Mobile Waste Rendering. A Licensee or a third party vendor may also render Regulated Marijuana waste unusable and Unrecognizable outside of the Licensed Premises, subject to the following requirements and restrictions:

1. The waste must be rendered unusable and Unrecognizable in accordance with subparagraph (E) of this Rule, and unless otherwise expressly exempt by this Rule 3-230, mobile waste rendering must occur on property under the control of the Licensee that is immediately adjacent to the Licensed Premises;

2. Unless otherwise expressly exempt by this Rule 3-230, the waste must be taken from the Licensed Premises by an Owner Licensee or Employee Licensee directly to the vehicle where the rendering will occur;

3. Unless otherwise expressly exempt by this Rule 3-230, an Owner Licensee or Employee Licensee must monitor and observe the rendering to ensure the waste is made unusable and Unrecognizable;

4. Unless otherwise expressly exempt by this Rule 3-230, the Licensee shall ensure the rendering of any Regulated Marijuana waste unusable and Unrecognizable by a third party is recorded on the Licensee's video surveillance system; and

5. Any other restrictions imposed by the Local Licensing Authority or Local Jurisdiction.

G. After Waste is Made Unusable and Unrecognizable. After Regulated Marijuana waste is made unusable and Unrecognizable, the rendered waste shall be disposed of or otherwise managed as follows:

1. Disposed of at a solid waste site and disposal facility that has a Certificate of Designation from the local governing authority; or

2. Deposited at a compost facility that is permitted or approved by the Colorado Department of Public Health and Environment; or

3. Regulated Marijuana waste that has been rendered unusable and Unrecognizable by composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification and pursuant to the Licensee's waste management plan(s) may be transferred to a Regulated Marijuana Business or an unlicensed third-party for further processing or use.

4. A Regulated Marijuana Business with cultivation privileges may reintroduce its own or Regulated Marijuana waste obtained from another Regulated Marijuana Business that has been rendered unusable and Unrecognizable into its Regulated Marijuana cultivation operations subject to its standard operating procedures. For example, a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility may use such waste as a soil amendment, potting media, or fertilizer

H. Proper Disposal of Waste. A Licensee shall only dispose of Regulated Marijuana waste in a secured waste receptacle in possession and control of the Licensee.

I. Inventory Tracking Requirements.

1. In addition to all other tracking requirements set forth in these rules, a Licensee shall utilize the Inventory Tracking System to ensure its post-harvest waste and Fibrous Waste materials are identified, weighed, and tracked while on the Licensed Premises until disposed of.

2. All Regulated Marijuana waste must be weighed before leaving any Regulated Marijuana Business. A scale used to weigh Regulated Marijuana waste prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-

14-127, C.R.S. *See* Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System.

3. A Licensee is required to maintain accurate and comprehensive records regarding Regulated Marijuana waste that accounts for, reconciles, and evidences all waste activity related to the disposal of Regulated Marijuana. *See* Rule 3-905 – Business Records Required.

4. A Licensee is required to maintain accurate and comprehensive records regarding any waste material produced through the trimming or pruning of a Regulated Marijuana plant prior to harvest, which must include weighing and documenting all waste, including Fibrous Waste. Unless required by an Inventory Tracking System procedure, records of waste produced prior to harvest must be maintained on the Licensed Premises. Waste, excluding Fibrous Waste and Marijuana Consumer Waste, whether produced prior or subsequent to harvest, must be disposed of in accordance with this Rule and be made unusable and Unrecognizable. *See* Rule 3-235 – Transfers of Fibrous Waste and Rule 3-240 – Collection of Marijuana Consumer Waste.

Basis and Purpose – 3-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(1)(kj), and 44-10-203(2)(x), C.R.S. The purpose of this rule is to establish conditions under which a Licensee is authorized to transfer Fibrous Waste to a Person for the purpose of producing only Industrial Fiber Products. This Rule 3-235 was previously Rules M and R 307.5, 1 CCR 212-1 and 1 CCR 212-2.

3-235 – Transfers of Fibrous Waste

A. All Applicable Laws Apply. Fibrous Waste must be stored and managed in accordance with all applicable state and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers, and Accelerator Manufacturers may transfer Fibrous Waste to an Industrial Fiber Products Producer in accordance with the requirements of this Rule 3-235.

C. Contract Requirements. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall enter into a written contract prior to transferring any Fibrous Waste.

1. The written contract must be complete, and must fully incorporate all terms and conditions.

2. The written contract shall include the following terms:

a. The identity of the Industrial Fiber Products Producer;

b. A requirement that the Industrial Fiber Products Producer shall be and shall remain in good standing with the Colorado Secretary of State during the contract term; and

c. A requirement that the Industrial Fiber Products Producer shall ensure the security of Fibrous Waste during transport from the Licensed Premises to the point of processing by the Industrial Fiber Products Producer.

3. The Licensee and Industrial Fiber Products Producer shall sign an affirmation that the Fibrous Waste is being transferred only for the purpose of producing Industrial Fiber Products. The affirmation may be incorporated into a purchase order, invoice, or manifest.

D. Business Records. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall keep all contracts, receipts, and inventory records relating to the transfer of any Fibrous Waste in accordance with Rule 3-905, including but not limited to Rule 3-905(A)(2).

E. Security Measures.

1. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, and Retail Marijuana Products Manufacturers, and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall comply with all security requirements pursuant to Rules 3-220 and 3-225.

2. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers preparing Fibrous Waste for transfer to an Industrial Fiber Products Producer must separate Fibrous Waste from other Regulated Marijuana plant material and waste within the Limited Access Area and on video surveillance.

3. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators Retail Marijuana Products Manufacturers, and Accelerator Manufacturers shall physically segregate all Fibrous Waste from other waste and Regulated Marijuana.

4. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers shall affix a label to all receptacles holding Fibrous Waste that has already been separated from other Regulated Marijuana plant material and waste within the Limited Access Area prior to transfer to an Industrial Fiber Products Producer. The label must identify the receptacle as “Contains Fibrous Waste.”

5. An Industrial Fiber Products Producer, or its employee or agent, must sign the visitor log, unless such individual has a valid Division-issued Employee License, to enter the Limited Access Area for any transfer of Fibrous Waste.

6. The Licensee remains responsible for all Fibrous Waste until the Industrial Fiber Products Producer takes possession and removes Fibrous Waste from the Licensed Premises.

7. The Licensee shall ensure that only Fibrous Waste and waste that has been made unusable and Unrecognizable pursuant to Rule 3-320 is transferred to the Industrial Fiber Products Producer.

F. Inventory Tracking Requirements.

1. A Licensee shall utilize the Inventory Tracking System to ensure its post-harvest Fibrous Waste materials are identified, weighed, and tracked while on the Licensed Premises until transferred.

2. A scale used to weigh Fibrous Waste prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System.

3. A Licensee is required to maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all Fibrous Waste transfers. *See* Rule 3-905 – Business Records Required.

G. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers shall not transfer contaminated Fibrous Waste to an Industrial Fiber Products Producer and shall handle contaminated Fibrous Waste using the same reasonable protocols used to handle waste.

H. Violation Affecting Public Safety. It may be considered a violation of public safety for a Licensee to transfer anything to an Industrial Fiber Products Producer other than in accordance with this Rule 3-235.

Basis and Purpose – 3-240

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), and 44-10-203(2)(bb), C.R.S. The purpose of this rule is to establish conditions under which Regulated Marijuana Businesses are permitted to collect ~~m~~Marijuana ~~c~~Consumer ~~w~~Waste for purposes of reuse and recycling.

3-240 – Collection of Marijuana Consumer Waste

A. All Applicable Laws Apply. Marijuana Consumer Waste must be stored and managed in accordance with all applicable state and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Regulated Marijuana Businesses may collect, reuse, and recycle Marijuana Consumer Waste in accordance with the requirements of this Rule 3-240.

C. Collection, Separation, and Processes.

1. Collection. A Licensee must comply with the following requirements when collecting Marijuana Consumer Waste pursuant to this Rule:

a. Only Medical Marijuana Stores, Retail Marijuana Stores, and Licensed Hospitality Businesses may collect Marijuana Consumer Waste from patients and consumers. Medical Marijuana Stores, Retail Marijuana Stores, and Licensed Hospitality Businesses collecting Marijuana Consumer Waste pursuant to this Rule are not limited to collecting Marijuana Consumer Waste from patients or consumers who purchased Regulated Marijuana from the Medical Marijuana Store, Retail Marijuana Store, or Licensed Hospitality Business.

b. A Regulated Marijuana Business may collect Marijuana Consumer Waste from any of its Owner Licensees or Employee Licensees who purchased the Regulated Marijuana from the Regulated Marijuana Business, or may collect Marijuana Consumer Waste from other Regulated Marijuana Businesses pursuant to paragraph (E) of this Rule.

c. The Licensee must utilize receptacles that are locked, sealed and designed to require a key or specialized tools in order to open and access the contents of the receptacle used for collection of Marijuana Consumer Waste;

d. All receptacles used for collection of Marijuana Consumer Waste shall be located in a secured area on the Licensed Premises and shall be reasonably supervised by a Licensee to ensure any Marijuana Consumer Waste collected is only removed by a Licensee;

e. All receptacles used for collection of Marijuana Consumer Waste shall be recorded on video surveillance; and

f. All receptacles used for collection of Marijuana Consumer Waste shall be labeled. The label must at least identify the receptacle as “Contains Marijuana Consumer Waste.” A Licensee may choose to include additional information on the receptacle label.

2. Separation. Regulated Marijuana Businesses collecting Marijuana Consumer Waste pursuant to this Rule must separate any electronic and battery components from the Marijuana Consumer Waste.

3. Processes. Regulated Marijuana Businesses collecting Marijuana Consumer Waste pursuant to this Rule must establish standard operating procedures that ensure at a minimum any remaining Regulated Marijuana in Marijuana Consumer Waste is removed and destroyed to the extent practicable.

D. Reuse of Marijuana Consumer Waste. Once any remaining Regulated Marijuana has been removed and destroyed pursuant to these rules, a Regulated Marijuana Business may reuse Marijuana Consumer Waste as follows and subject to the following requirements and restrictions:

1. Sanitizing. The Containers have been sanitized and disinfected either by a Regulated Marijuana Business or by a third-party to ensure that they do not contain any harmful residue or contaminants.

2. Child-Resistant Containers. Either the Containers can be reused with new child resistant packaging that complies with 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995); or if new child resistant packaging is not being used, based on a visual inspection, the existing Child-Resistant packaging appears to be in good working order and does not appear to pose a risk of unintended exposure or ingestion of Regulated Marijuana. The visual inspection must ensure such Containers are not brittle or have chips, cracks, or

other imperfections that could compromise the child-resistant properties of the Container or otherwise pose a threat of harm to a patient or consumer.

E. Transfers of Marijuana Consumer Waste. Once any remaining Regulated Marijuana has been removed and destroyed pursuant to these rules, a Regulated Marijuana Business may transfer Marijuana Consumer Waste as follows:

1. A Licensee may Transfer Marijuana Consumer Waste to another Regulated Marijuana Business for purposes of further processing and recycling or for reuse pursuant to this Rule; or

2. A Licensee may transfer Marijuana Consumer Waste, excluding the electronic components and battery components, to a Person for purposes of recycling or for reuse pursuant to this Rule. To the extent required, such Person shall be registered as required by the Colorado Department of Public Health and Environment's regulations at 6 CCR 1007-2, Part 1, Section 8; or

3. A Licensee may transfer the electronic and battery components of Marijuana Consumer Waste to a Person for purposes of recycling in accordance with the Colorado Department of Public Health and Environment's regulations at 6 CCR 1007-3.

F. Business Records. Regulated Marijuana Businesses that collect and Transfer Marijuana Consumer Waste pursuant to this Rule 3-240 shall keep all contracts, standard operating procedures, and receipts relating to the collection and Transfer of any Marijuana Consumer Waste in accordance with Rule 3-905, including but not limited to Rule 3-905(A)(2).

G. Violation Affecting Public Safety. It may be considered a violation affecting public safety for a Licensee to Transfer Marijuana Consumer Waste that has remaining Regulated Marijuana and in a manner other than in accordance with this Rule 3-240.

Basis and Purpose – 3-245

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(dd)(XIII), 44-10-609(1), 44-10-610(1), and 44-10-301(3)(b) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(f). The purpose of this rule is to establish hours of operation requirements for Regulated Marijuana Businesses. The State Licensing Authority modeled this rule after the Colorado Department of Revenue's liquor rules. This Rule 3-245 was previously Rules M and R 308, 1 CCR 212-1 and 1 CCR 212-2.

3-245 – Selling and Serving Regulated Marijuana – Hours of Operation

A. Hours of Operation.

1. Medical Marijuana Stores and Retail Marijuana Stores shall not sell or serve Regulated Marijuana between the hours of 12:00 a.m. and 8:00 a.m., Mountain Time, Monday through Sunday.

2. Retail Marijuana Hospitality and Sales Businesses shall not sell Retail Marijuana or permit the consumption or use of Retail Marijuana on its Licensed Premises, between the hours of 2:00 a.m. and 7:00 a.m., Mountain Time, Monday through Sunday.

3. Marijuana Hospitality Businesses shall not permit the consumption or use of marijuana on its Licensed Premises, between the hours of 2:00 a.m. and 7:00 a.m., Mountain Time, Monday through Sunday.

4. Regulated Marijuana Businesses with a valid delivery permit shall not make or complete deliveries of Regulated Marijuana at any time between the hours of 12:00 a.m. and 8:00 a.m., Mountain Time, Monday through Sunday. Regulated Marijuana Businesses with a valid delivery permit may accept orders for delivery 24 hours a day, Monday through Sunday.

B. Local Jurisdictions May Further Restrict Hours. Nothing in this Rule shall prohibit a Local Jurisdiction from further restricting hours of operation within its jurisdiction.

3-300 Series – Health and Safety Regulations

Basis and Purpose – 3-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(3)(f), and 44-10-1001(2), C.R.S. The purpose of this rule is to clarify the conditions under which a Regulated Marijuana Business may be subject to an inspection of its Licensed Premises by a county or municipal employee, specifically but not exclusively a fire safety inspection.

3-305 – Local Safety Inspections

A Regulated Marijuana Businesses may be subject to inspection of its Licensed Premises by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet Local Jurisdiction restrictions related to Regulated Marijuana or other local businesses. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety

Basis and Purpose – 3-310

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(kj), 44-10-203(2)(g), 44-10-203(2)(h), and 44-10-203(2)(i), C.R.S. The purpose of this rule is to clarify the minimum health and sanitary conditions under which a Regulated Marijuana Business must maintain its Licensed Premises.

3-310 – General Sanitary Requirements

A. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Regulated Marijuana shall be excluded from any operations which may be expected to result in contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with Regulated Marijuana shall conform to hygienic practices while on duty, including but not limited to:

   a. Maintaining adequate personal cleanliness;

b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work, prior to engaging in the production of Regulated Marijuana Product, and at any other time when the hands may have become soiled or contaminated; and

c. Refraining from having direct contact with Regulated Marijuana if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Regulated Marijuana are exposed;

5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned, and each is kept clean and in good repair;

6. That there is adequate lighting in all areas where Regulated Marijuana is stored or sold, and where equipment or utensils are cleaned;

7. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition, including but not limited to the prevention of microorganism growth;

9. That toxic cleaning compounds, sanitizing agents, and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Regulated Marijuana and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation, or ordinance;

10. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Regulated Marijuana shall be conducted in accordance with adequate sanitation principles;

11. That each Regulated Marijuana Business provides its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

12. That Regulated Marijuana that can support the rapid growth of undesirable microorganisms are held in a manner that prevents the growth of these microorganisms.

Basis and Purpose – 3-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(1)(g), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), and 44-10-1001(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). It sets forth general standards and basic sanitary requirements for Retail Marijuana Stores. It covers the physical premises where the products are made as well as the individuals handling the products. This rule authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Regulated Marijuana Business. The purpose of this rule is to establish the conditions under an independent health and safety audit may be required. This rule explains when an independent health and sanitary audit may be deemed necessary and sets forth possible consequences of a Regulated Marijuana Businesses refusal to cooperate or pay for the audit. The State Licensing Authority

intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

3-315 – Independent Health and Safety Audit

A. State Licensing Authority May Require A Health and Sanitary Audit.

1. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Regulated Marijuana Business to undergo such an audit. The scope of the audit may include, but need not be limited, to whether the Regulated Marijuana Business is in compliance with the requirements set forth in this Rule and other applicable health, sanitary, or food handling laws, rules, and regulations.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Regulated Marijuana Business. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

3. The Regulated Marijuana Business will be responsible for all costs associated with the independent health and sanitary audit.

B. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. The Division has reasonable grounds to believe that the Regulated Marijuana Business is in violation of one or more of the requirements set forth in this Rule or other applicable public health or sanitary laws, rules, or regulations;

2. The Division has reasonable grounds to believe that the Regulated Marijuana Business was the cause or source of contamination of Regulated Marijuana;

3. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility or Accelerator Cultivator does not provide requested records related to the use of Pesticide or other agricultural chemicals used in the cultivation process;

4. Multiple Harvest Batches or Production Batches produced by a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility or Accelerator Cultivator failed contaminant testing;

5. A Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer does not provide requested records related to the production of Regulated Marijuana Products, including but not limited to, certification of its Licensed Premises, equipment or standard operating procedures, food handling training required for Owner Licensees and Employee Licensees engaged in the production of Regulated Marijuana Products, or Production Batch specific records to the Division;

6. Multiple Production Batches of Regulated Marijuana Products produced by the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer failed contaminant testing.

C. Compliance Required. A Regulated Marijuana Business must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this Rule.

D. Suspension of Operations.

1. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the Licensee committed a deliberate and willful violation or there is a substantial danger to public health and safety and incorporates such findings into its order, it may order summary suspension of the Regulated Marijuana Business's license. *See* Rule 8-210 – Disciplinary Process: Summary Suspensions.

2. Prior to or following the issuance of such an order, the Regulated Marijuana Business may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

a. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety, or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. *See* Rule 8-210 – Disciplinary Process: Summary Suspensions.

b. If an agreement to suspend operations is reached, then the Regulated Marijuana Business may continue to care for its inventory and conduct any necessary internal business operations, but it may not Transfer any Regulated Marijuana or Regulated Marijuana Product to another Regulated Marijuana Business, a patient, or a consumer during the period of time specified in the agreement

Basis and Purpose – 3-320

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(dd)(X), and 44-10-203(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). This rule prohibits a Regulated Marijuana Business from Transferring any contaminated Regulated Marijuana or Regulated Marijuana Product to any Person or another Regulated Marijuana Business.

3-320 – Contaminated Product

A Regulated Marijuana Business shall not accept or Transfer to any Person any Regulated Marijuana that has failed required testing pursuant to Rule 4-120 or Rule 4-125, unless otherwise permitted in these rules. *See* Rule 4-135(B)(3) and (C)(3). If, despite the prohibitions in these rules, another Regulated Marijuana Business Transfers any Regulated Marijuana that has failed or subsequently fails required testing pursuant to Rule 4-120 or Rule 4-125, the receiving Regulated Marijuana Business shall ensure that all Regulated Marijuana that failed required testing are safely disposed of in accordance with Rule 3-230.

Basis and Purpose – 3-325

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(dd)(X), and 44-10-203(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to clarify that a Regulated Marijuana Business engaged in the cultivation of

Regulated Marijuana is prohibited from using certain chemicals or pesticides that may cause harm to employees or consumers.

3-325 – Prohibited Chemicals

A. Applicability. This Rule 3-325 applies to Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Accelerator Cultivator and Marijuana Research and Development Licensees.

B. The following chemicals are prohibited and shall not be used in Regulated Marijuana cultivation. Possession of chemicals and/or containers from these chemicals upon the Licensed Premises shall be a violation of this Rule. Additionally, possession of Regulated Marijuana or Regulated Marijuana Concentrate on which any of the following chemicals is detected shall constitute a violation of this Rule.

1. Any Pesticide the use of which would constitute a violation of the Pesticide Act, section 35-9-101 *et seq*., C.R.S., the Pesticide Applicators' Act, section 35-10-101 et seq., C.R.S., or the rules and regulations pursuant thereto.

2. Other chemicals (listed by chemical name and CAS Registry Number (or EDF Substance ID)):

ALDRIN

309-00-2

ARSENIC OXIDE (3)

1327-53-3

ASBESTOS (FRIABLE)

1332-21-4

AZODRIN

6923-22-4

1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-

118-75-2

BINAPACRYL

485-31-4

2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL

126-15-8

BROMOXYNIL BUTYRATE

EDF-186

CADMIUM COMPOUNDS

CAE750

CALCIUM ARSENATE [2ASH3O4.2CA]

7778-44-1

CAMPHECHLOR

8001-35-2

CAPTAFOL

2425-06-1

CARBOFURAN

1563-66-2

CARBON TETRACHLORIDE

56-23-5

CHLORDANE

57-74-9

CHLORDECONE (KEPONE)

143-50-0

CHLORDIMEFORM

6164-98-3

CHLOROBENZILATE

510-15-6

CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA] EDF-

183

COPPER ARSENATE

10103-61-4

2,4-D, ISOOCTYL ESTER

25168-26-7

DAMINOZIDE

1596-84-5

DDD

72-54-8

DDT

50-29-3

DI(PHENYLMERCURY)DODECENYLSUCCINATE [PMDS] EDF-

187

1,2-DIBROMO-3-CHLOROPROPANE (DBCP)

96-12-8

1,2-DIBROMOETHANE

106-93-4

1,2-DICHLOROETHANE

107-06-2

DIELDRIN

60-57-1

4,6-DINITRO-O-CRESOL

534-52-1

DINITROBUTYL PHENOL

88-85-7

ENDRIN

72-20-8

EPN

2104-64-5

ETHYLENE OXIDE

75-21-8

FLUOROACETAMIDE

640-19-7

GAMMA-LINDANE

58-89-9

HEPTACHLOR

76-44-8

HEXACHLOROBENZENE

118-74-1

1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)

608-73-1

1,3-HEXANEDIOL, 2-ETHYL-

94-96-2

LEAD ARSENATE

7784-40-9

LEPTOPHOS

21609-90-5

MERCURY

7439-97-6

METHAMIDOPHOS

10265-92-6

METHYL PARATHION

298-00-0

MEVINPHOS

7786-34-7

MIREX

2385-85-5

NITROFEN

1836-75-5

OCTAMETHYLDIPHOSPHORAMIDE

152-16-9

PARATHION

56-38-2

PENTACHLOROPHENOL

87-86-5

PHENYLMERCURIC OLEATE [PMO]

EDF-185

PHOSPHAMIDON

13171-21-6

PYRIMINIL

53558-25-1

SAFROLE

94-59-7

SODIUM ARSENATE

13464-38-5

SODIUM ARSENITE

7784-46-5

2,4,5-T

93-76-5

TERPENE POLYCHLORINATES (STROBANE6)

8001-50-1

THALLIUM(I) SULFATE

7446-18-6

2,4,5-TP ACID (SILVEX)

93-72-1

TRIBUTYLTIN COMPOUNDS

EDF-184

2,4,5-TRICHLOROPHENOL

95-95-4

VINYL CHLORIDE

75-01-4

C. DMSO. Except for R&D Licensees, the use of Dimethylsulfoxide (DMSO) in the production of Regulated Marijuana and the possession of DMSO upon the Licensed Premises is prohibited.

Basis and Purpose – 3-330

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(3)(c), 44-10-203(3)(e), and 44-10-1001, C.R.S. The purpose of this rule is to clarify the minimum health and safety requirements imposed on a Medical or Retail Marijuana Cultivation Facility. The State Licensing Authority has determined the cultivation of Medical or Retail Marijuana requires the application of processes and procedures, and the use of materials, chemicals, and pesticides which, if improperly used, may be potentially harmful to employees and consumers. Therefore, the cultivation of Medical or Retail Marijuana must be performed in a manner that reduces the likelihood of exposure to such materials, chemicals and pesticides, or other microbials or molds. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

3-330 – Cultivation of Regulated Marijuana: Specific Health and Safety Requirements

A. Additional Sanitary Requirements. In addition to the general sanitary requirements in Rule 3-310, a Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility shall take all reasonable measure and precautions to ensure the following:

1. That all contact surfaces, including utensils and equipment used for the preparation of Regulated Marijuana, Physical Separation~~Water~~-Based Medical Marijuana Concentrate, or Physical Separation~~Water~~-Based Retail Marijuana Concentrate, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used in a Medical Marijuana Cultivation Facility, by an Accelerator Cultivator, or in a Retail Marijuana Cultivation Facility;

2. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises' needs. Reclaimed water may also be used only for the cultivation of Regulated Marijuana to the extent authorized under the Reclaimed Water Control Regulations (5 CCR 1002-84), and subject to approval of the Water Quality Control Division of the Colorado Department of Public Health and Environment and the local water provider;

3. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable water, reclaimed water, and waste water lines; and

4. That any room used for the cultivation of Regulated Marijuana has measures to prevent the accumulation of dangerous levels of CO_2.

B. Pesticide Application. A Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility may only use Pesticide in accordance with the "Pesticide Act" sections 35-9-101 et seq., C.R.S., the "Pesticides Applicators' Act," sections 35-10-101 et seq., C.R.S., and all other applicable federal, state, and local laws, statutes, rules and regulations. This includes, but shall not be limited to, the prohibition on detaching, altering, defacing or destroying, in whole or in part, any label on any Pesticide. The Colorado Department of Agriculture's determination that the Licensee used any quantity of a Pesticide that would constitute a violation of the Pesticide Act or the Pesticide Applicators' Act shall constitute prima facie evidence of a violation of this Rule.

C. Application of Other Agricultural Chemicals. A Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility may only use agricultural chemicals, other than a Pesticide, in accordance with all applicable federal, state, and local laws, statutes, rules, and regulations.

D. Required Documentation.

1. Standard Operating Procedures. A Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility must establish written standard operating procedures for the cultivation, harvesting, drying, curing, trimming, packaging, storing, and sampling for testing of Regulated Marijuana, and the processing, packaging, storing, and sampling for testing of Regulated Marijuana Concentrate, and the processing, rolling, filling or similar process, packaging, storing and sampling for testing of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana made from Physical Separation-Based Concentrate. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Medical Marijuana Cultivation Facility, the Retail Marijuana Cultivation Facility or the Accelerator Cultivator.

   a. The standard operating procedures must include when, and the manner in which, all Pesticide and other agricultural chemicals are to be applied during its cultivation process.

   b. The standard operating procedures must also include any methods and processes related to decontamination of Harvest Batches.

   c. If a Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or a Retail Marijuana Cultivation Facility produces Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana made from Physical Separation-Based Concentrate, the standard operating procedures must include all methods and processes related to the creation of each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana product, including but not limited to, the strains used, where strains are sourced, which parts of Harvest Batches are used (e.g. flower, shake, trim), the size of the product (e.g. 1 gram pre-rolls), and how much and what type of Regulated Marijuana Concentrate is added (if applicable) for each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana it produces.

   d. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

2. Material Change. If a Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility makes a Material Change to its cultivation procedures, it must document the change and revise its standard operating procedures

accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

3. Safety Data Sheet. A Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility must obtain a safety data sheet for any Pesticide or other agricultural chemical used or stored on its Licensed Premises. A Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility must maintain a current copy of the safety data sheet for any Pesticide or other agricultural chemical on the Licensed Premises where the product is used or stored.

4. Labels of Pesticide and Other Agricultural Chemicals. A Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility must have the original label or a copy thereof at its Licensed Premises for all Pesticide and other agricultural chemicals used during its cultivation process.

5. Pesticide Application Documentation. A Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility that applies any Pesticide or other agricultural chemical to any portion of a Regulated Marijuana plant, water, or feed used during cultivation or generally within the Licensed Premises must document, and maintain a record on its Licensed Premises of, the following information:

   a. The name, signature, and Employee License number of the individual who applied the Pesticide or other agricultural chemical;

   b. Applicator certification number if the applicator is licensed through the Department of Agriculture in accordance with the "Pesticides Applicators' Act," sections 35-10-101 et seq., C.R.S.;

   c. The date and time of the application;

   d. The EPA registration number of the Pesticide or CAS number of any other agricultural chemical(s) applied;

   e. Any of the active ingredients of the Pesticide or other agricultural chemical(s) applied;

   f. Brand name and product name of the Pesticide or other agricultural chemical(s) applied;

   g. The restricted entry interval from the product label of any Pesticide or other agricultural chemical(s) applied;

   h. The RFID tag number of the Regulated Marijuana plant(s) that the Pesticide or other agricultural chemical(s) was applied to or if applied to all plants, a statement to that effect; and

   i. The total amount of each Pesticide or other agricultural chemical applied.

E. Adulterants. A Medical Marijuana Cultivation Facility, an Accelerator Cultivator, or Retail Marijuana Cultivation Facility may not treat or otherwise adulterate Regulated Marijuana with any chemical or other compound whatsoever to alter its color, appearance, weight, or smell.

Basis and Purpose – 3-335

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-202(2)(y), 44-10-203(3)(b), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-203(3)(g), and 44-10-1001, C.R.S. The State Licensing Authority has determined the manufacturing of Medical or Retail Marijuana Infused Products involves the application of processes and procedures, materials, chemicals, and additives, which, if improperly applied, may cause harm to employees and consumers. Therefore, the purpose of this Rule is to clarify the minimum and specific health and safety requirements imposed on a Medical or Retail Marijuana Products Manufacturing Facility. This Rule clarifies which Edible Medical or Retail Marijuana Products, due to their specific composition, are *per se* practicable to mark with the Universal Symbol but exempts certain Liquid Products from the Universal Symbol requirements. Additionally, the Rule imposes manufacturing and production requirements (e.g. prohibiting products from being shaped like fruit or humans), identifies the standard THC portion, prohibits licensees from using commercial food products to remanufacture Medical or Retail Marijuana Products, and prohibits the use of toxic additives.

3-335 – Production of Regulated Marijuana Concentrate and Regulated Marijuana Products: Specific Health and Safety Requirements

A. Training.

1. Prior to engaging in the manufacture of any Edible Medical Marijuana Product or Edible Retail Marijuana Product each Owner Licensee or Employee Licensee must:

   a. Have a currently valid ServSafe Food Handler Certificate obtained through the successful completion of an online assessment or print exam; or

   b. Take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado State University extension service or a state, county, or district public health agency, and must maintain a status of good standing in accordance with the course requirements, including attending any additional classes if necessary. Any course taken pursuant to this rule must last at least two hours and cover the following subjects:

      i. Causes of foodborne illness, highly susceptible populations and worker illness;

      ii. Personal hygiene and food handling practices;

      iii. Approved sources of food;

      iv. Potentially hazardous foods and food temperatures;

      v. Sanitization and chemical use; and

      vi. Emergency procedures (fire, flood, sewer backup).

2. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer must obtain documentation evidencing that each Owner Licensee or Employee Licensee has successfully completed the examination or course required by this Rule and is in good standing. A copy of the documentation must be kept on file at any Licensed Premises where that Owner Licensee or Employee Licensee is engaged in the manufacturing of an Edible Medical Marijuana Product or Edible Retail Marijuana Product.

B. Other State and Local Health and Safety Standards Apply. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer that manufactures Edible Medical Marijuana Products or Edible Retail Marijuana Products shall comply with all kitchen-related health and safety standards of the relevant Local Licensing Authority or Local Jurisdiction and, to the extent applicable, with all Colorado Department of Public Health and Environment health and safety regulations applicable to retail food establishments, as set forth in 6 CCR 1010-2.

C. Additional Sanitary Requirements. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer shall take all reasonable measures and precautions to ensure the following:

1. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Regulated Marijuana or Regulated Marijuana Products;

2. That all contact surfaces, including utensils and equipment used for the preparation of Regulated Marijuana or Regulated Marijuana Product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used by a Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer, and used in accordance with labeled instructions;

3. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises needs;

4. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable and waste water lines; and

5. That storage and transport of finished Regulated Marijuana Product shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any Container.

D. Product Safety.

1. A Medical Marijuana Products Manufacturer that manufactures Edible Medical Marijuana Product, an Accelerator Manufacturer that manufactures Edible Retail Marijuana Product, or a Retail Marijuana Products Manufacturer that manufactures Edible Retail Marijuana Product, shall create and maintain standard production procedures and detailed manufacturing processes for each Edible Medical Marijuana Product or Edible Retail Marijuana Product it manufactures. These procedures and processes must be documented and made available on the Licensed Premises for inspection by the Division, the Colorado Department of Public Health & Environment, and local licensing authorities.

2. Universal Symbol Marking Requirements.

a. The following categories of Edible Medical Marijuana Products and Edible Retail Marijuana Products are considered to be per se practicable to mark, and shall be

marked, stamped, or otherwise imprinted with the Universal Symbol directly on the Regulated Marijuana Product:

i. Chocolate;

ii. Soft confections;

iii. Hard confections or lozenges;

iv. Consolidated baked goods (e.g. cookie, brownie, cupcake, granola bar);

v. Pressed pills and capsules.

b. The Universal Symbol marking shall:

i. Be marked, stamped, or otherwise imprinted in its entirety on at least one side of the Edible Medical Marijuana Product or Edible Retail Marijuana Product. The shape of the product shall not be included or take place of any part of the Universal Symbol;

ii. Be centered either horizontally or vertically on the Edible Medical Marijuana Product or Edible Retail Marijuana Product;

iii. If centered horizontally on the Edible Medical Marijuana Product or Edible Retail Marijuana Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's height, but not less than ¼ inch by ¼ inch.

iv. If centered vertically on the Edible Medical Marijuana Product or Edible Retail Marijuana Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's height, but not less than ¼ inch by ¼ inch.

c. The following categories of Edible Medical Marijuana Product and Edible Retail Marijuana Product are considered to be per se impracticable to mark with the Universal Symbol marking requirements, provided that they comply with labeling and Container requirements of 3-1000 Series Rules.

i. Loose bulk goods (e.g. granola, cereals, popcorn);

ii. Powders;

iii. Liquid Edible Medical Marijuana Products;

iv. Liquid Edible Retail Marijuana Products.

3. Medical Marijuana Products Manufacturer Specific Requirements.

a. Standard Portion of THC. A Medical Marijuana Products Manufacturer may determine a standard portion of THC for each Edible Medical Marijuana Product it manufactures. If a Medical Marijuana Products Manufacturer determines a standard portion for an Edible Medical Marijuana Product, that information must be documented in the product's standard production procedure.

b. Documentation. For each Edible Medical Marijuana Product, the total amount of active THC contained within the product must be documented in the standard production procedures.

c. If a Medical Marijuana Products Manufacturer elects to determine standard portions for an Edible Medical Marijuana Product, then the Universal Symbol shall be applied to each portion in accordance with the requirements of subparagraph (D)(2)(b) of this Rule 3-335. Except that the size of the Universal Symbol marking shall be determined by the size of the portion instead of the overall product size and shall not be less than ¼ inch by ¼ inch.

4. Retail Marijuana Products Manufacturer Specific Requirements.

a. Standardized Serving of Marijuana. The size of a Standardized Serving of Marijuana shall be no more than 10mg of active THC. A Retail Marijuana Products Manufacturer or an Accelerator Manufacturer that manufactures Edible Retail Marijuana Product shall determine the total number of Standardized Servings of Marijuana for each product that it manufactures. No individual Edible Retail Marijuana Product unit packaged for Transfer to a consumer shall contain more than 100 milligrams of active THC.

b. Documentation. The following information must be documented in the standard production procedures for each Edible Retail Marijuana Product: the amount in milligrams of Standardized Serving of Marijuana, the total number of Standardized Servings of Marijuana, and the total amount of active THC contained within the product.

c. Notwithstanding the requirement of subparagraph (D)(2)(b), an Edible Retail Marijuana Product shall contain no more than 10 mg of active THC per Container and the Retail Marijuana Products Manufacturer or an Accelerator Manufacturer must ensure that the product is packaged in accordance with the Rules 3-1005(C)(1) and 1010(D)(1), when:

i. The Edible Retail Marijuana Product is of the type that is impracticable to mark, stamp, or otherwise imprint with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable; or

ii. The Edible Retail Marijuana Product is of the type that is impracticable to clearly demark each Standardized Serving of Marijuana or to make each Standardized Serving of Marijuana separable.

d. Liquid Edible Retail Marijuana Product.

i. Pursuant to 44-10-603(4)(b), C.R.S., Liquid Edible Retail Marijuana Products are impracticable to mark with the Universal Symbol and are exempt from the provision in subparagraph (D)(4)(c) of this Rule 3-335 that requires Edible Retail Marijuana Products that are impracticable to mark with the Universal Symbol to contain 10mg or less active THC per Container.

ii. This exemption permits the manufacture and Transfer of Multi-Serving Liquid Edible Retail Marijuana Products so long as the product is packaged in accordance with Rules 3-1005(C)(1) and 3-1010(D)(1)(c)(ii).

e. Multiple-Serving Edible Retail Marijuana Product.

i. A Retail Marijuana Products Manufacturer or an Accelerator Manufacturer must ensure that each single Standardized Serving of Marijuana of a Multiple-Serving Edible Retail Marijuana Product is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC.

ii. Each demarked Standardized Serving of Marijuana must be easily separable in order to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product.

iii. Each single Standardized Serving of Marijuana contained in a Multiple-Serving Edible Retail Marijuana Product shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable. The Universal Symbol marking shall comply with the requirements of subparagraph (D)(2)(b) of this Rule 3-335.

iv. A Multiple-Serving Edible Retail Marijuana Product that is a Liquid Edible Retail Marijuana Product shall comply with the requirements in subparagraph (D)(4)(d)(ii) of this Rule 3-335 and is exempt from subparagraphs (i)-(iii) of this subparagraph (D)(4)(e)(iv).

E. Remanufactured Products Prohibited. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer shall not utilize a commercially manufactured food product as its Edible Medical Marijuana Product or Edible Retail Marijuana Product. The following exceptions to this prohibition apply:

1. A food product that was commercially manufactured specifically for use by the Medical Marijuana Products Manufacturer, Accelerator Manufacturer, or Retail Marijuana Products Manufacturer Licensee to infuse with marijuana shall be allowed. The Licensee shall have a written agreement with the commercial food product manufacturer that declares the food product's exclusive use by the Medical Marijuana Products Manufacturer, Accelerator Manufacturer, or Retail Marijuana Products Manufacturer.

2. Commercially manufactured food products may be used as Ingredients in an Edible Medical Marijuana Product or Edible Retail Marijuana Product so long as: (1) they are used in a way that renders them unrecognizable as the commercial food product in the final Edible Medical Marijuana Product or Edible Retail Marijuana Product, and (2) the Medical Marijuana Products Manufacturer, Accelerator Manufacturer, or Retail Marijuana Products Manufacturer does not state or advertise to the consumer that the final Edible Medical Marijuana Product or Edible Retail Marijuana Product contains the commercially manufactured food product.

F. Trademarked Food Products. Nothing in this Rule alters or eliminates a Medical Marijuana Products Manufacturer's, an Accelerator Manufacturer's, or Retail Marijuana Products Manufacturer's responsibility to comply with the trademarked food product provisions required by the Marijuana Code per section 44-10-503(9)(a-c), C.R.S.

G. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The production, Transfer, and donation of Edible Medical Marijuana Products or Edible Retail Marijuana Products in the following shapes is prohibited:

    i. The distinct shape of a human, animal, or fruit; or

    ii. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Regulated Marijuana Business. Nothing in this subparagraph (G)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Medical Marijuana Products and Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Medical Marijuana Products and Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

H. Inactive Ingredients.

1. Only non-cannabis derived inactive Ingredients listed in the Federal Food and Drug Administration Inactive Ingredient Database https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, or approved by another equivalent international government agency, may be used in the manufacture of Audited Product and Regulated Marijuana Concentrate intended for use through a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

2. All non-cannabis derived inactive Ingredients contained in any Audited Product or in any Regulated Marijuana Concentrate intended for use through a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler must be less than or equal to the concentration listed in the Federal Food and Drug Administration Inactive Ingredient Database, or approved by another equivalent international government agency for:

    a. The inhalation route of administration for any Audited Product to be used in a metered dose nasal spray, or any Regulated Marijuana Concentrate to be used in a Vaporizer Delivery Device or pressurized metered dose inhaler;

    b. The vaginal route of administration for any Audited Product to be used for vaginal administration; or

    c. The rectal route of administration for any Audited Product to be used for rectal administration.

I. Other Permitted Ingredients. Nothing in paragraph H above prohibits a Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer from using marijuana-derived ingredients or Botanically Derived Compounds and/or terpenoids.

J. Additives. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer shall not include any Additive that is toxic within a Regulated Marijuana Product; nor include any Additive for the purposes of making the product more addictive, appealing to children, or misleading to patients or consumers.

K. Prohibited Ingredients. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer shall not use the following Ingredients in the production or Transfer of Regulated Marijuana Concentrate and Regulated Marijuana Product for which the inhaled product is the intended use in accordance with Rule 3-1015:

1. Polyethylene glycol (PEG);

2. Vitamin E Acetate; ~~and~~

3. Medium Chain Triglycerides (MCT Oil);~~.~~

4. A Licensee authorized to manufacture Regulated Marijuana Concentrate or Regulated Marijuana Product shall not use ingredients [other than Regulated Marijuana] with over 0.3% combined Delta-8 THC, Delta-9 THC, Delta-10 THC, Exo-THC or other THC isomers, salts, or salt isomers of tetrahydrocannabinol in the manufacture, production, or Transfer of Regulated Marijuana Concentrate or Regulated Marijuana Product.

L. Standard Operating Procedures.

1. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer must have written standard operating procedures for each category and type of Medical Marijuana Product or Retail Marijuana Product that it produces.

   a. All standard operating procedures for the production of a Medical Marijuana Concentrate or Retail Marijuana Concentrate must follow the requirements in Rules 5-315 and 6-315.

   b. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer.

   c. If a Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or a Retail Marijuana Products Manufacturer produces Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana, the standard operating procedures must include all methods and processes related to the creation of each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana product, including but not limited to, the strains used, where strains are sourced, which parts of Harvest Batches are used (e.g. flower, shake, trim), the size of the product (e.g. 1 gram pre-rolls), and how much and what type of Regulated Marijuana Concentrate is added (if applicable) for each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana it produces.

   d. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

2. If a Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer makes a Material Change to its standard Medical Marijuana Product production process or Retail Marijuana Product production process, it must document the change and revise its standard operating procedures accordingly.

Records detailing the Material Change must be maintained on the relevant Licensed Premises.

M. Expiration Date for Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. Effective July 1, 2022, a Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall establish an expiration date upon which the Vaporized Delivery Device or Pressurized Metered Dose Inhaler will no longer be fit for consumption. The Licensee shall determine the expiration date by conducting potency and contaminant testing pursuant to Rules 4-120 and 4-125 on the final Vaporizer Delivery Device or Pressurized Metered Dose Inhaler prior to Transfer to ensure the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler can pass potency and contaminant testing prior to the established expiration date.

1. When determining the expiration date for a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler pursuant to this rule, the Licensee shall also consider the following:

   i. Any expiration dates of additives used to produce the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler;

   ii. The interaction with hardware;

   iii. The final formulation within the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler; and

   iv. The ideal storage conditions for the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

2. The License may, but is not required to, use accelerated stability tests to demonstrate compliance with this rule.

3. Expiration date determinations, along with any data used to establish the expiration date, shall be documented and maintained in the Licensee's business records pursuant to these rules.

N. DMSO. Except for R&D Licensees, the use of Dimethylsulfoxide (DMSO) in the production of Regulated Marijuana Product and possession of DMSO upon the Licensed Premises is prohibited.

Basis and Purpose – 3-336

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(kj), 44-10-203(2)(d)(I)-(VI), 44-10-203(2)(m), 44-10-401(2)(a)(III), 44-10-503, and 44-10-901(1), C.R.S. The purpose of this rule is to establish minimum requirements for a recall plan, the process by which the Division or a Regulated Marijuana Business initiates a product recall, the requirements any recall must meet, and how such recall is terminated.

3-336 – Recall of Regulated Marijuana

A. Effective Date. This Rule is effective January 1, 2021.

B. Applicability. This Rule 3-336 applies to Medical Marijuana Stores, Medical Marijuana Products Manufacturers, Medical Marijuana Cultivation Facilities, Medical Marijuana Research and Development Facilities, Retail Marijuana Stores, Retail Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Licensed Hospitality Businesses, Accelerator Cultivators, Accelerator Manufacturers, and Accelerator Stores.

C. Initiating a Recall. A Regulated Marijuana Business subject to this Rule 3-336 may voluntarily initiate a recall at any time or a recall may be initiated at the request of the Division. A Regulated Marijuana Business subject to this rule must comply with the requirements of this Rule 3-336.

1. Division Requests for Recalls:

i. If the Division requests a Regulated Marijuana Business to initiate a recall pursuant to this rule, the Division's correspondence, which may be electronic, must include the reasons for the recall request and any other information necessary for the Regulated Marijuana Business to initiate a recall pursuant to this rule.

ii. A recall request issued by the Division does not require that a Regulated Marijuana Business initiate a recall. However, if the Division has reasonable grounds to believe a Licensee's Regulated Marijuana is contaminated or otherwise presents a risk to public safety, the Division may require a Regulated Marijuana Business to quarantine affected Regulated Marijuana Inventory pursuant to Rules 4-115 and 4-135.

D. Recall Plan Required. A Regulated Marijuana Business subject to this Rule 3-336 must have a written recall plan. A recall plan shall include, but is not limited to the following:

1. Evaluation of a Complaint or Condition. A Regulated Marijuana Business subject to this rule must maintain a record of all complaints it receives regarding the quality of Regulated Marijuana that has any potential negative impact to health or regarding an adverse reaction. To the extent known after reasonable diligence to ascertain the information, the record must contain the name of the complainant, the purchase date, the location of where the product was purchased, the date the complaint was received, the nature of the complaint, the steps taken to investigate the complaint, the response to the complaint, and the name and Production or Harvest Batch number for the Regulated Marijuana subject to the complaint.

a. If an initial assessment indicates a recall may be necessary, the Regulated Marijuana Business shall take the following measures:

i. Determine the hazard and evaluate the safety concerns with the product;

ii. Undertake necessary product quarantine measures for any affected Regulated Marijuana in the Licensee's possession or control; and

iii. Determine the product removal strategy appropriate to the threat and location in commerce.

2. Identification of Affected Regulated Marijuana. A recall plan must establish a process for identifying affected Regulated Marijuana subject to a recall, which shall include the following:

a. Distribution List. When identifying Regulated Marijuana subject to a recall, the Licensee shall create a distribution list that includes the following information:

i. The name, license number, and address of the Regulated Marijuana Business(es) that received the Regulated Marijuana subject to the recall;

ii. Ship or Transfer date(s) for the Regulated Marijuana subject to the recall; and

iii. Business contact information for each Regulated Marijuana Business that received Regulated Marijuana subject to the recall, including names and telephone numbers.

b. Product Information. When identifying Regulated Marijuana subject to a recall, the Licensee shall document the following product information:

i. The category of Regulated Marijuana (e.g. Medical Marijuana flower; Medical Marijuana Concentrate; Medical Marijuana Product; Retail Marijuana flower; Retail Marijuana Concentrate, Retail Marijuana Product);

ii. Product description;

iii. Net contents;

iv. Production or Harvest Batch number;

v. The license number(s) for the Regulated Marijuana Business(es) that cultivated or manufactured the product(s) subject to the recall; and

vi. To the extent known after reasonable diligence to ascertain the information, the recall plan must also include the following additional product information: The amount of affected Regulated Marijuana returned in response to the recall and the amount of affected Regulated Marijuana that remains in the marketplace.

3. Notification to Affected Parties.

a. A Licensee initiating a recall pursuant to this rule shall issue a recall notice to Regulated Marijuana Businesses identified on the Licensee's distribution list.

b. No later than 48 hours from issuing a recall notice to Regulated Marijuana Businesses on the Licensee's distribution list, the Licensee shall issue the following additional notifications:

i. The Licensee shall notify the Division and the Colorado Department of Public Health and Environment;

ii. The Licensee shall notify the Local Licensing Authority or Local Jurisdiction in which the Licensee issuing the recall is located; and

iii. The Licensee shall notify patients or consumers using the most effective method available, which may include any of the following methods: an email to the patient or customer list serve, an alert on the Regulated Marijuana Business' website, a warning that is clearly and visibly posted on the Regulated Marijuana Business' Licensed Premises, or a press release to notify patients or consumers.

c. Recall Notice. A recall notice issued by a Regulated Marijuana Business pursuant to this rule shall include at least the following information:

i. The reason for recall and related hazards, if any. If the Regulated Marijuana is being removed for quality rather than health reasons, the

notice may state that the Regulated Marijuana does not meet internal company specifications and is being removed from distribution;

ii. The category of Regulated Marijuana (e.g. Medical Marijuana flower; Medical Marijuana Concentrate; Medical Marijuana Product; Retail Marijuana flower; Retail Marijuana Concentrate, Retail Marijuana Product);

iii. Regulated Marijuana Businesses that received the Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana Concentrate or Retail Marijuana Product;

iv. The license number(s) and name(s), including trade name(s), of the Regulated Marijuana Business(es) that cultivated or manufactured the product(s) subject to the recall;

v. Product description(s) for Regulated Marijuana subject to the recall;

vi. Production or Harvest Batch number(s) for the Regulated Marijuana subject to the recall;

vii. Expiration date(s) for the Regulated Marijuana subject to the recall, if applicable;

viii. Ship or Transfer date(s) for the Regulated Marijuana subject to the recall; and

ix. Instructions regarding the disposition of the Regulated Marijuana subject to the recall.

4. Removal of Affected Regulated Marijuana.

a. Removal. A Regulated Marijuana Business subject to this Rule 3-336 shall make all reasonable efforts to remove the affected Regulated Marijuana from commerce. Affected Regulated Marijuana that is either still in control of the originating Regulated Marijuana Business or in commerce shall be, secured, segregated, clearly labeled not for sale or distribution and separated from any other Medical Marijuana Concentrate, Medical Marijuana Product(s), Retail Marijuana Concentrate, or Retail Marijuana Product(s).

b. Final Product Disposition. At the discretion of the Regulated Marijuana Business contaminated product must be disposed by either:

i. Destroying and documenting the destruction of the affected Regulated Marijuana pursuant to Rule 3-230; or

ii. If possible, Decontaminating the affected Regulated Marijuana pursuant to Rule 4-135(B)(2). If the Regulated Marijuana cannot be decontaminated, it must be destroyed pursuant to Rule 4-135(B)(3)(c) and 3-230.

c. Recall Effectiveness. A Regulated Marijuana Business initiating a recall pursuant to this rule is responsible for determining whether the recall is effective. The Licensee shall complete recall effectiveness checks to verify that all receiving Licensees have been notified and have taken the appropriate action.

i. Effectiveness checks shall determine:

A. If the receiving Licensee received the recall notification;

B. If the recalled Regulated Marijuana was handled as instructed in the recall notification; and

C. If the Regulated Marijuana was further distributed or sold by the receiving Licensee before receipt of the recall notification, and if so, were these additional Licensees notified.

ii. If 100 percent of the affected Regulated Marijuana has been accounted for, then no effectiveness checks are required.

d. Termination of Recall. A Regulated Marijuana Business initiating a recall pursuant to this rule may terminate the recall when the Licensee determines that all reasonable efforts have been made to remove or correct the affected Regulated Marijuana in accordance with the recall plan, and when it is reasonable to assume that the Regulated Marijuana subject to the recall has been removed and proper disposition or correction has been made commensurate with the degree of hazard of the recalled Regulated Marijuana.

i. Upon termination of the recall, the Regulated Marijuana Business shall provide notice to the Division with a recall status report and a description of the disposition of the recalled Regulated Marijuana. The recall status report shall contain the following information:

A. Number of receiving Licensees notified of the recall, the date and method of notification;

B. Number of receiving Licensees who responded to the recall notice and both the quantity of affected Regulated Marijuana in the possession of the Licensee at the time of response, and quantity of affected Regulated Marijuana returned or corrected;

C. Number and results of the effectiveness checks that were made; and

D. Estimated time frame for completion of the recall.

Basis and Purpose – 3-340

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(kj), 44-10-203(2)(l), 44-10-203(2)(m), and 44-10-901(1), C.R.S. The purpose of this Rule is to clarify that a Regulated Marijuana Businesses failure to comply with the requirements of 3-300 Rules Series may jeopardize the public health and safety.

3-340 – Violation Affecting Public Safety

A violation of these 3-300 Rules may be considered a license violation affecting public safety.

Basis and Purpose – 3-345 {Emergency rule expired 05/11/2021]

Rule 3-345 – [Emergency rule expired 05/11/2021]

3-400 Series – Acceptable Forms of Identification for Regulated Marijuana Sales

Basis and Purpose – 3-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(v), 44-10-203(2)(z), 44-10-401(2)(a)(I), 44-10-401(2)(b)(I), 44-10-501(3)(b), 44-10-501(3)(c), 44-10-501(3)(d), 44-10-501(4), 44-10-501(10)(b)(II), 44-10-601(3)(b), 44-10-701(1)(b), 44-10-701(2)(a), 44-10-701(4)(a), and 44-10-701(5)(a), C.R.S. The purpose of this rule is to establish guidelines for the acceptable forms of identification for verifying the lawful sale of Regulated Marijuana. This Rule 3-405 was previously Rule M 405, 1 CCR 212-1, and Rule R 404, 1 CCR 212-2.

3-405 – Identification

A. Medical Marijuana Transfers.

1. Necessary Identification. Medical Marijuana Stores may only Transfer Medical Marijuana to any patient or caregiver who is permitted to deliver Medical Marijuana to homebound patients or minor patients as permitted by section 25-1.5-106(9)(e), C.R.S., if the patient or caregiver can produce:

a. Proof of identification that complies with subparagraphs (C) and (D) of this Rule; and

b. Either a valid patient registry card, including any valid and verified digital registry card, or a copy of a current and complete new application for the Medical Marijuana registry that is documented by proof of submittal to the Colorado Department of Public Health and Environment within the preceding 35 days.

2. Physical Inspection Required. A Licensee must physically view and inspect the patient or caregiver's registry card, including any valid and verified digital registry card, and proof of identification to confirm the information contained on the documents and also to judge the authenticity of the documents presented.

3. Valid and Verified Registry Card. For the purposes of these rules, a valid and verified digital registry card may include:

a. A hard copy of the patient's registry card; or

b. A portable document format (PDF) of the patient's registry card presented on a phone or other portable device.

i. If a patient is presenting his or her registry card on a phone or other portable device, the PDF of the registry card must be presented.

ii. A screen shot of the patient's profile, text image of a blank card, or photo of the hard copy is unacceptable.

B. Retail Marijuana Transfers. An Accelerator Store, a Retail Marijuana Store, or a Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana to a consumer that first produces a form of identification that complies with subparagraphs (C) and (D) of this Rule establishing the consumer is 21 years of age or older.

1. Fraudulent Identification and Licensee's Burden. Pursuant to section 44-10-601(3)(b)(I), C.R.S., if a person under 21 years of age presents a fraudulent proof of age to a Retail Marijuana Store, or an Accelerator Store any action based upon the fraudulent proof of age shall not be grounds for the revocation or suspension of a license. To establish that the identification presented by the minor was a fraudulent proof of age, the Licensee must establish that:

    a. The minor presented fraudulent identification of the type established in subparagraph (C) below;

    b. During the transaction in which Retail Marijuana was Transferred to the minor, the Licensee inspected the identification provided, compared the identification to the person presenting the identification, and:

        i. Inspected an identification book issued within the past three years:

        ii. Used an electronic scanner;

        iii. Used an ID checking software or other device used in the inspection of identification; or

        iv. Used other ID security features.

C. Forms of Valid Identification. ~~If the identification presented to a Licensee contains a picture and date of birth, including any valid and verified digital identification, t~~The kind and type of identification deemed adequate shall be limited to the following, including any valid and verified digital identification:

1. An operator's, chauffeur's, or similar type driver's license, including a temporary license issued by any state within the United States, District of Columbia, or any U.S. territory;

2. An identification card, including a temporary identification card, issued by any state within the United States, District of Columbia, or any U.S. territory, for the purpose of proof of age using requirements similar to those in sections 42-2-302 and 42-2-303, C.R.S.;

3. A United States military identification card or any other identification card issued by the United States government including but not limited to a permanent resident card, alien registration card, or consular card;

4. A passport or passport identification card; or

5. An Enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates proof of age requirements similar to sections 42-2-302 and 42-2-303, C.R.S.

D. Identification Must Be Valid. A Licensee shall refuse the Transfer of Regulated Marijuana if a person produces identification that is invalid or expired.

3-500 Series – Responsible Vendor Program

Basis and Purpose – 3-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(~~kj~~), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to establish the standards for a Marijuana Store, Retail Marijuana Store,

Medical Marijuana Transporter, Retail Marijuana Transporter, Marijuana Hospitality Businesses, and Retail Marijuana Hospitality and Sales Businesses to obtain and maintain a "responsible vendor" designation. This rule identifies Licensees required to attend the Approved Training Program and requirements to maintain a "responsible vendor" designation after initially being designated a "responsible vendor." This Rule 3-505 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-505 – General Standards for a Regulated Marijuana Business Designated A Responsible Vendor

A. Pursuant to section 44-10-1202, C.R.S., a Medical Marijuana Store, Accelerator Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, or Licensed Hospitality Business shall comply with the 3-500 Series Rules to be designated a "responsible vendor" of Regulated Marijuana.

B. To be designated a "responsible vendor" all Controlling Beneficial Owners with day-to-day operational control of the Licensed Premises, management personnel, and Employee Licensees involved in the handling and Transfer of Regulated Marijuana shall attend and successfully complete an Approved Training Program.

C. Once a Licensee is designated a "responsible vendor," all new employees involved in the handling and Transfer of Regulated Marijuana shall successfully complete the training described in these 3-500 Series Rules within 90 days of hire.

D. After initial successful completion of a responsible vendor program, each Controlling Beneficial Owner with day-to-day operational control of the Licensed Premises, management personnel, and Employee Licensee of a Regulated Marijuana Business shall successfully complete the program once every two years thereafter to maintain designation as a "responsible vendor."

Basis and Purpose – 3-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(2)(v), and 44-10-203(1)(kj), 44-10-1201, 44-10-1202, C.R.S. The purpose of this rule is to establish general application and notification requirements for Responsible Vendor Program Providers. This Rule 3-510 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-510 – General Standards for Responsible Vendor Program Provider

A. An application for approval of a responsible vendor program pursuant to section 44-10-1201 or 44-10-1202, C.R.S., shall be made upon current forms prescribed by the Division and in accordance with the 2-200 Series Rules.

B. Changes to an Approved Program. Within 30 days of any changes to the Marijuana Code, or these rules, a Responsible Vendor Program Provider shall update its responsible vendor program curriculum with any such changes.

Basis and Purpose – 3-515

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to provide the general standards for an Approved Training Program including the minimum amount of instruction time required, that the training must be provided in a classroom setting which may be virtual or online and the testing and passing score requirements for successful completion of the Approved Training Program. This Rule 3-515 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-515 – Certification Training Program Standards

A. No owner or employee of a responsible vendor program may have an Owner's Interest in a Regulated Marijuana Business.

B. A Responsible Vendor Program Provider shall submit their responsible vendor program for approval every two years in order to maintain designation as a Responsible Vendor Program Provider. The renewal application must be submitted within 60 days of the expiration of the Approved Training Program.

C. The responsible vendor program shall include at least two hours of instruction time.

D. Classroom setting. The responsible vendor program shall be taught in a classroom setting where the instructor is able to verify the identification of each individual attending the responsible vendor program and certify completion of the responsible vendor program by the individual identified.

1. An Approved Training Program may be delivered in an on-line or virtual based classroom setting provided the Responsible Vendor Program Provider utilizes a learning management system or other means to verify the identification of each individual attending the responsible vendor program. For purposes of this Rule, a learning management system means the platform or database used to monitor participation, attendance, and to deliver core-curriculum materials.

2. Any Approved Training Program delivered in an on-line or virtual based classroom setting must comply with the core curriculum and assessment requirements of Rule 3-520.

E. The Responsible Vendor Program Provider shall maintain its training records in a format that is readily understood by a reasonably prudent business person during the applicable year and for the following three years. The Responsible Vendor Program Provider shall make the records available for inspection by the State Licensing Authority upon request during normal business hours.

F. The responsible vendor program shall provide to the Licensee written or electronic documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee.

1. Successful completion of an Approved Training Program requires a minimum passage score of 70% or better. A Responsible Vendor Program Provider may provide a reasonable testing accommodation or modification to a Licensee participant, provided the results of the test are documented and meet the minimum passing score requirement.

G. A Responsible Vendor Program Provider shall solicit effectiveness evaluations from individuals who have completed the Approved Training Program.

Basis and Purpose – 3-520

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to establish the required curriculum for an Approved Training Program. This rule also includes the required additional curriculum for Licensees engaged in delivery activity pursuant to a valid delivery permit and employees and Controlling Beneficial Owners of a Licensed Hospitality Businesses. This Rule 3-520 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-520 – Certification Training Class Core Curriculum

When considering whether to approve a responsible vendor program, the Division, after consulting with the Colorado Department of Public Health and Environment, will consider the following criteria.

A. Discussion concerning the health and safety concerns of marijuana use. Training shall include:

1. Health effects of marijuana use, including but not limited to the effects in connection with pregnancy and breast-feeding;

2. The amount of time to feel impairment based on the type of marijuana or marijuana product;

3. Recognizing signs of impairment;

4. The amount of time to wait before driving after marijuana use based on the type of marijuana or marijuana product;

5. Safe storage of marijuana;

6. Responsible use of marijuana; and

7. Appropriate responses in the event of unintentional or over-consumption of marijuana or marijuana product, including but not limited to access to the appropriate resources provided by state and local public health authorities.

B. Transfers to minors. Training shall cover all pertinent Colorado statutes, rules, and regulations.

C. Quantity Limitations on Transfer to Patients and Consumers. Training shall cover all pertinent Colorado statutes, rules, and regulations.

D. Acceptable Forms of Identification. Training shall include:

1. How to check identification;

2. Spotting false identification;

3. Patient Registry Cards issued by the Colorado Department of Public Health and Environment and equivalent patient verification documentation;

4. Provisions for confiscating false identification; and

5. Common mistakes made in verification.

E. Other Key State Laws and Rules That Apply to Medical Marijuana Stores, Medical Marijuana Transporters, Retail Marijuana Stores, Retail Marijuana Transporters Licensed Hospitality Businesses, and their Owners, Management Personnel, and Employees. Training shall include:

1. Local and state licensing and enforcement;

2. Compliance with all Inventory Tracking System regulations;

3. Administrative and criminal liability;

4. License sanctions and court sanctions;

5. Waste handling, management, and disposal;

6. Health and safety standards;

7. Patrons prohibited from bringing marijuana onto licensed premises;

8. Permitted hours of sale;

9. Licensee security and surveillance requirements;

10. Permitting inspections by state and local licensing and enforcement authorities;

11. Licensee responsibility for activities occurring within licensed premises;

12. Maintenance of records;

13. Privacy issues;

14. Applicable laws and regulations concerning Transfers to patients and consumers;

15. Packaging and labeling requirements for Transfers to patients and consumers;

16. How to access the Medical Marijuana Patient Registry website and how to sign up for the Registry's voluntary email list; and

17. Statutory and regulatory requirements related to Regulated Marijuana delivery.

F. Evaluation of Program Participants. The Responsible Vendor Program Provider shall establish that it has an adequate mechanism for evaluating attendees' successful completion of the Approved Training Program.

G. Additional Curriculum for Delivery to Patients and Consumers. In addition to the required curriculum in subparagraphs (B) through (F) above, training provided to any Licensee involved in activity pursuant to a valid delivery permit must also include all Colorado statutes and rules related to delivery of Regulated Marijuana to patients and consumers. Responsible Vendor Program Providers may provide the delivery curriculum as a separate training or as part of the core curriculum training. Licensees that do not engage in delivery activity are not required to, but may, complete the delivery training. Training provided to Licensees involved in delivery activity must include, but is not limited to:

1. Verification of identification and patient registry cards required before delivering Regulated Marijuana to a patient or consumer;

2. Maintaining confidentiality of patients' and consumers' personally identifiable information;

3. Methods for Licensees to identify themselves and verify the delivery permit during an interaction with law enforcement, Division employees or local regulators; and

4. Strategies to de-escalate potentially dangerous situations which could include development of an emergency action plan.

H. Additional Curriculum for Licensed Hospitality Businesses. In addition to the required curriculum in subparagraphs (B) through (F) above, training provided to Controlling Beneficial Owners of and any Licensee employed by a Licensed Hospitality Business must also include all Colorado statutes and rules related to Licensed Hospitality Businesses. Responsible Vendor Program Providers may provide the hospitality curriculum as a separate training or as part of the core curriculum training. Licensees that are not employed by a Licensed Hospitality Business are not

required to, but may, complete the hospitality training. Training provided to Controlling Beneficial Owners of and employees of a Licensed Hospitality Business must include, but is not limited to:

1 Identifying signs of visible impairment including alcohol and drug impairment;

2. Resources to mitigate impaired driving including safe transportation options available to consumers;

3. Understanding customer's varying experience with Regulated Marijuana and options for lower dose Regulated Marijuana Products;

4. Resources available from the Colorado Department of Public Health and Environment regarding responsible Regulated Marijuana use;

5. Ceasing all consumption and other activities until law enforcement, firefighters, emergency medical service providers, or other public safety personnel have completed any investigation or services and left the Licensed Premises of the Licensed Hospitality Business;

6. Methods for Licensees to identify themselves during an interaction with law enforcement, Division employees or local regulators;

7. Poly-substance interactions including but not limited to interactions of Regulated Marijuana with alcohol, prescription and over-the-counter medications and other substances;

8. Risks and potential responses to adverse events such as overconsumption, altitude sickness, dehydration, poly-substance use or other similar events.

9. Strategies to de-escalate interactions with intoxicated consumers and potentially dangerous situations which could include development of an emergency action plan.

3-600 Series – Transport and Storage

Basis and Purpose – 3-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(5)(b), 44-10-505, and 44-10-605 C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the transport and delivery of Regulated Marijuana between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices. This Rule 3-605 was previously Rules M and R 801, 1 CCR 212-1 and 1 CCR 212-2.

3-605 – Transport: All Regulated Marijuana Businesses

A. Persons Authorized to Transport. Except as provided in these 3-600 Series Rules, any individual who transports Regulated Marijuana, Regulated Marijuana Vegetative plants, Regulated Marijuana Immature plants, Regulated Marijuana, or Regulated Marijuana Product on behalf of a Regulated Marijuana Business must hold a valid Owner License or Employee License and must be an employee of the Regulated Marijuana Business. An individual who does not possess a current and valid Owner's License or Employee License from the State Licensing Authority may not transport Regulated Marijuana, Regulated Marijuana Vegetative plants, Regulated Marijuana Immature plants, Regulated Marijuana Concentrate, or Regulated Marijuana Product between Licensed Premises.

B. Transport Between Licensed Premises.

1. Regulated Marijuana. Regulated Marijuana shall only be transported by Licensees between Licensed Premises; between Licensed Premises and a permitted off-premises storage facility; and between Licensed Premises and a Pesticide Manufacturer. Licensees transporting Regulated Marijuana are responsible for ensuring that all Regulated Marijuana are secured at all times during transport.

2. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants.

a. Regulated Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255.

b. Regulated Marijuana Immature plants shall only be transported between Licensed Premises; and between Licensed Premises and a Pesticide Manufacturer.

c. Licensees transporting Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants are responsible for ensuring that all Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants are secure at all times during transport. Transportation of Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants to a permitted off-premises storage facility shall not be allowed. Transport of Regulated Marijuana plants other than Vegetative Plants and Immature plants shall not be allowed.

C. Inventory Tracking System-Generated Transport Manifest Required. A Licensee may only transport Regulated Marijuana if he or she has a copy of an Inventory Tracking System-generated transport manifest that contains all the information required by this Rule and shall be in the format prepared by the State Licensing Authority.

1. A Licensee may elect to use a hard copy or digital copy of an Inventory Tracking System-generated transport manifest. Licensees are required to ensure all information is preserved with valid and verified signatures on any digital copy of an Inventory Tracking System-generated transport manifest.

2. Regulated Marijuana. A Licensee may transport Regulated Marijuana from an originating location to multiple destination locations so long as the transport manifest correctly reflects the specific inventory destined for specific Regulated Marijuana Businesses and/or Pesticide Manufacturers.

3. Regulated Marijuana Vegetative Plants. A Licensee shall transport Regulated Marijuana Vegetative plants only from the originating Licensed Premises to the destination Licensed Premises due to a change of location that has been approved by the Division pursuant to Rule 2-255.

4. Manifest for Transfers to Pesticide Manufacturers. A Licensee may not transport or permit the transportation of Regulated Marijuana to a Pesticide Manufacturer unless an Inventory Tracking System-generated transport manifest has been generated.

D. Motor Vehicle Required. Transport of Regulated Marijuana shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee. Except that when a rental truck is required for transporting Regulated Marijuana Vegetative plants or Regulated Marijuana Immature plants, Colorado motor vehicle registration is not required.

E. Documents Required During Transport. Transport of Regulated Marijuana shall be accompanied by a copy of the originating Regulated Marijuana Business's business license, the driver's valid Owner's License or Employee License, the driver's valid motor vehicle operator's license, and all required vehicle registration and insurance information.

F. Use of Colorado Roadways. State law does not prohibit the transport of Regulated Marijuana on any public road within the state of Colorado as authorized in this Rule. However, nothing herein authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county related to the transport of Regulated Marijuana.

G. Preparation of Regulated Marijuana for Transport.

1. Final Weighing and Packaging. A Regulated Marijuana Business shall comply with the specific rules associated with the final weighing and packaging of Regulated Marijuana before such items are prepared for transport pursuant to this Rule. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S.

2. Preparation in Limited Access Area. Regulated Marijuana shall be prepared for transport in a Limited Access Area, including the packaging and labeling of Containers or Shipping Containers.

3. Shipping Containers. Licensees may Transfer multiple Containers of Regulated Marijuana in a Shipping Container. The contents of Shipping Containers shall be easily accessible and may be inspected by the State Licensing Authority, Local Licensing Authorities, Local Jurisdictions, and state and local law enforcement agency for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose.

a. Licensees shall ensure that either the multiple Containers placed within a Shipping Container each have an RFID tag, or the Shipping Container itself must have an RFID tag. If the Licensee elects to place the RFID tag on the Shipping Container, the Shipping Container shall contain only one Harvest Batch, or Production Batch of Regulated Marijuana. If a Shipping Container consists of more than one Harvest Batch or Production Batch, then each group of multiple Containers shall be affixed with an RFID tag

b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Each Regulated Marijuana Vegetative plant that is transported pursuant to this Rule must have a RFID tag affixed to it prior to transport. Each receptacle containing Regulated Marijuana Immature plants transported pursuant to this Rule must have an RFID tag affixed prior to transport.

H. Creation of Records and Inventory Tracking.

1. Use of Inventory Tracking System – Generated Transport Manifest.

a. Regulated Marijuana. Licensees who transport or permit the transportation of Regulated Marijuana shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the Licensed Premises destined for another Licensed Premises or Pesticide Manufacturers. The transport manifest may either reflect multiple destination locations within a single trip or separate transport manifests may reflect each single destination location. In either case, no inventory shall be transported without an Inventory Tracking System-generated transport manifest.

b. Use of a Medical Marijuana Transporter or Retail Marijuana Transporter. In addition to subparagraph (H)(1)(a), Licensees shall also follow the requirements of this subparagraph (H)(1)(b) when a Licensee utilizes the services of a Medical Marijuana Transporter or Retail Marijuana Transporter.

i. When a Medical Marijuana Business utilizes a Medical Marijuana Transporter for transporting its Medical Marijuana, the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee or Pesticide Manufacturer who will be receiving the Medical Marijuana.

ii. When a Retail Marijuana Business utilizes a Retail Marijuana Transporter for transporting its Retail Marijuana the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee or Pesticide Manufacturer who will be receiving the Retail Marijuana.

iii. A Medical Marijuana Transporter or Retail Marijuana Transporter is prohibited from being listed as the final destination Licensee.

iv. A Medical Marijuana Transporter or Retail Marijuana Transporter shall not alter the information of the final destination Licensee or Pesticide Manufacturer after the information has been entered on the Inventory Tracking System-generated transport manifest by the Licensee.

v. If the Medical Marijuana Transporter or Retail Marijuana Transporter is not delivering the originating Licensee's Regulated Marijuana directly to the final destination Licensee or Pesticide Manufacturer, the Medical Marijuana Transporter or Retail Marijuana Transporter shall communicate to the originating Licensee which of the Medical Marijuana Transporter's or Retail Marijuana Transporter's Licensed Premises or off-premises storage facilities will receive and temporarily store the Regulated Marijuana. The originating Licensee shall input the Medical Marijuana Transporter's or Retail Marijuana Transporter's location address and license number on the Inventory Tracking System-generated transport manifest.

c. Medical Marijuana Vegetative Plants and Retail Marijuana Vegetative Plants.

i. Licensees who transport Medical Marijuana Vegetative or Retail Marijuana Vegetative plants shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the originating Licensed Premises to be transported to the destination Licensed Premises due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Ttransfer pursuant to Rule 3-805.

ii. Retail Marijuana Transporters are permitted to transport Retail Marijuana Vegetative plants on behalf of other Licensees due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Ttransfer pursuant to Rule 3-805. The Retail Marijuana Transporter shall transport the Retail Marijuana Vegetative Plants directly from the originating Licensed Premises to the final destination Licensed Premises.

iii. Medical Marijuana Transporters are permitted to transport Medical Marijuana Vegetative plants on behalf of other Licensees due to a

change of location approved by the Division pursuant to Rule 2-255, or a one-time Ttransfer pursuant to Rule 3-805. The Medical Marijuana Transporter shall transport the Medical Marijuana Vegetative plants directly from the originating Licensed Premises to the final destination Licensed Premises.

2. Copy of Transport Manifest to Recipient. A Licensee shall provide a copy of the transport manifest to each Regulated Marijuana Business, or Pesticide Manufacturer receiving the inventory described in the transport manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate Inventory Tracking System-generated transport manifest for each recipient Regulated Marijuana Business or Pesticide Manufacturer.

3. The Inventory Tracking System-generated transport manifest shall include the following:

   a. Departure date and approximate time of departure;

   b. Name, location address, and license number of the originating Regulated Marijuana Business;

   c. Name, location address, and license number of the destination Regulated Marijuana Business(es) or name and location address of the destination Pesticide Manufacturer;

   d. Name, location address, and license number of the Medical Marijuana Transporter or Retail Marijuana Transporter if applicable pursuant to Rule 3-605(H)(1)(b)(iv).

   e. Product name and quantities (by weight and unit) of each product to be delivered to each specific destination location(s);

   f. Arrival date and estimated time of arrival;

   g. Transport vehicle make and model and license plate number; and

   h. Name, Employee or Owner License number, and signature of the Licensee accompanying the transport.

I. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Regulated Marijuana Business shall be responsible for all the procedures associated with the tracking of inventory that is transported between Licensed Premises. *See* Rule 3-905 – Business Records Required.

1. Responsibilities of Originating Licensee.

   a. Regulated Marijuana. Prior to departure, the originating Regulated Marijuana Business shall adjust its records to reflect the removal of Regulated Marijuana. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

   b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Prior to departure, the originating Medical Marijuana Cultivation Facility or

Retail Marijuana Cultivation Facility shall adjust its records to reflect the removal of Medical Marijuana Vegetative plants and Medical Marijuana Immature plants, or Retail Marijuana Vegetative plants and Retail Marijuana Immature plants. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

2. Responsibilities of Recipient Licensee.

   a. Regulated Marijuana. Upon receipt, the receiving Licensee shall ensure that the Regulated Marijuana received are as described in the transport manifest and shall immediately adjust its records to reflect the receipt of inventory. The scale used to weigh product being received shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the inventory records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest. Medical Marijuana Transporters and Retail Marijuana Transporters shall comply with all requirements of this subparagraph (I)(2)(a) except that they are not required to weigh Regulated Marijuana.

      i. When a Regulated Marijuana Business transfers Regulated Marijuana to a Pesticide Manufacturer, the originating Licensee is responsible for confirming receipt of the Regulated Marijuana in the Inventory Tracking System.

   b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Upon receipt, the recipient Licensee shall ensure that the Regulated Marijuana Vegetative plants received are as described in the transport manifest, accounting for all RFID tags and each associated plant, and shall immediately adjust its records to reflect the receipt of inventory. Upon Receipt, the recipient Licensee shall ensure that the Regulated Marijuana Immature plants received are as described in the transport manifest, accounting for all RFID tags and each receptacle containing Regulated Marijuana Immature plants, and shall immediately adjust its records to reflect the receipt of inventory.

      i. When a Regulated Marijuana Business transfers Regulated Marijuana Immature plants to a Pesticide Manufacturer, the originating Licensee is responsible for confirming receipt of the Retail Marijuana Immature plants in the Inventory Tracking System.

3. Discrepancies.

   a. Licensees. A recipient Licensee shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in the Inventory Tracking System and in any relevant business records.

   b. Pesticide Manufacturers. In the event of a discrepancy between the quantity specified in a transport manifest and the quantity received by a Pesticide Manufacturer, the originating Licensee shall document the discrepancy in the Inventory Tracking System and in any relevant business records, and account for the discrepancy.

J. Adequate Care of Perishable Regulated Marijuana Product. A Regulated Marijuana Business must provide adequate refrigeration for perishable Regulated Marijuana Product during transport.

K. Failed Testing. In the event Regulated Marijuana has failed required testing, has been contaminated, or otherwise presents a risk of cross-contamination to other Regulated Marijuana, such Regulated Marijuana may only be transported if it is physically segregated and contained in a sealed package that prevents cross-contamination.

Basis and Purpose – 3-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-505(2), 44-10-605(2), and 44-10-1001(2), C.R.S. The purpose of this rule is to establish that Regulated Marijuana may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises storage facility permit. This Rule 3-610 was previously Rules M and R 802, 1 CCR 212-1 and 1 CCR 212-2.

3-610 – Off-Premises Storage of Regulated Marijuana: All Regulated Marijuana Businesses

A. Off-Premises Storage Permit Authorized.

1. A Medical Marijuana Store, Medical Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility may only store Medical Marijuana in their Limited Access Area or in their one permitted off-premises storage facility. Medical Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

2. A Retail Marijuana Store, Retail Marijuana Products Manufacturer, a Retail Marijuana Cultivation Facility, and a Retail Marijuana Testing Facility may only store Retail Marijuana in their Limited Access Area or in their one permitted off-premises storage facility. Retail Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

B. Permitting. To obtain a permit for an off-premises storage facility, a Regulated Marijuana Business must apply on current Division forms and pay any applicable fees.

1. A Medical Marijuana Transporter may only apply for and hold an off-premises storage permit in a local jurisdiction that permits the operation of Medical Marijuana Stores.

2. A Retail Marijuana Transporter may only apply for and hold an off-premises storage permit in a Local Jurisdiction that permits the operation of Retail Marijuana Stores.

C. Extension of Licensed Premises. A permitted off-premises storage facility is an extension of the Regulated Marijuana Business's Licensed Premises, subject to all applicable Regulated Marijuana regulations.

D. Limitation on Inventory to be Stored.

1. A Medical Marijuana Store, Medical Marijuana Products Manufacturer, and a Medical Marijuana Cultivation Facility possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Medical Marijuana that is part of the particular Medical Marijuana Business's finished goods inventory. The aforementioned Licensees may only share the premises with and store inventory

belonging to, a Medical Marijuana Business that has identical Controlling Beneficial Owners.

2. A Retail Marijuana Store, Retail Marijuana Products Manufacturer, and a Retail Marijuana Cultivation Facility possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Retail Marijuana that is part of the particular Retail Marijuana Business's finished goods inventory. The aforementioned Licensees may only share the premises with and store inventory belonging to a Retail Marijuana Business that has identical Controlling Beneficial Owners.

3. A Medical Marijuana Business may share one off-premises storage facility with the same type of Retail Marijuana Business if the businesses operate a shared Licensed Premises pursuant to Rule 3-215 and if the Local Licensing Authority and Local Jurisdiction permit shared off-premises storage facilities. All Transfers of Regulated Marijuana by a Regulated Marijuana Business to or from its off-premises storage facility must be without consideration except for delivery orders packaged for delivery to patients or consumers pursuant to subparagraph E.

E. Privileges and Restrictions. The permitted off-premises storage facility may be utilized for storage only. A Regulated Marijuana Business must not Transfer, cultivate, manufacture, process, test, research, or consume any Regulated Marijuana within the premises of the permitted off-premises storage facility. An off-premises storage facility shall not be used as a distribution center for Transfers to Regulated Marijuana Businesses without identical Controlling Beneficial Owners or for consideration.

1. A Medical Marijuana Store or Retail Marijuana Store with a valid delivery permit may use its own off-premises storage facility to package, label, and fill orders for delivery of Regulated Marijuana to a patient or consumer after the Medical Marijuana Store or Retail Marijuana Store receives an order for delivery, unless otherwise restricted by the local jurisdiction.

2. A Medical Marijuana Transporter or Retail Marijuana Transporter shall not use its own off-premises storage facility to package, label, or fill orders for delivery of Regulated Marijuana to a patient or customer. A Medical Marijuana Transporter or a Retail Marijuana Transporter may use its own off-premises storage facility to store Regulated Marijuana that is packaged and labeled for delivery to a patient or consumer, unless otherwise restricted by the Local Licensing Authority or Local Jurisdiction.

F. Display of Off-premises Storage Permit and License. The off-premises storage facility permit and a copy of the Regulated Marijuana Business's license must be displayed in a prominent place within the permitted off-premises storage facility.

G. Local Licensing Authority or Local Jurisdiction Approval.

1. Prior to submitting an application for an off-premises storage facility permit, the Regulated Marijuana Business must obtain approval or acknowledgement from the relevant Local Licensing Authority or Local Jurisdiction.

2. A copy of the relevant Local Licensing Authority's or Local Jurisdiction's approval or acknowledgement must be submitted by the Regulated Marijuana Business in conjunction with its application for an off-premises storage facility.

3. No Regulated Marijuana may be stored within a permitted storage facility until the relevant Local Licensing Authority or Local Jurisdiction has been provided a copy of the off-premises storage facility permit.

4. Any off-premises storage permit issued by the Division shall be conditioned upon the Regulated Marijuana Business's receipt of all required Local Jurisdiction approvals or acknowledgments.

H. Security in Storage Facility. A permitted off-premises storage facility must meet all video, security and lock requirements applicable to a Licensed Premises. *See* Rules 3-220 – Security Alarm and Lock Standards and Rule 3-225 – Video Surveillance.

I. Transport to and from a Permitted Off-Premises Storage Facility. A Licensee must comply with the provisions of Rule 3-605 – Transport: All Regulated Marijuana Businesses, when transporting any Regulated Marijuana to and from a permitted off-premises storage facility.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Regulated Marijuana Business shall utilize the Inventory Tracking System to track its inventories from the point of T~~t~~ransfer to or from a permitted off-premises storage facility. *See* Rules 3-805 – All Regulated Marijuana Businesses: Inventory Tracking System and Rule 3-905 – Business Records Required.

K. Inventory Tracking System Access and Scale. Every permitted off-premises storage facility must have an Inventory Tracking System terminal and a scale tested and approved in accordance with measurement standards established in section 35-14-127, C.R.S.

L. Adequate Care of Perishable Regulated Marijuana Product. A Regulated Marijuana Business must provide adequate refrigeration for perishable Regulated Marijuana Product and shall utilize adequate storage facilities and transport methods.

M. Consumption Prohibited. A Regulated Marijuana Business shall not permit the consumption of marijuana or marijuana product on the premises of its permitted off-premises storage facility.

Basis and Purpose – 3-615

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(1)(c), 44-10-203(1)(k~~j~~), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(2)(dd), C.R.S. The purpose of this rule is to provide requirements for a Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter or Retail Marijuana Transporter to apply for and conduct deliveries to p~~P~~rivate r~~R~~esidences pursuant to a delivery permit. This rule provides application and renewal requirements for a delivery permit. Additionally, the rule describes requirements for responsible vendor training, requirements for use of the inventory tracking system, Delivery Motor Vehicles requirements including security, requirements for delivery orders, requirements prior to completing a delivery to a patient or consumer at a p~~P~~rivate r~~R~~esidence and requirements for maintaining the confidentiality of all patient and customer information.

3-615 – Regulated Marijuana Delivery Permits

A. Application, Qualification, and Eligibility for Delivery Permit.

1. Beginning January 2, 2020, a Medical Marijuana Store may apply for a delivery permit. The application shall be made on Division forms and in accordance with the 2-200 Series Rules. The delivery permit application can be submitted simultaneously with a Medical Marijuana Store initial or renewal application or it can be separate from a Medical Marijuana Store application but the application must identify the Medical Marijuana Store(s) seeking to obtain the delivery permit.

2. Beginning January 2, 2021, a Retail Marijuana Store, a Medical Marijuana Transporter, and a Retail Marijuana Transporter may apply for a delivery permit. The delivery permit application can be submitted simultaneously with a Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter initial or renewal application or it can be separate from a Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter application but the application must identify the Retail Marijuana Store(s), Medical Marijuana Transporter(s), or Retail Marijuana Transporter(s) seeking to obtain the delivery permit.

3. Prior to the State Licensing Authority issuing an Applicant a delivery permit, the Applicant must establish the Local Licensing Authority and/or Local Jurisdiction where the Applicant is located:

    a. By ordinance or resolution has permitted delivery of Regulated Marijuana in the jurisdiction, and

    b. Is currently accepting applications for delivery permits in the jurisdiction, if required.

4. Multiple Medical Marijuana Stores, Retail Marijuana Stores, Medical Marijuana Transporters, or Retail Marijuana Transporters with identical Controlling Beneficial Owners that are in the same local jurisdiction may obtain one delivery permit that allows all Medical Marijuana Stores, all Retail Marijuana Stores, all Medical Marijuana Transporters, or all Retail Marijuana Transporters in that jurisdiction to make deliveries to patients or consumers.

5. Delivery Permit Renewal.

    a. A delivery permit must be renewed annually with the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter license it accompanies. A Medical Marijuana Store or Retail Marijuana Store must disclose to the Division any online platform provider that the Licensee has utilized during the previous year at the time of renewal.

    b. Length of Delivery Permit.

        i. A delivery permit issued with an initial or renewal license application is valid for one year and will expire at the same time as the license for the associated Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter.

        ii. A delivery permit that is not issued with an initial or renewal application will be valid for less than one year to align the license expiration date of the related Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. In all years after the first year, such a delivery permit will be valid for one year.

    c. In addition to any other basis for denial of renewal application, the State Licensing Authority may also consider the following facts and circumstances as an additional basis for denial of a delivery permit renewal application:

        i. The Medical Marijuana Store or Retail Marijuana Store failed to collect the one-dollar surcharge on every delivery or failed to timely remit the

one-dollar surcharge to the municipality where the Medical Marijuana Store or Retail Marijuana Store is located, or to the county if the Medical Marijuana Store or Retail Marijuana Store is in an unincorporated area.

B. Delivery to Private Residence. Private residence includes, but is not limited to, a private premises where a person lives such as a private dwelling, place of habitation, a house, a multi-dwelling unit for residential occupants, or an apartment unit. Private residence does not include any premises located at a school, on the campus of an institution of higher education, public property, or any commercial property unit such as offices or retail space.

C. Responsible Vendor Certification Required. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must obtain a responsible vendor designation pursuant to sections 44-10-1201 or 44-10-1202, C.R.S., and the 3-500 Series Rules including the delivery curriculum prior to conducting its first delivery.

D. Inventory Tracking System Required. A Regulated Marijuana Business possessing a valid delivery permit must use the inventory tracking system and transport manifests to track all Regulated Marijuana delivered to the intended patient or consumer ~~as required by Rule 5-130~~. This includes the use of a transport manifest.

E. Delivery Motor Vehicle Requirements.

1. Any Delivery Motor Vehicle must be owned or leased by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, or an Owner Licensee of the Regulated Marijuana Business that holds the delivery permit, must be registered in the State of Colorado, and must be insured.

2. Any Delivery Motor Vehicle must have a vehicle tracking system that is capable of real-time tracking and recording of the route taken by the Delivery Motor Vehicle while conducting deliveries that can be accessed remotely in real-time by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. The vehicle tracking system may be an application installed on a mobile device. The real-time location of the Delivery Motor Vehicle shall not be displayed to any patients or consumers.

3. Any Delivery Motor Vehicle must not have any external markings, words, or symbols that indicate the Delivery Motor Vehicle is used for delivery of Regulated Marijuana or is owned or leased by a Medical Marijuana Business or a Retail Marijuana Business.

4. Regulated Marijuana must not be visible from outside the Delivery Motor Vehicle.

5. Delivery Motor Vehicle security requirements include but are not limited to:

   a. A security alarm system, and

   b. A secure, locked, opaque storage compartment that is securely affixed to the Delivery Motor Vehicle for the purpose of securing Regulated Marijuana.

6. Video Surveillance Requirements.

   a. The Delivery Motor Vehicle must be equipped with video surveillance equipment that digitally records during all deliveries. The video surveillance shall record at least the secured, locked, opaque storage compartment containing the Regulated Marijuana and the front view of the Delivery Motor Vehicle (e.g. dash camera).

b. Video surveillance shall be kept for a minimum of 40 days, must be capable of being embedded with the date and time, must be reproducible upon request from law enforcement, the Division, a Local Licensing Authority or a Local Jurisdiction and must be archived in a format that ensures authentication and guarantees no alteration of the video.

7. An enclosed Delivery Motor Vehicle shall not contain more than $10,000.00 in retail value of Regulated Marijuana. A Delivery Motor Vehicle that is not enclosed shall not contain more than $2,000.00 in retail value of Regulated Marijuana.

8. A Delivery Motor Vehicle must not leave the State of Colorado while any amount of Regulated Marijuana is in the Delivery Motor Vehicle.

9. Only persons licensed by the State Licensing Authority and identified on the transport manifest may occupy a Delivery Motor Vehicle while conducting deliveries of Regulated Marijuana.

F. Delivery Order Requirements.

1. A Medical Marijuana Store or a Retail Marijuana Store that has a valid delivery permit may accept orders for delivery of Regulated Marijuana to patients who are at least 21 years of age, parents or guardians of patient under 18 years of age, or consumers who are at least 21 years of age at a pPrivate rResidence. Delivery orders to patients ages 18 to 20 are not permitted.

2. For a Medical Marijuana Store or a Retail Marijuana Store that utilizes an online platform provider:

a. The online platform provider must require that the patient or consumer choose a Medical Marijuana Store or Retail Marijuana Store before displaying the price of Regulated Marijuana to the patient or consumer; and

b. The Medical Marijuana Store or Retail Marijuana Store must receive verification that there has not already been a delivery of Regulated Marijuana to that pPrivate rResidence through the online platform provider that same business day.

3. All delivery orders must document the following information which must be maintained pursuant to Rule 3-905 by the Medical Marijuana Store or the Retail Marijuana Store:

a. The name and date of birth of the patient or consumer placing the delivery order;

b. The address of the pPrivate rResidence where the order will be delivered;

c. For Medical Marijuana delivery orders only, the registration number reflecting on the patient's registry identification card; and

d. For Medical Marijuana delivery orders only, if the patient is under 18 years of age, the parent or guardian designated as the patient's primary caregiver, and if applicable, the registration number of the primary caregiver.

4. A Medical Marijuana Store or a Retail Marijuana Store may accept payment for delivery orders using any legal method of payment, gift card pre-payments or payment on delivery, or pre-payment accounts established with a Medical Marijuana Store or Retail

Marijuana Store except that any payment with an Electronic Benefits Transfer Services Card is not permitted.

a. A Local Licensing Authority or Local Jurisdiction may further restrict legal methods of payment not expressly permitted by section 44-10-203(2)(dd)(XV), C.R.S.

5. Regulated Marijuana must be weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store or at their off-premises storage facility after receipt of a delivery order. Regulated Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Regulated Marijuana has been packaged and labeled for delivery to the patient or consumer as required by the 3-1000 Series Rules.

6. Medical Marijuana Transporters and Retail Marijuana Transporters shall not take delivery orders but may deliver Regulated Marijuana on behalf of Medical Marijuana Stores and Retail Marijuana Stores pursuant to a contract with the Medical Marijuana Store or Retail Marijuana Store provided that the store also holds a valid delivery permit. The Medical Marijuana Store and Medical Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905. The Retail Marijuana Store and Retail Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905.

G. Regulated Marijuana Delivery Requirements.

1. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter shall not deliver Regulated Marijuana to patients, parents, guardians, or consumers while also transporting Regulated Marijuana between Licensed Premises in the same Delivery Motor Vehicle.

2. Delivery of Medical Marijuana and Retail Marijuana.

a. A Medical Marijuana Store and Retail Marijuana Store, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners, may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.

b. A Medical Marijuana Transporter and Retail Marijuana Transporter, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.

c. A Medical Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Medical Marijuana Stores that also hold valid delivery permits using the same Delivery Motor Vehicle and without returning to a Medical Marijuana Store between deliveries.

d. A Retail Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Retail Marijuana Stores that also hold valid delivery permits using the same Delivery Motor Vehicle and without returning to a Retail Marijuana Store between deliveries.

3. An Owner Licensee or Employee Licensee delivering Regulated Marijuana shall not open any Container of Regulated Marijuana in the Delivery Motor Vehicle and is prohibited

from packaging or re-packaging Regulated Marijuana once the Delivery Motor Vehicle has departed from the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store.

4. A Medical Marijuana Store or Retail Marijuana Store shall not accept delivery orders for Regulated Marijuana Product that is perishable unless the Delivery Motor Vehicle that will make the delivery has the ability to secure the Regulated Marijuana Product in climate-controlled storage.

5. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must maintain a transport manifest that documents the following:

   a. The time of delivery;

   b. The name, and identification number of the valid, acceptable identification (e.g. driver's license) presented by the patient or consumer;

   c. Address of the pPrivate rResidence;

   d. Acknowledgement of receipt of delivery by the person receiving the delivery;

   e. If applicable, patient registry number;

   f. If applicable, primary caregiver registry number of the patient's parent or guardian; and

   g. For every Regulated Marijuana delivery that could not be completed, the reason the delivery could not be completed.

6. Proof of Patient Medical Registry and Identification.

   a. Prior to Tttransferring possession of the order, the Owner Licensee or Employee Licensee delivering Medical Marijuana to a patient or a patient's parent or guardian must:

      i. Inspect the patient's or parent's or guardian's identification and registry identification card;

      ii. Verify the possession of a valid registry identification card;

      iii. Verify that the information provided at the time of order match the name and age on the patient's or parent or guardian's identification; and

      iv. Verify that the identification and registry identification card belong to the person receiving the delivery.

   b. The Owner Licensee or Employee Licensee must refuse delivery of Medical Marijuana if the person attempting to accept the delivery order cannot establish all of the requirements of subparagraph (F)(6)(a)(i) through (iv) above.

7. Proof of Consumer Identification.

   a. The Owner Licensee or Employee Licensee delivering Retail Marijuana to a consumer must first verify that the natural person accepting the delivery has an

acceptable form of identification demonstrating the person is at least 21 years of age and that the person is the same as the person that placed the order for delivery with the Retail Marijuana Store.

b. The Owner Licensee or Employee Licensee must refuse delivery of Retail Marijuana if the natural person attempting to accept the delivery order cannot establish all the requirements of subparagraph (F)(5)(a) above.

8. Daily Delivery Limits.

a. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver individually or in any combination, more than two ounces of Medical Marijuana, 40 grams of Medical Marijuana Concentrate, or Medical Marijuana Products containing more than 20,000 milligrams of THC to a patient in a single business day.

b. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver to a patient, parent, or guardian or pPrivate rResidence where the Licensee knows or reasonably should know that the patient, parent or guardian, or pPrivate rResidence has already received a delivery during that same business day. This does not prohibit delivery to more than one patient at the same time and private residence.

c. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver individually or in any combination, more than one ounce of Retail Marijuana, 8 grams of Retail Marijuana Concentrate, or Retail Marijuana Products containing more than ten 80 milligram servings of THC to a customer in a single business day.

d. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver to a consumer or pPrivate rResidence where the Licensee knows or reasonably should know that the consumer or pPrivate rResidence has already received a delivery during that same business day. This does not prohibit delivery to more than one consumer at the same time and private residence.

9. An Owner Licensee or Employee Licensee who cannot complete a delivery order for any reason must return the Regulated Marijuana to the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility from which the delivery order originated. If the Container is unopened and has not been tampered with, the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility may return the Regulated Marijuana into its inventory and reconcile it with the Inventory Tracking System by the close of business that same day. Otherwise, the Regulated Marijuana must be destroyed in accordance with this Rule and Rule 3-235.

H. Confidentiality of Patient and Consumer Personal Identifying Information. A Medical Marijuana Store, a Retail Marijuana Store, a Medical Marijuana Transporter, a Retail Marijuana Transporter, and their respective Owner Licensees and Employee Licensees must keep all personal identifying information and any health care information obtained from patients and consumers confidential and must not disclose such personally identifiable information and any health care information to any person other than those who need that information to take, process, or deliver the order or otherwise as required by the Marijuana Code, or Title 18, or Title 25 of the Colorado Revised Statutes.

3-700 Series – Signage and Advertising

Basis and Purpose – 3-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clearly delineate that a Regulated Marijuana Business is not permitted to make deceptive, false, or misleading statements in Advertising materials or on any product or document provided to a patient or consumer. This Rule 3-705 was previously Rules M and R 1102, 1 CCR 212-1 and 1 CCR 212-2.

3-705 – Advertising General Requirement~~s: No Deceptive, False or Misleading Statements~~

A. No Deceptive, False, or Misleading Statements. A Regulated Marijuana Business shall not engage in Advertising that is deceptive, false, or misleading. A Regulated Marijuana Business shall not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a patient or consumer.

B. Risks of Medical and Retail Marijuana Concentrates. A Regulated Marijuana Business Advertising Medical Marijuana Concentrate or Retail Marijuana Concentrate shall include a notice to patients or consumers regarding the potential risks of Medical Marijuana Concentrate or Retail Marijuana Concentrate overconsumption.

Basis and Purpose – 3-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k~~j~~), 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists throughout Article XVIII, Section 16 of the Colorado Constitution. The purpose of this rule is to clarify the definition of the term "minor" as used in the Marijuana Code and these rules. This Rule 3-710 was previously Rules M and R 1103, 1 CCR 212-1 and 1 CCR 212-2.

3-710 – The Term "Minor" as Used in the Marijuana Code and These Rules

The term "minor" as used in the Marijuana Code and these rules means an individual under the age of 18 for Medical Marijuana and under the age of 21 for Retail Marijuana.

Basis and Purpose – 3-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k~~j~~), 44-10-203(3)(a), and 44-10-103(10), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising and Branding.

3-715 – Use of Branding

A. For the purposes of these 3-700 Series Rules, the term Branding includes taglines, which may or may not be trademarked.

B. Branding may not be used to target ~~minors~~individuals under the age of 21.

Basis and Purpose – 3-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k~~j~~), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-720 was previously Rules M and R 1104, 1105, 1106, and 1107, 1 CCR 212-1 and 1 CCR 212-2.

3-720 – Advertising: All Media

A. Medical Marijuana Businesses. A Medical Marijuana Business may Advertise in television, radio, a print publication, or via the internet, but is prohibited from specifically directing Advertising and marketing to persons under 21 years of age~~only where at least 71.6 percent of the audience is reasonably expected to be at least the age of 18~~.

B. Retail Marijuana Businesses. A Retail Marijuana Business may Advertise in television, radio, a print publication or via the internet only where at least 71.6 percent of the audience is reasonably expected to be at least the age of 21.

C. Advertising for all Marijuana Businesses. Advertising proposes a commercial transaction or otherwise constitutes commercial speech. Advertising includes marketing.

Basis and Purpose – 3-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k~~j~~), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety and health and benefit claims that are by nature misleading, deceptive, or false.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-725 was previously Rules M and R 1109, 1 CCR 212-1 and 1 CCR 212-2.

3-725 – Signage and Advertising: No Safety Claims Because Regulated by State Licensing Authority

No Regulated Marijuana Business may engage in Advertising or utilize signage that asserts its products are safe because they are regulated by the State Licensing Authority.

Basis and Purpose – 3-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c) and 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false. This Rule 3-730 was previously Rules M and R 1110, 1 CCR 212-1 and 1 CCR 212-2.

3-730 – Signage and Advertising: No Safety Claims Because Tested

A Regulated Marijuana Business shall not engage in Advertising or utilize signage that asserts its products are safe because they are tested by a Regulated Marijuana Testing Facility.

Basis and Purpose – 3-735

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to outdoor Advertising and signage.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-735 was previously Rules M and R 1111, 1 CCR 212-1 and 1 CCR 212-2.

3-735 – Signage and Advertising: Outdoor Advertising

A. Local Ordinances. In addition to any requirements within these rules, a Regulated Marijuana Business shall comply with any applicable local ordinances regulating signs and Advertising.

B. All Applicable State Laws Apply. A Regulated Marijuana Business that engages in any Advertising shall comply with all applicable state laws, including but not limited to the Outdoor Advertising Act at sections 43-1-401 through 43-1-420, C.R.S.

C. A Regulated Marijuana Business shall not Advertise on any outdoor sign that is within 500 feet of established and conspicuously identified elementary or secondary schools, places of worship, or public playgrounds.

Basis and Purpose – 3-740

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to prohibit signage and Advertising that has a high likelihood of reaching individuals under the age of 21.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-740 was previously Rules M and R 1112, 1 CCR 212-1 and 1 CCR 212-2.

3-740 – Signage and Advertising: No Content That Targets Minors

A. A Medical Marijuana Business shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21~~18~~, including but not limited to cartoon characters or similar images.

B. A Retail Marijuana Business shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21, including but not limited to cartoon characters or similar images.

Basis and Purpose – 3-745

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to marketing directed toward location-based devices.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-745 was previously Rules M and R 1113, 1 CCR 212-1 and 1 CCR 212-2.

3-745 – Advertising: Advertising via Marketing Directed Toward Location-Based Devices

A Regulated Marijuana Business shall not engage in Advertising via marketing directed towards location-based devices, including, but not limited to, cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 18 years of age or older for Medical Marijuana, 21 years of age or older for Retail Marijuana, and includes a permanent and easy opt-out feature.

Basis and Purpose – 3-750

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to pop-up Advertising.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-750 was previously Rules M and R 1114, 1 CCR 212-1 and 1 CCR 212-2.

3-750 – Pop-Up Advertising

A Regulated Marijuana Business shall not utilize unsolicited pop-up Advertising on the internet.

Basis and Purpose – 3-755

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to event sponsorship.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-755 was previously Rules M and R 1115, 1 CCR 212-1 and 1 CCR 212-2.

3-755 – Advertising: Event Sponsorship

A. A Medical Marijuana Business may sponsor a charitable, sports, or similar event, but a Medical Marijuana Business shall not engage in Advertising at, or in connection with, such an event unless the Medical Marijuana Business has reliable evidence that 71.6 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be at least the age of 18.

B. A Retail Marijuana Business may sponsor a charitable, sports, or similar event, but a Retail Marijuana Business shall not engage in Advertising at, or in connection with, such an event unless the Retail Marijuana Business has reliable evidence that 71.6 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be at least the age of 21.

3-800 Series – Inventory Tracking Requirements

Basis and Purpose – 3-805

The statutory authority for this rule includes but is not limited to sections, 44-10-201(1), 44-10-202(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-501(1)(b), 44-10-502(2), 44-10-503(1)(b), 44-10-505(3), 44-10-601(1)(d), 44-10-602(3), 44-10-603(1)(b), 44-10-605(3), and 44-10-610(3)(a), C.R.S. The purpose of this rule is to establish a system that will allow the State Licensing Authority and the industry to jointly track Regulated Marijuana from either seed or immature plant stage until the Regulated Marijuana is sold to a patient or consumer, or destroyed.

The Inventory Tracking System is a web-based tool coupled with RFID technology that allows both the Inventory Tracking System User and the State Licensing Authority the ability to identify and account for all Regulated Marijuana. Through the use of RFID technology, a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility will tag either the seed or immature plant with an individualized number, which will follow the Regulated Marijuana through all phases of production and final sale to a patient or consumer. This will allow the State Licensing Authority and the Inventory Tracking System User the ability to monitor and track Regulated Marijuana inventory. The Inventory Tracking System will also provide a platform for the State Licensing Authority to exchange information and provide compliance notifications to the industry.

The State Licensing Authority finds it essential to regulate, monitor, and track all Regulated Marijuana to eliminate diversion, inside and outside of the state, and to ensure that all marijuana grown, processed, sold, and disposed of in the Regulated Marijuana market is transparently accounted for.

The State Licensing Authority will engage the industry and provide training opportunities and continue to evaluate the Inventory Tracking System to promote an effective means for this industry to account for and monitor its Regulated Marijuana inventory. This Rule 3-805 was previously Rules M and R 309, 1 CCR 212-1 and 1 CCR 212-2.

3-805 – Regulated Marijuana Businesses: Inventory Tracking System

A. Inventory Tracking System Required. A Regulated Marijuana Business is required to use the Inventory Tracking System as the primary inventory tracking system of record. A Regulated Marijuana Business must have an Inventory Tracking System account activated and functional prior to operating or exercising any privileges of a license. Medical Marijuana Businesses converting to or adding a Retail Marijuana Business must follow the inventory transfer guidelines detailed in Rule 3-805(C) below. Because Marijuana Hospitality Businesses are not authorized to receive or conduct Transfers of Regulated Marijuana, this Rule does not apply to Marijuana Hospitality Businesses.

B. Inventory Tracking System Access - Inventory Tracking System Administrator.

1. Inventory Tracking System Administrator Required. A Regulated Marijuana Business must have at least one Owner Licensee who is an Inventory Tracking System Administrator. A Regulated Marijuana Business may also designate additional Owner Licensees and Employee Licensees to obtain Inventory Tracking System Administrator accounts.

2. Training for Inventory Tracking System Administrator Account. In order to obtain an Inventory Tracking System Administrator account, a Person must attend and successfully complete all required Inventory Tracking System training. The Division may also require additional ongoing, continuing education for an individual to retain his or her Inventory Tracking System Administrator account.

3. Inventory Tracking System Access - Inventory Tracking System User Accounts. A Regulated Marijuana Business may designate licensed Owners and employees who hold valid Employee Licenses as Inventory Tracking System Users. A Regulated Marijuana Business shall ensure that all Owner Licensees and Employee Licensees who are granted Inventory Tracking System User account access for the purposes of conducting inventory tracking functions in the system are trained by Inventory Tracking System Administrators in the proper and lawful use of Inventory Tracking System.

C. Medical Marijuana Business License Conversions - Declaring Inventory Prior to Exercising Licensed Privileges as a Retail Marijuana Business.

1. Medical Marijuana Inventory Transfer to Retail Marijuana Business.

a. Except pursuant to Rules 5-205 and 6-205:

i. The only allowed Transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Business is Medical Marijuana and Medical Marijuana Concentrate that was produced at the Medical Marijuana Cultivation Facility, from the Medical Marijuana Cultivation Facility to a Retail Marijuana Cultivation Facility.

ii. Each Medical Marijuana Cultivation Facility that is either converting to or adding a Retail Marijuana Cultivation Facility license must create a Retail Marijuana Inventory Tracking System account for each license it is converting or adding.

iii. A Medical Marijuana Cultivation Facility must Transfer all relevant Medical Marijuana and Medical Marijuana Concentrate into the Retail Marijuana Cultivation Facility's Inventory Tracking System account and affirmatively declare those items as Retail Marijuana or Retail Marijuana Concentrate as appropriate.

iv. The marijuana subject to the one-time Transfer is subject to the excise tax upon the first Transfer from the Retail Marijuana Cultivation Facility to another Retail Marijuana Business.

v. All other Transfers are prohibited, including but not limited to Transfers from a Medical Marijuana Store or Medical Marijuana Products Manufacturer to any Retail Marijuana Business.

2. No Further Transfer Allowed. Once a Licensee has declared any portion of its Medical Marijuana inventory as Retail Marijuana, no further Transfers of inventory from Medical Marijuana to Retail Marijuana shall be allowed.

D. RFID Tags Required.

1. Authorized Tags Required and Costs. Licensees are required to use RFID tags issued by a Division-approved vendor that is authorized to provide RFID tags for the Inventory Tracking System. Each licensee is responsible for the cost of all RFID tags and any associated vendor fees.

2. Use of RFID Tags Required. A Licensee is responsible to ensure its inventories are properly tagged where the Inventory Tracking System requires RFID tag use. A Regulated Marijuana Business must ensure it has an adequate supply of RFID tags to properly tag Regulated Marijuana as required by the Inventory Tracking System. An RFID tag must be physically attached to every Regulated Marijuana plant being cultivated that is greater than eight inches tall or eight inches wide. Prior to a plant reaching a viable point to support the weight of the RFID tag and attachment strap, the RFID tag may be securely fastened to the stalk. An RFID tag must be assigned to all Regulated Marijuana. *See* Rule 3-805(D); Rule 3-1005(G) – Shipping Containers.

3. Reuse of RFID Tags Prohibited. A Licensee shall not reuse any RFID tag that has already been affixed or assigned to any Regulated Marijuana.

4. When plants reach a viable point to support the weight of the RFID tag and attachment strap, the RFID tag shall be securely fastened to a lower supporting branch.

E. General Inventory Tracking System Use.

1. Reconciliation with Inventory. All inventory tracking activities at a Regulated Marijuana Business must be tracked through use of the Inventory Tracking System. A Licensee must reconcile all on-premises and in-transit Regulated Marijuana inventories each day in the Inventory Tracking System at the close of business.

2. Common Weights and Measures.

a. A Regulated Marijuana Business must utilize a standard of measurement that is supported by the Inventory Tracking System to track all Regulated Marijuana.

b. A scale used to weigh product prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S.

3. Inventory Tracking System Administrator and User Accounts – Security and Record.

a. A Regulated Marijuana Business shall maintain an accurate and complete list of all Inventory Tracking System Administrators and Inventory Tracking System Users for each Licensed Premises. A Regulated Marijuana Business shall update this list when a new Inventory Tracking System User is trained. A Regulated Marijuana Business must train and authorize any new Inventory Tracking System Users before those Owners or employees may access Inventory Tracking System or input, modify, or delete any information in the Inventory Tracking System.

b. A Regulated Marijuana Business must cancel any Inventory Tracking System Administrators and Inventory Tracking System Users from their associated

Inventory Tracking System accounts once any such individuals are no longer employed by the Licensee or at the Licensed Premises.

c. A Regulated Marijuana Business is accountable for all actions employees take while logged into the Inventory Tracking System or otherwise conducting Regulated Marijuana inventory tracking activities.

d. Each individual user is also accountable for all of his or her actions while logged into the Inventory Tracking System or otherwise conducting Regulated Marijuana inventory tracking activities, and shall maintain compliance with all relevant laws.

4. Secondary Software Systems Allowed.

a. Nothing in this Rule prohibits a Regulated Marijuana Business from using separate software applications to collect information to be used by the business including secondary inventory tracking or point-of-sale systems.

b. A Licensee must ensure that all relevant Inventory Tracking System data is accurately transferred to and from the Inventory Tracking System for the purposes of reconciliations with any secondary systems.

c. A Regulated Marijuana Business must preserve original Inventory Tracking System data when transferred to and from a secondary application(s). Secondary software applications must use the Inventory Tracking System data as the primary source of data and must be compatible with updating to the Inventory Tracking System.

5. Regulated Marijuana Cultivations: Inventory Tracking System. A Manicure Batch may be combined with a Harvest Batch containing the same plants, provided that the Regulated Marijuana is homogenized prior to sampling and testing, uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals. Manicure and Harvest Batches must be clearly identified at the Licensed Premises with the Manicure Batch and Harvest Batch name and date as it appears in the Inventory Tracking System

F. Conduct While Using Inventory Tracking System.

1. Misstatements or Omissions Prohibited. A Regulated Marijuana Business and its designated Inventory Tracking System Administrator(s) and Inventory Tracking System User(s) shall enter data into the Inventory Tracking System that fully and transparently accounts for all inventory tracking activities. Both the Regulated Marijuana Business and the individuals using the Inventory Tracking system are responsible for the accuracy of all information entered into the Inventory Tracking System. Any misstatements or omissions may be considered a license violation affecting public safety.

2. Use of Another User's Login Prohibited. Individuals entering data into the Inventory Tracking System shall only use that individual's Inventory Tracking System account.

3. Loss of System Access. If at any point a Regulated Marijuana Business loses access to the Inventory Tracking System for any reason, the Regulated Marijuana Business must keep and maintain comprehensive records detailing all Regulated Marijuana tracking inventory activities that were conducted during the loss of access. *See* Rule 3-905 – Business Records Required. Once access is restored, all Regulated Marijuana inventory tracking activities that occurred during the loss of access must be entered into the Inventory Tracking System. A Regulated Marijuana Business must document when access to the system was lost and when it was restored. A Regulated Marijuana

Business shall not Transfer any Regulated Marijuana to another Regulated Marijuana Business until such time as access is restored and all information is recorded into the Inventory Tracking System.

G. System Notifications.

1. Compliance Notifications. A Regulated Marijuana Business must monitor all compliance notifications from the Inventory Tracking System. The Licensee must resolve the issues detailed in the compliance notification in a timely fashion. Compliance notifications shall not be dismissed in the Inventory Tracking System until the Regulated Marijuana Business resolves the compliance issues detailed in the notification.

2. Informational Notifications. A Regulated Marijuana Business must take appropriate action in response to informational notifications received through the Inventory Tracking System, including but not limited to notifications related to RFID billing, enforcement alerts, and other pertinent information.

H. Lawful Activity Required. Proper use of the Inventory Tracking System does not relieve a Licensee of its responsibility to maintain compliance with all laws, rules, and other requirements at all times.

I. Inventory Tracking System Procedures Must Be Followed. A Regulated Marijuana Business must utilize Inventory Tracking System in conformance with these rules and Inventory Tracking System procedures, including but not limited to:

1. Properly indicating the creation of a Harvest Batch and/or Production Batch including the assigned Harvest Batch and/or Production Batch Number;

2. Accurately identifying the cultivation rooms and location of each plant within those rooms on the Licensed Premises;

3. Accurately identifying when inventory is no longer on the Licensed Premises;

4. Properly indicating that a Test Batch is being used as part of achieving ~~process validation~~a Reduced Testing Allowance;

5. Accurately indicating the Inventory Tracking System category for all Regulated Marijuana; and

6. Accurately including a note explaining the reason for any destruction of Regulated Marijuana, and reason for any adjustment of weights to Inventory Tracking System packages.

7. Properly designating one or more Sampling Managers before Transferring any Sampling Units;

8. Fully and accurately tracking the Transfer of any Sampling Unit from a Regulated Marijuana Business to a Sampling Manager identified by name and license number; and

9. When entering into the Inventory Tracking System a unit of Regulated Marijuana the Inventory Tracking System Trained Administrator or Inventory Tracking System User shall also identify the net contents of each unit consistent with Rules 3-1005(B)(2)(e) and (C)(2)(a)(iv). For example, if the Inventory Tracking System User enters 1 unit of Retail Marijuana Product that contains 100 milligrams of Retail Marijuana Product, then the Inventory Tracking System User shall also identify that each unit contains 100 milligrams.

Further, if the Inventory Tracking System User enters 1 unit of Medical Marijuana Product that contains 200 mg of Medical Marijuana Product, the Inventory Tracking System User shall also identify that each unit contains 200 mg.

Basis and Purpose – 3-810

The statutory authority for this rule includes but is not limited to sections, 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-203(2)(n), 44-10-501(1)(b), 44-10-502(2), 44-10-503(1)(b), 44-10-505(3), 44-10-601(1)(d), 44-10-601(4), 44-10-602(1), 44-10-602(6)(f), 44-10-603(1)(b), and 44-10-605(3), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to maintain a system that will allow the State Licensing Authority and the industry to jointly track Regulated Marijuana from either seed or immature plant stage until the Regulated Marijuana is sold to the patient or consumer or destroyed.

3-810 – Minimum Tracking Requirements

A. Requirement to Track Regulated Marijuana From Seed-to-Sale. Licensees must use the Inventory Tracking System to ensure Regulated Marijuana is identified and tracked from the point the Regulated Marijuana is Propagated from seed or cutting to the point when it is Transferred to another Regulated Marijuana Business, the Medical Marijuana Transporter or Retail Marijuana Transporter takes control of the Regulated Marijuana by removing it from the originating Licensee's Licensed Premises and placing the Regulated Marijuana in the transport vehicle, or it is Transferred to a Sampling Manager as a designated Sampling Unit, and through the delivery, point-of-sale, or the Regulated Marijuana is otherwise disposed of. *See* Rule 3-805 – Inventory Tracking System

B. Ability to Reconcile Required. Licensees must have the ability to reconcile transported and on-hand Regulated Marijuana inventory with the Inventory Tracking System and the associated transaction history and transportation order receipts. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 3-815

The statutory authority for this rule includes but is not limited to 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-313(5)(b), 44-10-505(3), and 44-10-605(2) C.R.S. The purpose of this rule is to allow the State Licensing Authority and the industry to jointly track the Ttransfer and delivery of Regulated Marijuana and Regulated Marijuana Product between licensed Regulated Marijuana Businesses. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

3-815 – Transport Manifest Required

A. Transport of Regulated Marijuana Without Transport Manifest Prohibited. Licensees are prohibited from transporting any Regulated Marijuana without a valid transport manifest generated by the Inventory Tracking System.

B. Accepting Regulated Marijuana Without Transport Manifest Prohibited. Licensees are prohibited from accepting any Regulated Marijuana from another Regulated Marijuana Business without receiving a valid transport manifest generated from the Inventory Tracking System.

C. Information Must Be Accurate. All information on the Inventory Tracking System generated transport manifest must be accurate.

Basis and Purpose – 3-820

The statutory authority for this rule includes but is not limited to sections 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-502(3), 44-10-503(10), 44-10-602(6), and 44-10-603(10). The purpose of this rule is to establish inventory tracking, reporting and recordkeeping requirements for Sampling Units to ensure that any Regulated Marijuana or Regulated Marijuana Products designated as a Sampling Unit is identified and tracked from the point of such designation.

3-820 – Sampling Unit Tracking Requirements

A. Applicability. This Rule 3-820 applies to Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, and Retail Marijuana Products Manufacturers.

B. Sampling Unit Tracking Requirements.

1. In addition to all other requirements set forth in these rules, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall utilize the Inventory Tracking System to ensure that any Regulated Marijuana designated as a Sampling Unit is identified and tracked from the point of such designation until the Sampling Unit is Transferred to a Sampling Manager. *See* Rules 5-230, 5-320, 6-225, 6-320 – Sampling Unit Protocols.

2. The Inventory Tracking System must adequately reflect all Transfers of Sampling Units. At a minimum, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer must ensure that the Inventory Tracking System reflects the date the Sampling Unit was Transferred, the weight of the Sampling Unit, and the name and license number of the recipient Sampling Manager.

3. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer must have the ability to reconcile its Sampling Manager and Sampling Unit records with the Inventory Tracking System and any associated transaction history.

Basis and Purpose – 3-825

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-203(2)(d)(I), 44-10-504, and 44-10-604 The Purpose of this rule is to establish reporting standards for Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities.

3-825 – Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities Specific Tracking Requirements

A. Required Procedures. A Regulated Marijuana Testing Facility must establish procedures to ensure that results are accurate, precise, and scientifically valid prior to reporting such results.

B. Reports. Every final report, whether submitted to the Division, to a Regulated Marijuana Business, or to any other Person authorized to receive the report, must include the following:

1. Report quantitative results that are only above the lowest concentration of calibrator or standard used in the analytical run;

2. Verify results that are below the lowest concentration of calibrator or standard and above the LOQ by using a blank and a standard that falls below the expected value of the analyte in the sample in duplicate prior to reporting a quantitative result;

3. Qualitatively report results below the lowest concentration of calibrator or standard and above the LOD as either trace or using a non-specific numerical designation;

4. Adequately document the available external chain of custody information;

5. Ensure all final reports contain the name and location of the Regulated Marijuana Testing Facility that performed the test, name, and unique identifier of Sample, submitting client, Sample received date, date of report, type of Sample tested, test result, units of measure, and any other information or qualifiers needed for interpretation when applicable to the test method and results being reported, to include any identified and documented discrepancies; and

6. Provide the final report to the Division, as well as the Regulated Marijuana Business, and/or any other Person authorized to receive the report in a timely manner.

C. Inventory Tracking System. Each Regulated Marijuana Testing Facility shall:

1. Report all test results to the Division as part of daily reconciliation by the close of business and in accordance with all Inventory Tracking System Procedures under Rule 3-805 – All Regulated Marijuana Businesses: Inventory Tracking System. The requirement to report all test results includes:

a. Both positive and negative test results;

b. Results from both mandatory and voluntary testing; and

c. For quantitative tests, a quantitative value.

2. As part of Inventory Tracking System reporting, when results of tested Samples exceed maximum levels of allowable potency or contamination, or otherwise result in failed potency, homogeneity, or contaminant testing, the Regulated Marijuana Testing Facility shall, in the Inventory Tracking System, indicate failed test results for the Inventory Tracking System package associated with the failed Sample. This requirement only applies to testing of Samples that are comprised of Regulated Marijuana.

D. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

3-900 Series – Business Records

Basis and Purpose – 3-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-301, and 44-10-1001(1), C.R.S. This rule explains what business records a Licensee must maintain and clarifies that such records must be made available to the Division on demand. This Rule 3-905 was previously Rules M and R 901, 1 CCR 212-1 and 1 CCR 212-2.

3-905 – Business Records Required

A. General Requirements.

1. A Regulated Marijuana Business must maintain the information required in this Rule in a format that is readily understood by a reasonably prudent business person.

2. Each Regulated Marijuana Business shall retain all books and records necessary to fully account for the business transactions conducted under its license for the current year and three preceding calendar years.

    a. On premises records: The Regulated Marijuana Business's books and records for the preceding six months (or complete copies of such records) must be maintained on the Licensed Premises at all times.

    b. On- or off-premises records: Books and records associated with older periods may be archived on or off of the Licensed Premises.

3. The books and records must fully account for the transactions of the business and must include, but shall not be limited to:

    a. Current Employee List – This list must provide the full name and Employee License number of each employee and all Owner Licensees, who work at a Regulated Marijuana Business.

        i. Each Licensed Premises shall enter the full name and Employee License number of every employee that works on the premises into the Inventory Tracking System. The Licensed Premises shall update its list of employees in the Inventory Tracking System within 10 days of an employee commencing or ceasing employment on the premises.

    b. Secure Facility Information – For its Licensed Premises and any associated permitted off-premises storage facility, a Regulated Marijuana Business must maintain the business contact information for vendors that maintain video surveillance systems and Security Alarm Systems.

    c. Advertising Records – All records related to Advertising and marketing, including, but not limited to, audience composition data.

    d. Licensed Premises – Diagram of all approved Limited Access Areas, Restricted Access Areas, and any permitted off-premises storage facilities.

    e. Visitor Log – List of all visitors entering Limited Access Areas or Restricted Access Areas.

    f. All records normally retained for tax purposes.

    g. Waste Log – Comprehensive records regarding all waste and Fibrous Waste material that accounts for, reconciles, and evidences all waste and Fibrous Waste activity related to the disposal of marijuana.

    h. Surveillance Logs – Surveillance logs as required by Rule 3-225.

    i. Every Licensee shall maintain a record of its identity statement and Standardized Graphic Symbol which shall be available upon request by the State Licensing Authority or Division. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule.

    j. Testing Records – All testing records required by Rule 5-450 and Rule 6-450.

k. Sampling Unit Records – All records related to designated Sampling Managers, identified Sampling Units, and Transfers of Sampling Units. *See* Rules 3-810, 5-230, 5-320, 6-225, 6-320. This includes, but is not limited to, standard operating procedures that explain the requirements of sections 44-10-502(5), 44-10-503(10), 44-10-602(6) and 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements imposed by Rules 5-230, 5-320, 6-225, 6-320.

l. License Application Records – All records provided by the Licensee to both the state and local licensing authorities in connection with an application for licensure pursuant to the Marijuana Code and these Rules.

m. Standard Operating Procedures – All standard operating procedures as required by these Rules.

n. Audited Product and/or Alternative Use Product Records – All records required to demonstrate compliance with Rule 5-325 and 6-325.

o. All records required by Rule 3-240 regarding collection and Transfers of Marijuana Consumer Waste.

p. Corrective Action and Preventive Action records required by Rules 5-115, 5-210, 5-310, 6-110, 6-210, 6-310.

q. Certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers as required by Rule 5-310(F).

r. Records required to be maintained by Delivery Permit holders.

s. Records required to be maintained by Licensed Hospitality Businesses.

t. Recall records required by Rule 3-336.

u. All records related to Material Changes.

v. Records related to general complaints and Adverse Health Events.

w. All other records required by these Rules.

B. Loss of Records and Data. Any loss of electronically-maintained records shall not be considered a mitigating factor for violations of this Rule. Licensees are required to exercise due diligence in preserving and maintaining all required records.

C. Violation Affecting Public Safety. Violation of this Rule may constitute a license violation affecting public safety.

D. Records Related to Inventory Tracking. A Regulated Marijuana Business must maintain accurate and comprehensive inventory tracking records that account for, reconcile and evidence all inventory activity for Regulated Marijuana from either seed or Immature Plant stage until the Regulated Marijuana is destroyed or Transferred to another Regulated Marijuana Business, a consumer, a patient, or a Pesticide Manufacturer.

E. Records Related to Transport. A Regulated Marijuana Business must maintain adequate records for the transport of all Regulated Marijuana. *See* Rule 3-605 – Transport: All Regulated Marijuana Businesses.

F. Provision of Any Requested Record to the Division. A Licensee must provide on-demand access to on-premises records following a request from the Division during normal business hours or hours of apparent operation, and must provide access to off-premises records within three business days following a request from the Division.

Basis and Purpose – 3-910

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), and 44-10-203(2)(j), C.R.S. A Regulated Marijuana Business must collect and remit sales tax on all retail sales made pursuant to the licensing activities. The purpose of this rule is to clarify when such taxes must be remitted to the Colorado Department of Revenue. This Rule 3-910 was previously Rules M and R 902, 1 CCR 212-1 and 1 CCR 212-2.

3-910 – Reporting and Transmittal of Taxes

A. Sales and Use Tax Returns Required. All state and state-collected sales and use tax returns must be filed, and all taxes must be remitted to the Department of Revenue, on or before the 20th day of the month following the reporting month. For example, a January return and remittance will be due to the Department of Revenue by February 20th. If the due date (20th of the month) falls on a weekend or holiday, the next business day is considered the due date for the return and remittance.

B. Excise and Retail Marijuana Sales Tax Returns Required. A Retail Marijuana Business shall submit any applicable tax returns and remit any payments due pursuant to Article 28.8 of Title 39, C.R.S.

C. Proof of Tax Remittance Required. All state tax payments shall require proof of remittance with the State Licensing Authority. A Retail Marijuana Cultivation Facility must maintain records evidencing the payment of all required excise taxes. Proof of retail sales taxes shall be identified in required tax records, tracking systems, and sales receipts provided to consumers.

Basis and Purpose – 3-915

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), and 44-10-1001(1), C.R.S. The Marijuana Code mandates that a Regulated Marijuana Business must pay for an audit when the State Licensing Authority deems an audit necessary. This rule explains when an audit may be deemed necessary and sets forth possible consequences of a Regulated Marijuana Business's refusal to cooperate or pay for the audit. This Rule 3-915 was previously Rules M and R 903, 1 CCR 212-1 and 1 CCR 212-2.

3-915 – Independent Audit May Be Required

A. State Licensing Authority May Require Independent Audit.

1. When the State Licensing Authority deems it necessary, it may require a Regulated Marijuana Business to undergo an audit by an independent accountant. The scope of the audit may include, but need not be limited, to financial transactions and inventory control measures.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent accountant with a Regulated Marijuana Business. However, the Division

always retains the right to select the independent accountant regardless of whether mutual agreement can be reached. The independent accountant shall be a certified public accountant licensed by, and in good standing with, the Colorado State Board of Accountancy.

3. The Regulated Marijuana Business will be responsible for all direct costs associated with the independent audit.

B. When Independent Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent accountant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. A Regulated Marijuana Business does not provide requested records to the Division;

2. The Division has reason to believe that the Regulated Marijuana Business does not properly maintain its business records;

3. A Regulated Marijuana Business has a prior violation related to recordkeeping or inventory control;

4. A Regulated Marijuana Business has a prior violation related to diversion.

5. As determined by the Division, the scope of an audit conducted by the Division would be so extensive as to jeopardize the regular duties and responsibilities of the Division's audit or enforcement staff.

C. Compliance Required. A Regulated Marijuana Business must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an audit in accordance with this Rule.

D. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 3-920

The statutory authority for this rule includes but is not limited to sections 44-10-201(4), 44-10-204(1)(a), 44-10-202(1)(c), 44-10-202(1)(a), 44-10-204(1)(a), 44-10-203(1)(kj), 44-10-313(12), and 44-10-701(2)(a), C.R.S. The State Licensing Authority must be able to immediately access information regarding a Regulated Marijuana Business's managing individual. Accordingly, this rule reiterates the statutory mandate that Licensees provide any management change to the Division within seven days of any change, and also clarifies that a Licensee must save a copy of any management change report to the Division, and clarifies that failure to follow this rule can result in discipline.

The State Licensing Authority finds it essential to the stringent and comprehensive enforcement of the Marijuana Code to regulate, monitor, and track all Regulated Marijuana in order to prevent diversion and to ensure that all Regulated Marijuana grown, processed, sold, and disposed of in the Regulated Marijuana market is accounted for transparently in accordance with the Marijuana Code.

Requiring Licensees to report instances when the Regulated Marijuana they cultivate, manufacture, distribute, sell, test, or dispose of is stolen, unlawfully Ttransferred, or otherwise diverted from the regulated market, or when Licensees discover plans to divert the Regulated Marijuana, emphasizes that Licensees are accountable for their Regulated Marijuana at all times and contributes to the transparency of the regulated market.

In addition to maintaining transparency in the regulated marijuana industry, the State Licensing Authority also must ensure the confidentiality of certain Licensee information and records, including information in

the Inventory Tracking System. Requiring Licensees to report instances where the Inventory Tracking System was compromised or planned to be compromised through unlawful access, use for unlawful purposes, the deliberate alteration or deletion of data, or deliberately entering false data, contributes to ensuring the accuracy and transparency of the system and therefore the regulated market, and aids in maintaining the confidentiality of Licensee data.

This Rule 3-920 was previously Rules M and R 904, 1 CCR 212-1 and 1 CCR 212-2.

3-920 – Regulated Marijuana Business Reporting Requirements

A. Management Personnel Change Must Be Reported.

1. When Required. A Regulated Marijuana Business shall provide the Division a written report within seven days after any change in management personnel occurs. In addition, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall report any designation or change of Sampling Manager(s) through the Inventory Tracking System.

2. Licensee Must Maintain Record of Reported Change. A Regulated Marijuana Business must also maintain a copy of this written report with its business records.

3. Consequence of Failure to Report. Failure to report a change in a timely manner may result in discipline.

B. Reporting of Crime on the Licensed Premises or Otherwise Related to a Regulated Marijuana Business. A Regulated Marijuana Business and all Licensees employed by the Regulated Marijuana Business shall report to the Division any discovered plan or other action of any Person to (1) commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the subject Regulated Marijuana Business; or (2) compromise the integrity of the Inventory Tracking System. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (B) alters or eliminates any obligation a Regulated Marijuana Business or Licensee may have to report criminal activity to a local law enforcement agency.

Basis and Purpose – 3-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-204(1)(a), 44-10-203(2)(j), 44-10-203(2)(k), 44-10-203(1)(kj), and 44-10-307(1)(e), C.R.S. *See also* articles 21, 22, 26 and 28.8 of title 39, C.R.S. The purpose of this rule is to clarify the Division's authority to provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee, for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes. Such information sharing is for a purpose authorized by the Marijuana Code. This Rule 3-925 was previously Rules M and R 905, 1 CCR 212-1 and 1 CCR 212-2.

3-925 – Department Information Access

A. Department Access to Reports or Other Information. The Division may provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise, and income taxes required by Title 39 of the Colorado Revised Statutes.

B. Confidentiality. Reports or other information provided to or accessed by taxation divisions within the Department for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise, and income taxes required by Title 39 of the Colorado Revised Statutes shall be considered part of the Department's investigation pursuant to subsection 39-21-113(4)(a), C.R.S., and the Division shall continue to maintain such records and information in its possession or control as confidential pursuant to subsection 44-10-204(1)(a), C.R.S.

Basis and Purpose – 3-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-204, 44-10-301, and 44-10-1001(1), C.R.S. This rule identifies the business records a Licensee can request from the Division and how the business records will be provided to the Licensee.

3-930 – Request for Business Records from the Division.

A. A Controlling Beneficial Owner, a Passive Beneficial Owner who is licensed or disclosed to the Division or an authorized representative according to the Division's records may request from the Division a copy of applications which the Controlling Beneficial Owner, the Passive Beneficial Owner or a Regulated Marijuana Business for which the requestor was identified on the ownership structure that has previously been submitted to the Division. The following limitations apply to requests for business records from the Division:

1. Requests for records under this rule are limited to applications submitted by a Licensee in the prior two (2) calendar years during which the requesting Controlling Beneficial Owner or Passive Beneficial Owner that was licensed or disclosed was identified on the Licensee's ownership structure on file with the Division.

2. Applications provided by the Division in response to a request under this rule will not include supporting documents. For example, business records provided by the Division under this rule will not include leases, operating agreements, or premises diagrams.

3. Business records provided to a Controlling Beneficial Owner, Passive Beneficial Owner that was licensed disclosed, or authorized representative under this rule will only be provided in an electronic format and sent only to the Controlling Beneficial Owner, disclosed Passive Beneficial Owner, or to an individual with a valid authorization letter on file with the Division.

B. The Division will not provide any business records or provide business records to any person which could violate the obligation to maintain the confidentiality of documents and information provided by Applicants and Licensees to the State Licensing Authority as provided in Section 44-10-204, C.R.S.

3-1000 Series – Labeling, Packaging, and Product Safety

Basis and Purpose – 3-1005

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(kj), 44-10-203(3)(a)-(b), 44-10-601(2)(a), 44-10-601(5), 44-10-603(1)(d), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define minimum packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product Ttransferred between Regulated Marijuana Businesses. The State Licensing Authority finds it essential to regulate and establish labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product and that this is in the interest of the health and safety of the people of Colorado. This rule identifies information that is required on all labels to provide information necessary for the Division to regulate the cultivation, production, and

sale of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. This rule also seeks to minimize, to the extent practicable, the burden of labeling compliance to Licensees. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. This Rule 3-1005 was previously Rules M and R 1001-1, 1 CCR 212-1 and 1 CCR 212-2.

3-1005 - Packaging and Labeling: Minimum Requirements Prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility

A. Applicability. This Rule establishes minimum requirements for packaging and labeling Regulated Marijuana prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility. See Rule 3-1025 for minimum requirements for packaging and labeling Regulated Marijuana prior to Transfer to a Regulated Marijuana Testing Facility. The labeling requirements in this Rule apply to all Containers immediately containing Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product.

B. Packaging and Labeling of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate, Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana flower, trim, wet whole plant, or Medical Marijuana Concentrate to another Medical Marijuana Business, or Retail Marijuana flower, trim, wet whole plant, or Retail Marijuana Concentrate to another Retail Marijuana Business:

1. Packaging of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate.

   a. Prior to Transfer to a Regulated Marijuana Business, Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be placed into a Container. The Container may but is not required to be Child-Resistant.

   b. Each Container of Regulated Marijuana flower or trim that is Transferred to a Regulated Marijuana Business shall not exceed ~~1~~5~~0~~0 pounds of Regulated Marijuana flower or trim, but may include pre-weighed units that are within the sales limit in Rules 5-115(C),6-110(C), and 6-925(G).

   c. A Container of wet whole plant that is Transferred to a Regulated Marijuana Business may exceed ~~1~~5~~0~~0 pounds, but shall not exceed 100 pounds.

   d. Each Container of Medical Marijuana Concentrate that is Transferred to a Medical Marijuana Business, or Retail Marijuana Concentrate that is Transferred to a Retail Marijuana Business, shall not exceed ~~1~~5~~0~~0 pounds of Medical Marijuana Concentrate or Retail Marijuana Concentrate, but may include pre-weighed units that are within the applicable sales limit in Rules 5-115(C),6-110(C), and 6-925(G).

2. Labeling of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate. Prior to Transfer to a Regulated Marijuana Business, every Container of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be affixed with a label that includes at least the following information:

   a. The license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown, or the Accelerator Cultivator where the Retail Marijuana was grown;

b. The Harvest Batch Number(s) assigned to the Regulated Marijuana or the Production Batch Number(s) assigned to the Regulated Marijuana Concentrate;

c. If applicable, the license number of the Medical Marijuana Cultivation Facility(ies) that produced the ~~Water~~Physical Separation-Based Medical Marijuana Concentrate, the Retail Marijuana Cultivation Facility(ies) that produced the ~~Water~~Physical Separation-Based Retail Marijuana Concentrate, or the license number of the Accelerator Cultivator;

d. If applicable, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Marijuana Concentrate was produced, the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced, or the Accelerator Manufacturer(s) where the Retail Marijuana Concentrate was produced;

e. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container; and

f. Potency test results as required to permit the receiving Regulated Marijuana Business to label the Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate as required by these rules.

g. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. A list of all Ingredients, including Additives, used to manufacture the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

C. Packaging and Labeling of Regulated Marijuana Product Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana Product to another Medical Marijuana Business, or Transferring Retail Marijuana Product to another Retail Marijuana Business:

1. Packaging of Regulated Marijuana Product.

a. Transfer to a Regulated Marijuana Business Other Than a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store, Regulated Marijuana Product shall be placed into a Container. The Container may but is not required to be Child-Resistant.

b. Transfer to a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Medical Marijuana Store or Retail Marijuana Store, all Regulated Marijuana Product shall be packaged in a Child-Resistant Container that is ready for sale to the patient or consumer as required by the Rule 3-1010(D).

2. Labeling of Regulated Marijuana Product.

a. Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store, every Container of Regulated Marijuana Product shall be affixed with a label that includes at least the following information:

i. The license number of the Medical Marijuana Cultivation Facility(ies) where the Medical Marijuana was grown, the Retail Marijuana Cultivation Facility(ies) where the Retail Marijuana was grown, or the Accelerator Cultivator where the Retail Marijuana was grown;

ii. The license number of the Medical Marijuana Products Manufacturer that produced the Medical Marijuana Product, the Retail Marijuana Products Manufacturer that produced the Retail Marijuana Product, or the Accelerator Manufacturer that produced the Retail Marijuana Product;

iii. The Production Batch Number(s) assigned to the Regulated Marijuana Product;

iv. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana Product prior to its placement in the Container; and

v. Potency test results as required to permit the receiving Regulated Marijuana Business to label the Medical Marijuana Product or Retail Marijuana Product as required by these rules.

b. Transfer to a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Medical Marijuana Store or Retail Marijuana Store, every Container of Medical Marijuana Product or Retail Marijuana Product shall be affixed with a label ready for sale to the patient or consumer including all information required by Rules 3-1010(D)(2) and 3-1015(B).

D. Packaging and Labeling of Regulated Marijuana Seeds and Immature Plants Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Regulated Marijuana seeds or Immature plants to another Regulated Marijuana Business:

1. Packaging of Regulated Marijuana Seeds.

a. Prior to Transfer to a Regulated Marijuana Business, Regulated Marijuana seeds shall be placed into a Container. The Container may but is not required to be Child-Resistant.

b. Each Container of Regulated Marijuana seeds that is Transferred to a Regulated Marijuana Business shall not exceed 10 pounds of Regulated Marijuana seeds.

2. Packaging of Immature Plants. Prior to Transfer to a Regulated Marijuana Business, Immature plants shall be placed into a receptacle. The receptacle may but is not required to be Child-Resistant.

3. Labeling of Regulated Marijuana Seeds and Immature Plants. Prior to Transfer to a Regulated Marijuana Business, every Container of Regulated Marijuana seeds and all receptacles holding an Immature plant shall be affixed with a label that includes at least the license number of the Medical Marijuana Cultivation Facility, the Retail Marijuana Cultivation Facility, or the Accelerator Cultivator where the Regulated Marijuana that produced the seeds or the Immature plant was grown.

E. Packaging and Labeling of Sampling Units. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer shall comply with the

following minimum packaging and labeling requirements prior to Transferring any Sampling Unit to a Sampling Manager.

1. Packaging of Sampling Units. Prior to Transfer to a Sampling Manager, a Sampling Unit must be placed in a Container. If the Sampling Unit is Regulated Marijuana flower, trim, Medical Marijuana Concentrate, or Retail Marijuana Concentrate, the Container may, but is not required to, be Child-Resistant; however, the Container shall be placed into a Child-Resistant Exit Package at the point of Transfer to the Sampling Manager. If the Sampling Unit is composed of Regulated Marijuana Product, the Sampling Unit shall be packaged in a Child-Resistant Container.

2. Labeling of Sampling Units. Prior to Transfer to a Sampling Manager, every Container for a Sampling Unit shall be affixed with a label that includes at least the following information:

    a. Required License Number. The license number for the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer Transferring the Sampling Unit.

    b. Batch Number(s). The relevant Harvest Batch number and/or Production Batch number from which the Sampling Unit was designated.

    c. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"

    d. Required Potency Statement.

        i. For a Sampling Unit composed of Regulated Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate, the potency of the Sampling Unit's active THC and CBD expressed as a percentage.

        ii. For a Sampling Unit composed of Regulated Marijuana Product, the potency of the Sampling Unit's active THC and CBD expressed in milligrams. If the potency of the Sampling Unit's active THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg."

        iii. The required potency statement shall be displayed either: (1) In a font that is bold, and enclosed within an outlined shape such as a circle or square; or (2) highlighted with a bright color, such as yellow.

    e. Date of Transfer. The label shall include the date of Transfer to the Sampling Unit.

    f. Patient Number. If the Sampling Unit contains Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product, the label must also include the patient registration number of the recipient Sampling Manager.

    g. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

        i. "This product was received as a Sampling Unit and may have been produced with undisclosed allergens, solvents, or pesticides, and may

pose unknown physical or mental health risks. This product is not for resale and should not be used by anyone else."

F. Prohibited Transfers – All Regulated Marijuana Businesses. A Regulated Marijuana Business shall not Transfer to a Medical Marijuana Store, Retail Marijuana Store, Accelerator Store, or Retail Marijuana Hospitality and Sales Business—and a Medical Marijuana Store, Retail Marijuana Store, Accelerator Store, or Retail Marijuana Hospitality and Sales Business shall not accept nor offer for sale—any Regulated Marijuana that is not packaged and labeled in conformance with the requirements of these rules or that does not provide all information necessary to permit the Medical Marijuana Store, Retail Marijuana Store, Accelerator Store or Retail Marijuana Hospitality and Sales Business to package and label the Regulated Marijuana prior to Transfer to a patient or consumer. However, a Medical Marijuana Store or Retail Marijuana Store is not required to open any tamper evident Marketing Layer received from a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or a Retail Marijuana Products Manufacturer to verify the Container is Child-Resistant or labeled.

G. Shipping Containers. Licensees may Transfer multiple Containers of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product to a Regulated Marijuana Business in a Shipping Container.

1. RFID Tag Required. Licensees shall ensure that either the multiple Containers placed within a Shipping Container each have an RFID tag, or the Shipping Container itself must have an RFID tag. If the Licensee elects to place the RFID tag on the Shipping Container, the Shipping Container shall contain only one Harvest Batch of Regulated Marijuana, one Production Batch of Regulated Marijuana Concentrate, or one Production Batch of Regulated Marijuana Product. If a Shipping Container consists of more than one Harvest Batch or Production Batch, then each group of multiple Containers shall be affixed with an RFID tag. *See* Rule 3-805 – Inventory Tracking System; Rule 3-605 – Transport: All Regulated Marijuana Businesses.

2. Labeling of Shipping Containers. Any Shipping Container that will not be displayed to the consumer is not required to be labeled according to these rules.

H. Packaging and Labeling of Regulated Marijuana Flower and Trim Prior to Transfer to a Pesticide Manufacturer or a Marijuana Research and Development Facility. The packaging and labeling requirements in these 3-1000 Series Rules also apply to any Transfer of Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

I. Marijuana Research and Development Facility Transfers to Persons as Part of an Approved Research Project. Any Marijuana Research and Development Facility conducting research as part of an approved Research Project involving human subjects shall comply with all packaging and labeling requirements that are applicable to a Medical Marijuana Store prior to Transfer to a patient, unless the Marijuana Research and Development Facility requests and receives in advance a waiver of specific packaging or labeling requirements in connection with the approved Research Project.

J. Research Transfers Prohibited. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall not Transfer any Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a Pesticide Manufacturer or a Licensed Research Business.

K. Violation Affecting Public Safety. A violation of any rule in these 3-1000 Series Rules may be considered a license violation affecting public safety.

Basis and Purpose – 3-1010

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(kj), 44-10-203(3)(a)-(b), 44-10-601(2)(a), 44-10-601(5), 44-10-603(1)(d), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define general packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product prior to Transfer to a patient or consumer. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. The State Licensing Authority finds it essential to regulate and establish labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product and that this is in the interest of the health and safety of the people of Colorado. This rule identifies information that is required on all labels to provide necessary information to patients and consumers to make informed decisions and first responders in the event of accidental ingestion, over ingestion or allergic reaction. This rule also seeks to minimize, to the extent practicable, the burden of labeling compliance to Licensees. This Rule 3-1010 was previously Rules M and R 1002-1, 1 CCR 212-1 and 1 CCR 212-2.

3-1010 – Packaging and Labeling: General Requirements Prior to Transfer to a Patient or Consumer

A. Applicability. This Rule establishes general requirements for packaging and labeling Regulated Marijuana prior to Transfer to a patient or consumer. The labeling requirements in this Rule apply to all Containers immediately containing any Regulated Marijuana. The labeling requirements based on intended use in Rule 3-1015 are in addition to, not in lieu of, the requirements in this Rule.

1. Exemption for Transfers to Consumers by a Retail Marijuana Hospitality and Sales Business. Unless otherwise provided by these rules, a Retail Marijuana Hospitality and Sales Business Transferring Retail Marijuana to consumers in compliance with the packaging and labeling requirements of Rule 3-1020 is exempt from the requirements of this Rule.

B. Labeling Requirements – All Regulated Marijuana.

1. Font Size. Required labeling text on the Container and any Marketing Layer must be no smaller than 1/16 of an inch.

2. Labels Shall Not Be Designed to Appeal to Children. A Regulated Marijuana Business shall not place any content on a Container or the Marketing Layer in a manner that reasonably appears to target individuals under the age of 21, including but not limited to, cartoon characters or similar images.

3. False or Misleading Statements. Label(s) on a Container and any Marketing Layer shall not include any false or misleading statements.

4. Trademark Infringement Prohibited. No Container or Marketing Layer shall be intentionally or knowingly labeled so as to cause a reasonable consumer confusion as to whether the Regulated Marijuana is a trademarked product or labeled in a manner that violates any federal trademark law or regulation.

5. Health and Benefit Claims. The label(s) on the Container and any Marketing Layer shall not make any claims regarding health or physical benefits to the patient or consumer.

6. Use of English Language. Labeling text on the Container and any Marketing Layer must be clearly written or printed and in the English language. In addition to the required

English label, Licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.

7. Unobstructed and Conspicuous. Labeling text on the Container and any Marketing Layer must be unobstructed and conspicuous. A Licensee may affix multiple labels to the Container, provided that none of the information required by these rules is obstructed. For example and not by means of limitation, labels may be accordion, expandable, extendable or layered to permit labeling of small Containers.

8. Use of the Word "Candy" and/or "Candies" Prohibited.

   a. Licensees shall not use the word(s) "candy" and/or "candies" on the label of any Container holding Regulated Marijuana, or of any Marketing Layer.

   b. Notwithstanding the requirements of this subparagraph, a Regulated Marijuana Business whose identity statement contains the word(s) "candy" and/or "candies" may place its Identity Statement on the label of the Container holding Regulated Marijuana, or of any Marketing Layer.

9. Child Resistant Certificate(s). A Licensee shall maintain a copy of the certificate showing that each Child-Resistant Container into which the Licensee places Regulated Marijuana is Child-Resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995) in accordance with the requirements of Rule 3-905(A).

   a. Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995), which is available to the public for inspection and copying during the Division's regular business hours.

10. Containers and Marketing Layers. The Container and any Marketing Layer shall have a label with all information required by these 3-1000 Series Rules. Any intermediary packaging between the Container and the Marketing Layer is not required to be labeled in accordance with these rules.

11. Exit Packages.

   a. Exit Packages Permitted for Child-Resistant Containers. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store may but is not required to place a Child-Resistant Container into an Opaque Exit Package at the point of Transfer to the patient or consumer.

   b. Exit Packages Required for Regulated Marijuana Flower, Trim, and Seeds. Any Regulated Marijuana flower, trim, or seeds in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer. The Exit Package is not required to be labeled but may include the Medical Marijuana Store's, Retail Marijuana Store's, or Accelerator Store's Identity Statement and/or Standardized Graphic Symbol.

C. Packaging and Labeling of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate Prior to Transfer to a Patient or Consumer. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana flower and trim, Retail Marijuana flower and trim, Medical Marijuana Concentrate, or Retail Marijuana Concentrate to a patient or consumer:

1. Packaging of Regulated Marijuana Flower and Trim. Prior to Transfer to a patient or a consumer, Regulated Marijuana flower and trim shall be in a Container that does not exceed the sales limit in Rules 5-115(C) and 6-110(C). The Container may but is not required to be Child-Resistant. Any Regulated Marijuana flower and trim in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer.

2. Packaging of Regulated Marijuana Concentrate. Prior to Transfer to a patient or consumer, Regulated Marijuana Concentrate shall be in a Child-Resistant Container that does not exceed the sales limit in Rules 5-115(C) and 6-110(C).

    a. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device that is within an intended use that is listed in Rule 3-1015(B) and is not an Alternative Use Product need not itself be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer.

    b. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device with an intended use that is listed in Rule 3-1015(B) and that is not an Alternative Use Product must be labeled with at least the Universal Symbol, but is not required to include "**Contains Marijuana. Keep away from children.**", prior to Transfer to a patient or consumer. The Universal Symbol shall be legible and no smaller than ¼ of an inch by ¼ of an inch.

    c. A Marketing Layer or Container for a Pressurized Metered Dose Inhaler or Vaporizer Delivery Device must be affixed with a label that states "**Not approved by the FDA.**" ~~For example and not by means of limitation, labels may be affixed using the following methods: accordion, expandable, extendable, layered, tags, or stickers.~~

    d. Nothing in this Rule authorizes the use of a syringe for any type of injection involving a needle piercing the skin.

3. Labeling of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate. Prior to Transfer to a patient or consumer, every Container of Regulated Marijuana flower and trim, or Regulated Marijuana Concentrate and any Marketing Layer shall be affixed with a label that includes at least the following information:

    a. Required License Number(s). The license number for each of the following:

        i. The Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown, or the Accelerator Cultivator where the Retail Marijuana was grown;

        ii. If applicable, the Medical Marijuana Cultivation Facility(ies) where the ~~Water~~Physical Separation-Based Medical Marijuana Concentrate was produced, the Retail Marijuana Cultivation Facility(ies) where the ~~Water~~Physical Separation-Based Retail Marijuana Concentrate was produced, or the Accelerator Cultivator where the ~~Water~~Physical Separation-Based Retail Marijuana Concentrate was produced;

        iii. If applicable, the Medical Marijuana Products Manufacturer where the Medical Marijuana Concentrate was produced, the Retail Marijuana Products Manufacturer where the Retail Marijuana Concentrate was

produced, or the Accelerator Manufacturer where the Retail Marijuana Concentrate was produced ; and

iv. The Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store that sold the Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate to the patient or consumer, except the Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store may affix its license number to the Container or Marketing Layer.

v. Retail Marijuana that was designated as Medical Marijuana pursuant to Rule 5-235, 6-230, 6-730 must be labeled with the license number of the Retail Marijuana Cultivation Facility.

vi. Retail Marijuana Concentrate that was designated as Medical Marijuana Concentrate pursuant to Rule 5-335, 6-335, 6-830 must be labeled with the license number of the Retail Marijuana Products Manufacturer.

b. Batch Numbers. The Harvest Batch Number(s) assigned to the Regulated Marijuana or the Production Batch Number(s) assigned to the Regulated Marijuana Concentrate.

c. Statement of Net Contents. The statement of net contents must identify the net weight of the Regulated Marijuana or net weight or volume of Regulated Marijuana Concentrate prior to its placement in the Container, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: **"Contains Marijuana. Keep away from children."**

e. Required Potency Statement.

i. The potency of Regulated Marijuana flower or trim shall be expressed as: (1) the percentage of total THC and CBD from the test results for that Harvest Batch, or (2) if the Harvest Batch is not required to be tested, either as: (i) a range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed, from every test conducted on that strain of Regulated Marijuana cultivated by the same Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator during the preceding six months or (ii) an average for each cannabinoid listed, from every test conducted on that strain of Regulated Marijuana cultivated by the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator during the preceding six months. If CBD is not detected in Harvest Batch, then Total CBD potency is not required.

ii. The potency of Medical Marijuana Concentrate's or Retail Marijuana Concentrate's Total THC and CBD shall be expressed as a percentage. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Regulated Marijuana, Medical Marijuana Concentrate, and Retail Marijuana Concentrate shall be displayed either: (i) In a font that is bold, and enclosed within an outlined shape such as a circle or square; or (ii) Highlighted with a bright color such as yellow.

~~i. In a font that is bold, and enclosed within an outlined shape such as a circle or square; or~~

~~ii. Highlighted with a bright color such as yellow.~~

f. Date of Sale. The Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall affix the date of sale to the patient or consumer to the Container or Marketing Layer.

g. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

h. Solvent List. A list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

i. Ingredient List Including Major Allergens. If applicable, a list of all Ingredients used to manufacture the Regulated Marijuana Concentrate including identification of any major allergens contained in the Regulated Marijuana Concentrate in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010). The Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010) requires disclosure of the following major food allergens: milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans.

i. Note that this Rule does not include any later amendments or editions to the United States Code. The Division maintains a copy of 21 U.S.C. § 343 (2010), which is available to the public for inspection and copying during the Division's regular business hours.

j. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy.**"

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery**."

k. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers.

i. Ingredient List. A list of all Ingredients, including Additives, used to manufacture the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

ii. Expiration Date. Effective July 1, 2022, a Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall include an expiration date pursuant to Rule 3-335(M).

iii. Storage Conditions. Effective July 1, 2022, a Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall include ideal storage conditions for the

Vaporizer Delivery Device or Pressurized Metered Dose Inhaler pursuant to Rule 3-335(M).

D. Packaging and Labeling of Regulated Marijuana Product and Audited Product. A Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Accelerator Manufacturer, Medical Marijuana Store, Retail Marijuana Store, and an Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring Regulated Marijuana Product:

1. Packaging of Regulated Marijuana Product. Every Regulated Marijuana Product shall be in a Child-Resistant Container at the time of Transfer to a Medical Marijuana Store or Retail Marijuana Store in accordance with the following packaging limits:

a. Regulated Marijuana Product Other than Edible Medical Marijuana Product or Edible Retail Marijuana Product. Medical Marijuana Product that is not Edible Medical Marijuana Product and Retail Marijuana Product that is not Edible Retail Marijuana Product shall be placed into a Child-Resistant Container that does not exceed the sales limit in Rule 5-115(C) and 6-110(C). A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device that is within the intended use that is listed in Rule 3-1015(B) and is not an Alternative Use Product need not itself be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device within an intended use that is listed in Rule 3-1015(B) and that is not an Alternative Use Product must be labeled with at least the Universal Symbol, but is not required to include "**Contains Marijuana. Keep away from children.**", prior to Transfer to a patient or consumer. The Universal Symbol shall be legible and no smaller than ¼ of an inch by ¼ of an inch. Nothing in this Rule authorizes the use of a syringe for any type of injection involving a needle piercing the skin.

b. Edible Medical Marijuana Product. Every Edible Medical Marijuana Product including Liquid Edible Medical Marijuana Product shall be in a Child-Resistant Container. If the Edible Medical Marijuana Product contains multiple portions then it shall be placed into a Child-Resistant Container that is Resealable.

c. Edible Retail Marijuana Product. Edible Retail Marijuana Product shall be in a Child-Resistant Container as follows:

i. Single-Serving Edible Retail Marijuana Product. Every Single-Serving Edible Retail Marijuana Product must be placed into a Child-Resistant Container.

ii. Bundled Single-Serving Edible Retail Marijuana Product. Single-Serving Edible Retail Marijuana Products that are placed into a Child-Resistant Container may be bundled into a larger Marketing Layer so long as the total amount of active THC per Marketing Layer does not exceed 100 milligrams.

iii. Multiple-Serving Edible Retail Marijuana Product. Every Multiple-Serving Edible Retail Marijuana Product shall be placed into a Child-Resistant Container that is Resealable and shall not exceed 100 milligrams of active THC per Container.

d. Liquid Edible Medical Marijuana Product and Liquid Edible Retail Marijuana Product. Liquid Edible Medical Marijuana Product and Liquid Edible Retail Marijuana Product shall be in a Child-Resistant Container as follows:

i. Single-Serving Liquid Edible Medical Marijuana Product Liquid Edible Retail Marijuana Product. Each Liquid Edible Medical Marijuana Product and Liquid Edible Retail Marijuana Product that is a Single-Serving must be packaged in a Child-Resistant Container.

ii. Multiple-Serving Liquid Edible Retail Marijuana Product. Each Liquid Edible Retail Marijuana Product that is a Multiple-Serving Edible Retail Marijuana Product shall be:

a. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving in increments equal to or less than 10 milligrams of active THC per serving, with no more than 100 milligrams of active THC total per Container; and

b. The measurement component is within the Child-Resistant cap or closure of the bottle and is not a separate component.

iii. Multiple-Serving Liquid Edible Medical Marijuana Product. Each Liquid Edible Medical Marijuana Product that is a Multiple-Serving Edible Medical Marijuana Product shall be:

a. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving; and

b. The measurement component is within the Child-Resistant cap or closure of the bottle, and is not a separate component.

e. Audited Product. The Container containing Audited Product for administration by: (i) metered dose nasal spray or (ii) vaginal administration must be Child Resistant and labeled. A Container holding Audited Product for rectal administration need not be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient.

i. A metered dose nasal spray must be affixed with a label that states: "**Not approved by FDA.**"

ii. The Container holding Audited Product for vaginal administration and rectal administration must be affixed with a label that states: "**Not approved by FDA.**"

iii. For example and not by means of limitation, labels may be affixed using the following methods: accordion, expandable, extendable, layered, tags, or stickers.

2. Labeling of Regulated Marijuana Product. Prior to Transfer to a Medical Marijuana Store and a patient, or Retail Marijuana Store or Accelerator Store and a consumer, every Container of Regulated Marijuana Product and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown, or the Accelerator Cultivator where the Retail Marijuana was grown;

ii. The Medical Marijuana Products Manufacturer where the Medical Marijuana Product was produced, the Retail Marijuana Products Manufacturer where the Retail Marijuana Product was produced, or the Accelerator Manufacturer where the Retail Marijuana Product was produced; and

iii. The Medical Marijuana Store that sold the Medical Marijuana Product to a patient, the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer, or the Accelerator Store that sold the Retail Marijuana Product to the consumer, except the Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store may affix its license number to the Container or Marketing Layer.

b. Batch Numbers. The Production Batch Number(s) assigned to the Regulated Marijuana Product.

c. Statement of Net Contents. The statement of net contents must identify the net weight, volume, or number of Regulated Marijuana Products prior to its placement in the Container, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children**."

e. Ingredient List Including Major Allergens. A list of all Ingredients used to manufacture the Regulated Marijuana Product including identification of any major allergens contained in the Regulated Marijuana Product in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010). The Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010) requires disclosure of the following major food allergens: milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans.

i. Note that this Rule does not include any later amendments or editions to the United States Code. The Division maintains a copy of 21 U.S.C. § 343 (2010), which is available to the public for inspection and copying during the Division's regular business hours.

f. Required Potency Statement. The Target Potency or potency value determined from testing by a Regulated Marijuana Testing Facility of the Regulated Marijuana Product's active THC and CBD expressed in milligrams. If the Regulated Marijuana Product's Target Potency or potency value of THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Regulated Marijuana Product, then active CBD potency is not required. The Target Potency or potency value, shall be displayed either:

i. In a font that is bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

g. Solvent List. A list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate used as a production input in any Medical Marijuana Product, or Solvent-Based Retail Marijuana Concentrate used as a production input in any Retail Marijuana Product.

h. Date of Sale. The Medical Marijuana Store or Retail Marijuana Store shall affix the date of sale to the Container or Marketing Layer at the time of Transfer to the patient or consumer.

i. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

j. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy.**"

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery.**"

3. Labeling of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana. Prior to Transfer to a Medical Marijuana Store and a patient, or Retail Marijuana Store or Accelerator Store and a consumer, every Container of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown, or the Accelerator Cultivator where the Retail Marijuana was grown;

ii. The license number of the Regulated Marijuana Business where the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana was produced; and

iii. The Medical Marijuana Store that sold the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana to a patient, the Retail Marijuana Store that sold the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana to the consumer, or the Accelerator Store that sold the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana to the consumer, except the Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store may affix its license number to the Container or Marketing Layer.

b. Batch Numbers. The Production Batch Number(s) assigned to the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana.

c. Statement of Net Contents. The statement of net contents must identify the net weight (excluding the paper, wrapper, filter and/or equivalent) of each Pre-Rolled Marijuana joint or Infused Pre-Rolled Marijuana joint prior to its placement in the Container and the number of joints in each Container of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: **"Contains Marijuana. Keep away from children."**

e. Solvent List. If applicable, a list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate used in the creation of Infused Pre-Rolled Marijuana.

f. Required Potency Statement. The potency of Pre-Rolled Marijuana shall be expressed as: (1) the percentage of total THC and CBD from the test results of each Production Batch, or (2) if each Production Batch is not required to be tested, either as: (i) a range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed, from every test conducted for a particular type of Pre-Rolled Marijuana produced by the same Regulated Marijuana Business during the preceding six months or (ii) an average for each cannabinoid listed, from every test conducted for a particular type of Pre-Rolled Marijuana produced by the same Regulated Marijuana Business during the preceding six months. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Infused Pre-Rolled Marijuana shall be expressed as the percentages of total THC and CBD from the test results of each Production Batch. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana shall be displayed either:

i. In a font that is bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

g. Date of Sale. The Medical Marijuana Store or Retail Marijuana Store shall affix the date of sale to the Container or Marketing Layer at the time of Transfer to the patient or consumer.

h. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

i. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

ii. **"There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery."**

E. Packaging and Labeling of Seeds and Immature Plants Prior to Transfer to a Patient or Consumer. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring seeds or Immature plants to a patient or consumer:

1. Packaging of Regulated Marijuana Seeds. Prior to Transfer to a patient or consumer, Regulated Marijuana seeds shall be in a Container. The Container may but is not required to be Child-Resistant. Any Regulated Marijuana seeds in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer.

2. Packaging of Immature Plants. Prior to Transfer to a patient or consumer, Immature plants shall be placed into a receptacle. The receptacle may but is not required to be Child-Resistant.

3. Labeling of Seeds and Immature Plants. Prior to Transfer to a patient or consumer, every Container holding Regulated Marijuana seeds and any receptacle containing an Immature plant must be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Medical Marijuana Cultivation Facility where the Medical Marijuana that produced the seeds or Immature plant was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana that produced the seeds or the Immature plant was grown, or the Accelerator Cultivator where the Retail Marijuana that produced the seeds or the Immature plant was grown; and

ii. The Medical Marijuana Store that sold the seeds or Immature plant to the patient, the Retail Marijuana Store that sold the seeds or Immature plant to the consumer, or the Accelerator Store that sold the seeds or Immature plant to the consumer.

b. Universal Symbol. The Universal Symbol on the front of the Container holding seeds and the receptacle containing each Immature plant, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"

c. Statement of Net Contents for Seeds. A statement of net contents identifying the number of seeds in the Container.

d. Date of Sale. The Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall affix the date of sale to the patient or consumer to the Container or receptacle.

e. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or receptacle at the time of Transfer to the patient.

f. Required Warning Statements:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy**."

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery**."

F. Permissive Information.

1. Identity Statement. A label affixed to a Container of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product or any Marketing Layer may include, but is not required to include, the Identity Statement and/or Standardized Graphic Symbol for:

a. The Medical Marijuana Cultivation Facility(ies) where the Medical Marijuana was grown, the Retail Marijuana Cultivation Facility(ies) where the Retail Marijuana was grown, or the Accelerator Cultivator where the Retail Marijuana was grown;

b. The Medical Marijuana Products Manufacturer that manufactured the Medical Marijuana Product or Medical Marijuana Concentrate, the Retail Marijuana Products Manufacturer that manufactured the Retail Marijuana Product or Retail Marijuana Concentrate, or the Accelerator Manufacturer that manufactured the Retail Marijuana Product or Retail Marijuana Concentrate; and/or

c. The Medical Marijuana Store that sold the Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product, the Retail Marijuana Store that sold the Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product, or the Accelerator Store that sold the Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product.

2. Nutritional Fact Panel. Label(s) may include, but are not required to include, a nutritional fact panel or dietary supplement fact panel in substantial conformance with 21 CFR 101.9 (2016) or 21 C.F.R. 101.36 (2016) as follows:

a. For Edible Medical Marijuana Products or Edible Retail Marijuana Products other than pills, capsules, and tinctures and Food-Based Medical Marijuana Concentrate or Food-Based Retail Marijuana Concentrate the nutritional fact panel shall be in substantial conformance with the requirements of 21 C.F.R. 101.9(C) (2016) which provides the FDA's nutritional labeling requirements for food;

b. For pills, capsules, and tinctures, the dietary supplement fact panel shall be in substantial conformance with the requirements of 21 C.F.R. 101.36 (2016) which provides the FDA's nutritional labeling requirements for dietary supplements.

i. Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division maintains copies of 21 C.F.R. 101.9(C) (2016) and 21 C.F.R. 101.36 (2016), which are available to the public for inspection and copying during the Division's regular business hours.

3. Other Permissive Information. The labeling requirements in the 3-1000 Series Rules provide only the minimum labeling requirements. Licensees may include additional information on the label(s) so long as such information is consistent with the requirements of these Rules.

Basis and Purpose – 3-1015

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(d)(IV)(A)-(C), 44-10-203(2)(f), 44-10-203(2)(w), 44-10-203(1)(a), 44-10-601(2)(a), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define additional labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and/or Regulated Marijuana Product (except Regulated Marijuana seeds and Immature plants) based on its intended use. These labeling requirements are in addition to, not in lieu of, the labeling requirements in Rule 3-1010. This Rule 3-1015 was previously Rules M and R 1003-1, 1 CCR 212-1 and 1 CCR 212-2.

3-1015 – Additional Labeling Requirements Prior to Transfer to a Patient or Consumer

A. Applicability. This Rule establishes additional labeling requirements for Regulated Marijuana (except seeds and Immature plants), Regulated Marijuana Concentrate, and Regulated Marijuana Product prior to Transfer to a patient or consumer. The labeling requirements in this Rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. These labeling requirements based on intended use are in addition to, not in lieu of, the requirements in Rule 3-1010.

1. Exemption for Transfers to Consumers by a Retail Marijuana Hospitality and Sales Business. Unless otherwise provided by these rules, a Retail Marijuana Hospitality and Sales Business Transferring Retail Marijuana to consumers in compliance with the packaging and labeling requirements of Rule 3-1020 is exempt from the requirements of this Rule.

B. Additional Information Required on Every Container (Except Seeds and Immature Plants) Prior to Transfer to a Patient or Consumer. Prior to Transfer to a patient or consumer, every Container of Regulated Marijuana (except seeds and Immature plants), Regulated Marijuana Concentrate, or Regulated Marijuana Product and any Marketing Layer must have a label that includes at least the following additional information.

1. Statement of Intended Use. The Container and any Marketing Layer shall identify one or more intended use(s) for Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product from the following exclusive list:

a. Inhaled Product:

i. Flower, ~~or Trim (including pre-rolled joint and Kief)~~ shake, or trim;

ii. Pre-Rolled Marijuana and Infused-Pre-Rolled Marijuana;

iii. Solvent-Based Medical Marijuana Concentrate;

iv~~ii~~. Solvent-Based Retail Marijuana Concentrate;

~~i~~v. ~~Water~~Physical Separation-Based Medical Marijuana Concentrate;

vi. Physical Separation~~Water~~-Based Retail Marijuana Concentrate;

vii. Heat/Pressure-Based Medical Marijuana Concentrate;

viii. Heat/Pressure-Based Retail Marijuana Concentrate;

ix~~viii~~. Vaporizer Delivery Device;

~~i~~x. Pressurized Metered Dose Inhaler.

b. For Oral Consumption:

i. Food or drink infused with Regulated Marijuana;

ii. Regulated Marijuana Concentrate intended to be consumed orally;

iii. Pills and capsules;

iv. Tinctures.

c. Skin and Body Products:

i. Topical;

ii. Transdermal.

d. Audited Product:

i. Metered Dose Nasal Spray;

ii. Vaginal Administration;

iii. Rectal Administration.

2. Inhaled Product. The "Inhaled Product" intended use may be used only for products intended for consumption by smoking or Vaporizer Delivery Device where the product is heated or burned prior to consumption, or through use of a Pressurized Metered Dose Inhaler. The label(s) on all inhaled product intended use shall also include:

a. The potency statement required by Rule 3-1010 for: (1) flower, shake, or trim ~~(including pre-rolls and Kief)~~, (2) Pre-Rolled Marijuana, (3) Infused-Pre-Rolled Marijuana, (4) Solvent-Based Medical Marijuana Concentrate, (~~5~~3) Solvent-Based Retail Marijuana Concentrate, (~~6~~4) Physical Separation~~Water~~-Based Medical Marijuana Concentrate, (~~7~~5) Physical Separation~~Water~~-Based Retail Marijuana Concentrate, (~~8~~6) Heat/Pressure-Based Medical Marijuana Concentrate, (~~9~~7) Heat/Pressure-Based Retail Marijuana Concentrate shall be stated as the percentage of Total THC and CBD. If CBD is not detected, then total CBD potency is not required.

b. The potency statement required by Rule 3-1010 for Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers shall be stated as either the percentage of Total THC and CBD, or the number of milligrams of Total THC and CBD, per cartridge, pen, or inhaler. If the potency value for Total THC or CBD of the Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers is less than one milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler, then total CBD potency is not required.

3. For Oral Consumption. The label(s) on all Edible Medical Marijuana Products and Edible Retail Marijuana Products, including but not limited to confections, liquids, pills, capsules and tinctures, shall also include:

a. Potency Statement. The potency statement required by Rule 3-1010 shall be stated as: (1) milligrams of active THC and CBD per serving and (2) milligrams of active THC and CBD per Container where the Container contains more than one

serving. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required.

i. If the Edible Medical Marijuana Product's or Edible Retail Marijuana Product's Target Potency or potency value of active THC or CBD is less than one milligram per serving, the potency may be expressed as "<1 mg." If "<1 mg" was used to display the active THC or CBD per serving, then a corresponding statement regarding the total THC or CBD content for the entire Container shall be included on the Container. For example, if there are five servings in the Container, "<5 mg" should be displayed for the active THC or CBD statement that was represented as "<1 mg" per serving.

b. Additional Warning Statement Required. The following additional warning statement shall be included on the label on the Container or Marketing Layer for all Edible Medical Marijuana Product and Edible Retail Marijuana Product: **"The intoxicating effects of this product may be delayed by up to 4 hours.**"

c. Expiration/Use-By Date. A product expiration date, upon which the Edible Medical Marijuana Product or Edible Retail Marijuana Product will no longer be fit for consumption, or a use-by-date, upon which the Edible Medical Marijuana Product or Edible Retail Marijuana Product will no longer be optimally fresh. Once a label with an expiration or use-by date has been affixed to a Container containing an Edible Medical Marijuana Product or Edible Retail Marijuana Product and any Marketing Layer, a Licensee shall not alter that expiration or use-by date or affix a new label with a later expiration or use-by date.

d. Production Date. The date on which the Edible Medical Marijuana Product or Edible Retail Marijuana Product was produced which may be included in the Batch Number required by Rule 3-1010.

e. Statement Regarding Refrigeration. If an Edible Medical Marijuana Product or Edible Retail Marijuana Product is perishable, a statement that the product must be refrigerated.

4. Skin and Body Products (Topical and Transdermal). The "Skin and Body Products" intended use may be used only for products intended for consumption by topical or transdermal application, and must be intended for external use only. The label(s) on all skin and body products shall also include:

a. Topical Product Potency Statement. For topical product the potency statement required by Rule 3-1010 shall be stated as the number of milligrams of active THC and CBD per Container. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required. If the THC or CBD comprises less than one percent of the total cannabinoids, the potency may be expressed as less than one percent of the total cannabinoids.

b. Transdermal Product Potency Statement. For transdermal product, the potency statement required by Rule 3-1010 shall be stated as the number of milligrams of active THC and CBD per transdermal product, and the total number of milligrams of active THC and CBD per Container. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required.

i. If the transdermal product's Target Potency or potency value of active THC or CBD is less than one milligram per transdermal product, the potency may be expressed as "<1 mg." If "<1 mg" was used to display the active THC or CBD per transdermal product, then a corresponding statement regarding the total THC or CBD content for the entire Container shall be included on the Container. For example, if there are five servings in the Container, "<5 mg" should be displayed for the active THC or CBD statement that was represented as "<1 mg" per serving.

c. Expiration/Use-By Date. A product expiration or use-by date, after which the skin and body product will no longer be fit for use. Once a label with an expiration or use-by date has been affixed to any Container holding a skin and body product and any Marketing Layer, a Licensee shall not alter that expiration or use-by date or affix a new label with a later expiration or use-by date.

d. Production Date. The date on which the skin and body product was produced which may be included in the Batch Number required by Rule 3-1010.

5. Audited Product. Packaging and labeling for all Audited Products: (i) metered dose nasal spray, (ii) vaginal administration, or (iii) rectal administration shall include:

a. All packaging and labeling requirements required by this 3-1000 Series for Regulated Marijuana Products; except Rules 5-325 and 6-325 control where the context otherwise clearly requires.

b. Audited Product shall be packaged and labeled for Transfer to a patient or consumer prior to Transfer from a Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer.

c. Expiration/Use-By Date. A product expiration date that is appropriate for the Audited Product when stored at room temperature as verified by testing required by Rules 5-325 and 6-325. Once a label with an expiration date has been affixed to a Container containing and Audited Product, a Licensee shall not alter that expiration date, or affix a new label with a later expiration date.

d. Production Date. The date on which the Audited Product was produced, which may be included in the Batch Number required by Rule 3-1010.

C. No Other Intended Use Permitted. No intended use other than those identified in this Rule shall be identified on any label, except as permitted by an Alternative Use Designation approved by the State Licensing Authority pursuant to Rules 5-325 and 6-325. Licensees shall accurately identify all intended use(s) from the exclusive list of intended uses in this Rule, or as required by the Alternative Use Designation, on the label.

1. Alternative Use Product. No Regulated Marijuana Business shall Transfer or accept an Alternative Use Product unless the Alternative Use Product received an Alternative Use Designation in accordance with Rules 5-325 and 6-325 and complied with all the requirements of Rules 5-325, 6-325, and 3-1005 through 3-1015, and with any additional packaging and labeling requirements identified in the Alternative Use Designation. At a minimum the label(s) on all Alternative Use Products shall include:

a. All packaging and labeling requirements applicable to the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer by these 3-1000 Series Rules unless inconsistent with the Alternative Use Designation in which case the Alternative Use Designation shall control.

b. Expiration/Use-By Date. A product expiration date that is appropriate for the Alternative Use Product when stored at room temperature as verified by a Regulated Marijuana Testing Facility. Once a label with an expiration date has been affixed to a Container containing Alternative Use Product, a Licensee shall not alter that expiration date, or affix a new label with a later expiration date.

c. Production Date. The date on which the Alternative Use Product was produced, which may be included in the Batch Number required by Rule 3-1010.

d. All other requirements identified by the Alternative Use Designation.

D. Multiple Intended Uses. Any Regulated Marijuana having more than one intended use shall identify every intended use on the label and shall comply with all labeling requirements for each intended use. If there is any conflict between the labeling requirements for multiple intended uses, the most restrictive labeling requirements shall be followed. Licensees shall not counsel or advise any patient or consumer to use Regulated Marijuana other than in accordance with the intended use(s) identified on the label.

Basis and Purpose – 3-1020

The statutory authority for this rule includes but is not limited to 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to define minimum packaging and labeling requirements for Retail Marijuana Hospitality and Sales Businesses.

3-1020 – Packaging and Labeling: Requirements for Transfers to a Consumer at a Retail Marijuana Hospitality and Sales Business

A. Applicability. This Rule establishes minimum requirements for packaging and labeling Retail Marijuana Transferred to a consumer at a Retail Marijuana Hospitality and Sales Business.

B. Packaging and Labeling Exemptions and Minimum Requirements. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and labeling under the following conditions:

1. The consumer intends to consume the Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business;

2. At the time of Transfer to a consumer, the Retail Marijuana Hospitality and Sales Business provides the consumer with a written statement of the potency of the Retail Marijuana's active THC and CBD, which shall be expressed as a percentage for Retail Marijuana and Retail Marijuana Concentrate, and expressed in milligrams for Retail Marijuana Product. If CBD is not detected in the Retail Marijuana, then active CBD potency is not required;

3. The Retail Marijuana Hospitality and Sales Business maintains within the Restricted Access Area of the Licensed Premises—and makes available to the consumer upon request—written or electronic documentation reflecting all relevant information required in Rules 3-1010 and 3-1015; and

4. For Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product, the Retail Marijuana Hospitality and Sales Business shall at the time of Transfer to the consumer provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

C. Packaging and Labeling Required Before Retail Marijuana is Removed from the Licensed Premises. Prior to a consumer removing any unconsumed Retail Marijuana from the Licensed Premises, the Retail Marijuana Hospitality and Sales Business shall:

1. Provide the consumer with written or electronic documentation reflecting all relevant information required in Rules 3-1010 and 3-1015; and

2. Place the unconsumed Retail Marijuana into a Child-Resistant Container, or if the Container is not Child-Resistant, a Child-Resistant Exit Package. The Container must be affixed with a label that includes at least the following:

   i. Universal Symbol. The Universal Symbol on the Container, no smaller than ½ inch by ½ inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"; and

   ii. Required Potency Statement. A written statement of the potency of the Retail Marijuana's total THC and CBD expressed as a percentage. A written statement of the potency of the Retail Marijuana Product's active THC and CBD expressed in milligrams. If the potency of the Regulated Marijuana Product's active THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Retail Marijuana, then active CBD potency is not required.

   iii. For Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product, the Retail Marijuana Hospitality and Sales Business shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

D. Additional Packaging and Labeling Requirements for Retail Marijuana Hospitality and Sales Businesses.

1. Font Size. Required labeling text on the Container must be no smaller than 1/16 of an inch.

2. Labels Shall Not Be Designed to Appeal to Children. A Retail Marijuana Hospitality and Sales Business shall not place any content on a Container that reasonably appears to target individuals under the age of 21, including but not limited to, cartoon characters or similar images.

3. False or Misleading Statements. Label(s) on a Container shall not include any false or misleading statements.

4. Trademark Infringement Prohibited. No Container shall be intentionally or knowingly labeled so as to cause a reasonable consumer confusion as to whether the Retail Marijuana is a trademarked product or labeled in a manner that violates any federal trademark law or regulation.

5. Health and Benefit Claims. The label(s) on the Container shall not make any claims regarding health or physical benefits to the consumer.

6. Use of English Language. Labeling text on the Container must be clearly written or printed and in the English language. In addition to the required English label, Licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.

7. Unobstructed and Conspicuous. Labeling text on the Container must be unobstructed and conspicuous. A Licensee may affix multiple labels to the Container, provided that none of the information required by these rules is obstructed. For example and not by means of limitation, labels may be accordion, expandable, extendable or layered to permit labeling of small Containers.

8. Use of the Word "Candy" and/or "Candies" Prohibited. Licensees shall not use the word(s) "candy" and/or "candies" on the label of any Container.

9. Child Resistant Certificate(s). A Licensee shall maintain a copy of the certificate showing that each Child-Resistant Container into which the Licensee places Retail Marijuana is Child-Resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995) in accordance with the requirements of Rule 3-905(A). Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995), which is available to the public for inspection and copying during the Division's regular business hours.

Basis and Purpose – 3-1025

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(kj), 44-10-203(3)(a)-(b) The purpose of this rule is to define minimum packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product Ttransferred to a Regulated Marijuana Testing Facility. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product being Ttransferred to a Regulated Marijuana Testing Facility.

3-1025 – Packaging and Labeling: Minimum Requirements for Test Batch Transfers to a Regulated Marijuana Testing Facility

A. Applicability. This Rule establishes minimum requirements for packaging and labeling of Regulated Marijuana Test Batches prior to Transfer to a Regulated Marijuana Testing Facility. The labeling requirements in this Rule apply to all Containers immediately containing Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product.

B. Packaging and Labeling of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate, Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Medical Marijuana flower, trim, wet whole plant, or Medical Marijuana Concentrate to a Medical Marijuana Testing Facility, and prior to Transferring Test Batches of Retail Marijuana flower, trim, wet whole plant, or Retail Marijuana Concentrate to a Retail Marijuana Testing Facility:

1. Packaging of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant and Regulated Marijuana Concentrate.

a. A Licensee shall submit Test Batches of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate in a transparent Container to allow for the Samples of the Test Batch to be photo documented.

b. Each Container containing a Test Batch of Regulated Marijuana flower, trim, or wet whole plant shall have at least 20% empty space. Test Batch Containers

shall not be completely full so that individual Samples of the Test Batch can be photo documented.

c. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. Test Batches from Production Batches of Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers must be packaged in the hardware or inhaler, respectively, that allows for the consumption.

2. Labeling of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant and Regulated Marijuana Concentrate. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be affixed with a label that includes at least the following information, some of which may be included on the Inventory Tracking System RFID Tag:

a. For Test Batches from Harvest Batches, the license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, or the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown;

b. For Test Batches of Concentrates from Production Batches, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Concentrate was produced, or the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced; and

c. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container.

C. Packaging and Labeling of Test Batches of Regulated Marijuana Product Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Regulated Marijuana Product to a Regulated Marijuana Testing Facility:

1. Packaging Test Batches of Regulated Marijuana Product.

a. Prior to any Transfer of a Test Batch to a Regulated Marijuana Testing Facility, the Test Batch of Regulated Marijuana Product subject to testing shall be placed into the Container(s) in which the rest of the Production Batch will be sold. The Container may but is not required to be Child-Resistant.

2. Labeling of Test Batches of Regulated Marijuana Product. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Regulated Marijuana Product shall be affixed with a label, which can be noted on the Inventory Tracking System RFID Tag, that includes at least the following information:

a. The license number of the Medical Marijuana Products Manufacturer or the Retail Marijuana Products Manufacturer that produced the Regulated Marijuana Product;

b. The Production Batch Number(s) assigned to the Regulated Marijuana Product;

c. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana Product prior to its placement in the Container; and

d. The serving size, number of serving per package, and the Target Potency as required for a Regulated Marijuana Testing Facility to assess potency variance.

D. Packaging and Labeling of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana to a Medical Marijuana Testing Facility, and prior to Transferring Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana to a Retail Marijuana Testing Facility:

1. Packaging of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

a. Prior to any Transfer of a Test Batch to a Regulated Marijuana Testing Facility, the Test Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana subject to testing shall be placed into the Container(s) in which the rest of the Production Batch will be sold. The Container may but is not required to be Child-Resistant.

2. Labeling of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana shall be affixed with a label that includes at least the following information, some of which may be included on the Inventory Tracking System RFID Tag:

a. For Test Batches from Harvest Batches, the license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, or the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown which was used to create Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

b. For Test Batches of Concentrates from Production Batches, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Concentrate was produced, or the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced which was used to create Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

c. The Production Batch Number(s) assigned to the Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana; and

d. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container.

3-1100 Series – Accelerator Program Operations

Basis and Purpose – 3-1105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Accelerator Licensees participating in the accelerator program. The Accelerator Program permits different structures. The first option is for the Accelerator-Endorsed Licensee and the Accelerator Licensee to have a mentor/apprentice relationship at the same premises pursuant to Rules 3-1105 and 3-1110. The second option is for the Accelerator-Endorsed Licensee and the Accelerator Licensee to have a separate premises relationship pursuant to Rules 3-1105 and 3-1115.

3-1105 – Accelerator Program Participation and Privileges

A. Licensed Premises. An Accelerator Licensee may share a Licensed Premises or operate at a separate premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store that is an Accelerator-Endorsed Licensee.

1. Shared Premises. An Accelerator Licensee may share the Licensed Premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store pursuant to this Rule 3-1105 and Rule 3-1110.

2. Separate Premises. An Accelerator Licensee participating in the accelerator program may operate at a separate premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store pursuant to this Rule 3-1105 and Rule 3-1115.

B. Number of Licenses held by an Accelerator Licensee.

1. An Accelerator Licensee may initially apply to be an Accelerator Cultivator, Accelerator Manufacturer or Accelerator Store and hold a single license.

2. After 180 days of demonstrated operations, an Accelerator Licensee may apply for additional accelerator licenses, which may include different accelerator license types. An Accelerator Licensee may not apply for more than one accelerator license until at least 180 days of demonstrated operations.

3. A Controlling Beneficial Owner who holds an accelerator license shall not have an Owner's Interest in more than three of the same accelerator license type. No Controlling Beneficial Owner shall have an Owner's Interest in more than nine total accelerator licenses.

C. Accelerator-Endorsed Licensee Required Equity Assistance Proposal.

1. An Accelerator-Endorsed Licensee must disclose its equity assistance proposal to the Division and to any prospective Social Equity Licensee pursuant to Rule 2-285 and these 3-1100 Series Rules prior to entering any contractual agreements with an Accelerator Licensee.

2. Required Information. An equity assistance proposal must detail the technical, compliance, and/or capital assistance the Accelerator-Endorsed Licensee intends to provide an Accelerator Licensee. All equity assistance proposals must, at a minimum, including the following:

a. The types of assistance the Accelerator-Endorsed Licensee intends to provide, which may include but is not limited to, the following types of assistance:

i. Accounting;

ii. Business services (e.g. sales and marketing);

iii. Financial or capital support;

iv. Information technology support;

v. Access to legal services from an attorney licensed in the state of Colorado; or

vi. Regulatory compliance support.

b. Whether the Accelerator-Endorsed Licensee intends to subcontract with any third parties to provide technical or compliance assistance, and the identity of the prospective third parties, if known;

c. Any applicable timelines associated with the provisions of the assistance the Accelerator-Endorsed Licensee intends to provide;

d. Whether the Accelerator-Endorsed Licensee intends to charge rent for a prospective Accelerator Licensee's use of the premises, and the amount of rent and required deposits, if applicable;

e. How the Accelerator-Endorsed Licensee plans to protect or minimize disruptions on a prospective Accelerator Licensee in the event of a change of Controlling Beneficial Owner of the Accelerator-Endorsed Licensee's license; and

f. Whether the Accelerator-Endorsed Licensee has been subject to any administrative action by the State Licensing Authority or the Local Jurisdiction within the preceding two years and, if so, whether there are any restrictions on the Licensee as a result of such administrative action.

3. Voluntary Information. An equity assistance proposal may, but is not required to, include additional information about the Accelerator-Endorsed Licensee, including but not limited to the following:

a. The Accelerator-Endorsed Licensee's business objectives and organizational values;

b. A description of the Accelerator-Endorsed Licensee's work environment;

c. Information regarding the Accelerator-Endorsed Licensee's business profile, including company size, revenue, and distribution capabilities;

d. Any educational or training assistance provided to the Accelerator Licensee in navigating human resources matters; and

e. Any other information that may be useful to informing prospective Accelerator Licensees and determining compatibility between an Accelerator-Endorsed Licensee and Accelerator Licensee.

4. Modification of Equity Assistance Proposal. Nothing in these rules shall preclude an Accelerator-Endorsed Licensee from amending or modifying its equity assistance proposal. The Accelerator-Endorsed Licensee shall submit the updated equity assistance proposal to the Division within 30 days of finalizing any such amendments or modifications.

5. The Accelerator-Endorsed Licensee may request that a prospective Social Equity Licensee enter into a non-disclosure agreement prior to providing the prospective Social Equity Licensee a copy of the Accelerator-Endorsed Licensee's equity assistance proposal in order to ensure the information remains confidential.

D. Equity Partnership Agreement – General Requirements. Prior to hosting or offering technical and/or capital support to an Accelerator Licensee, an Accelerator-Endorsed Licensee must first enter into an equity partnership agreement with the Accelerator Licensee. In addition to any other requirements in Rules 3-1110 and 3-1115, an equity partnership agreement must include the following minimum requirements:

1. The equity partnership agreement must be executed by both the Accelerator-Endorsed Licensee and the Accelerator Licensee.

2. The executed equity partnership agreement must represent the full legal and business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee unless additional agreements are permitted or required pursuant to Rules 3-1110 or Rule 3-1115.

3. The executed equity partnership agreement shall at a minimum, include the following:

   a. A description of the types of technical, compliance, and/or capital assistance the Accelerator-Endorsed Licensee is providing to the Accelerator Licensee;

   b. The timeline associate with the assistance the Accelerator-Endorsed Licensee is providing;

   c. If the Accelerator-Endorsed Licensee is charging rent for the Accelerator Licensee's use of the Licensed Premises, the rent amount, any required deposits, and length of lease;

   d. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to the Accelerator Licensee in the event of a change of owner of the Accelerator-Endorsed Licensee's license;

   e. Conditions for amendments to the equity partnership agreement; and

   f. Conditions for dissolution of the equity partnership agreement.

4. An Accelerator-Endorsed Licensee must provide technical, compliance, and/or capital assistance to an Accelerator Licensee pursuant to its equity partnership agreement with an Accelerator Licensee. An Accelerator-Endorsed Licensee may provide technical and/or compliance assistance to an Accelerator Licensee through third parties. However, an equity partnership agreement cannot require an Accelerator Licensee to receive such assistance from a specific provider unless permitted pursuant to Rule 3-1115.

E. There shall not be any agreement(s) or contracts between the Accelerator-Endorsed Licensee and the Accelerator Licensee that are not disclosed to the Division.

F. Dissolution of Business Relationship. If the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee dissolves, both parties must notify the Division within 10 days. The notification of dissolution must include the reasons for the dissolution of the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee.

1. The Accelerator Licensee will have until renewal of the Accelerator License to identify a new Accelerator-Endorsed Licensee or apply for a new Regulated Marijuana Business license unless this deadline is extended by the Division. The Division may waive or reduce the application and/or licensing fees affiliated with the application. However, the Accelerator Licensee cannot operate without a Licensed Premises or an executed and valid equity partnership agreement with an Accelerator-Endorsed Licensee.

2. Upon notification of dissolution of the accelerator business relationship, the Division will determine whether the Accelerator-Endorsed Licensee retains the social equity leader designation for that calendar year.

G. Additional Privileges for Accelerator-Endorsed Licensees.

1. Social Equity Leader Designation. A Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee and that is operating under an equity partnership agreement with an Accelerator Licensee may be designated by the Division as a social equity leader for each year the Accelerator-Endorsed Licensee hosts an Accelerator Licensee on its premises. A social equity leader may use a logo or symbol created or approved by the Division to indicate its leadership status. The Accelerator-Endorsed Licensee may only use the social equity leader logo or symbol while the designation remains valid.

2. Mitigation. The Division and the State Licensing Authority may consider a social equity leader designation as a mitigating factor when determining the initiation of administrative action or assessment of penalties.

3. Compliance Assistance and Education Engagement. For an Accelerator-Endorsed Licensee operating under an equity partnership agreement with an Accelerator Licensee, the Division will conduct an on-site compliance assistance and education engagement with the Accelerator-Endorsed Licensee for purposes of supporting the Licensee's activities as an Accelerator-Endorsed Licensee.

4. Application and License Fee Exemptions. An Accelerator-Endorsed Licensee may submit a request to the State Licensing Authority for an exemption from application and license fees for a change of Controlling Beneficial Owner, change of location, or modification of premises that is directly related to its participation in the accelerator program.

    a. The request for an exemption may be included with the submission of the application for which it is requesting an exemption from fees. The request for exemption must include any information demonstrating the application is related to its participation in the accelerator program, including but not limited to, the positive impact to the Accelerator Licensee.

    b. If a request for an exemption is denied, the Applicant shall submit required fees within 10 days from notice that the fee exemption request was denied. Failure to submit required fees may result in denial of the application.

Basis and Purpose – 3-1110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Social Equity Licensees to participate in the accelerator program. This option is for the Accelerator-Endorsed Licensee and the Social Equity Licensee to have a mentor/apprentice type relationship pursuant to Rules 3-1105 and 3-1110.

3-1110 – Accelerator Shared Premises

A. Equity Assistance Plan – Additional Requirements. In addition to all equity assistance proposal requirements outlined in Rule 3-1105(C)(1), an Accelerator-Endorsed Licensee intending to share its Licensed Premises with an Accelerator Licensee must also include the following in tis equity assistance proposal:

    1. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to a prospective Accelerator Licensee in the event of a change of location of the Accelerator-Endorsed Licensee's Licensed Premises;

2. The extent to which the Accelerator-Endorsed Licensee will provide equipment, ingredients, or other resources to an Accelerator Licensee pursuant to an equity partnership agreement.

B. Equity Partnership Agreement – Additional Requirements. An Accelerator-Endorsed Licensee's equity assistance proposal that includes the information required by Rule 3-1105 and this Rule 3-1110 may also serve as the equity partnership agreement.

1. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to the Accelerator Licensee in the event of a change of location of the Accelerator-Endorsed Licensee's Licensed Premises;

2. Any intellectual property protections or restrictions;

3. Any agreements about operational control of any shared equipment, premises, or shared personnel;

4. Any agreements related to division of liability pursuant this Rule; and

5. Any non-disclosure agreements.

C. Division of Liability.

1. Shared Equipment. An Accelerator-Endorsed Licensee and Accelerator Licensee may share equipment in the same Licensed Premises if they have standard operating procedures addressing the following:

a. Rotational/time schedule for utilizing equipment;

b. Changes to the schedule; and

c. Sanitizing equipment.

2. Shared Ingredients and/or Co-Mingling of Inventory. An Accelerator-Endorsed Licensee and Accelerator Licensee may share non-marijuana ingredients such as soil, growing medium, fertilizers, sugar, flour, etc. If the Accelerator-Endorsed Licensee and the Accelerator Licensee share non-marijuana ingredients, they must have standard operating procedures for the protection, use, and maintenance of such products.

3. Inventory Tracking and Record Keeping. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with the Inventory Tracking Requirements in the 3-800 Series Rules and all business records requirements in the 3-900 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements such as purchasing RFID tags for use by the Accelerator Licensee.

4. Security and Surveillance. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with security and surveillance requirements in the 3-220 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements.

5. Other. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee will be jointly liable for any violations related to the Licensed Premises, security requirements, video surveillance requirements, health and safety requirements, possession limits, and

waste rules, unless the Licensees have expressly established severed liability in the equity partnership agreement. It may be considered mitigation if the Accelerator-Endorsed Licensee demonstrated the Accelerator Licensee failed to comply with the standard operating procedures.

D. Accelerator License Operational Control. The Accelerator-Endorsed Licensee and the Accelerator Licensee may define the division of operational control of equipment in the shared premises.

E. Intellectual Property Protections. The Accelerator-Endorsed Licensee and the Accelerator Licensee shall maintain control over their individual intellectual property unless expressly agreed to in the equity partnership agreement.

Basis and Purpose – 3-1115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Social Equity Licensees participating in the accelerator program. This option allows the Accelerator-Endorsed Licensee and the Social Equity Licensee to have a separate premises relationship pursuant to Rules 3-1105 and 3-1115.

3-1115 – Accelerator Separate Premises

A. Equity Assistance Proposal – Additional Requirements. In addition to all equity assistance proposal requirements outlined in Rule 3-1105(C)(1), an Accelerator-Endorsed Licensee intending to share a separate premises in its possession or control with an Accelerator Licensee must also include the following in its equity assistance proposal:

1. Estimate of the Accelerator Licensee's initial investment, if any;

2. Estimate of the Accelerator-Endorsed Licensee's initial investment;

3. Any anticipated application and/or licensing fees for which the Accelerator Licensee will be responsible;

4. Restrictions on the Accelerator Licensee's business (including any restrictions on sources of products or required vendors);

5. Assistance provided by the Accelerator-Endorsed Licensee to the Accelerator Licensee (including assistance in installing required security; hiring and training employees; providing necessary equipment; establishing prices; establishing administrative, bookkeeping, accounting, and inventory control procedures; etc.);

6. Advertising that will benefit the Accelerator Licensee;

7. Use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks;

8. Total number of licenses and locations of businesses the Accelerator-Endorsed License owns, operates, or is affiliated with;

9. Anticipated terms of the financing agreement, including leases and installment contracts offered directly or indirectly to the Accelerator Licensee;

10. Terms of renewal, termination, transfer, and dispute resolution procedures;

11. All proposed agreements, including any property or equipment leases;

12. The Accelerator-Endorsed Licensee's total annual revenue and fair financial projections of the Accelerator Licensee; and

13. The anticipated annual fee or percentage of profits the Accelerator Licensee will be required to pay the Accelerator-Endorsed Licensee for use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks.

B. Equity Partnership Agreement – Additional Requirements. In addition to all equity partnership agreement requirements outlined in Rule 3-1105, an equity partnership agreement between an Accelerator-Endorsed Licensee and Accelerator Licensee who is operating on a separate premises from the Accelerator-Endorsed Licensee must include the following:

1. Initial Investment.

   a. The Accelerator Licensee's initial business investment, if any; and

   b. The Accelerator-Endorsed Licensees initial business investment.

2. Fees. The fees, if any, the Accelerator Licensee and the Accelerator-Endorsed Licensee will be responsible for, which may include, but need not be limited to:

   a. Application and license fees;

   b. Assistance with legal fees, if any; and

   c. The annual fee or percentage of profits the Accelerator Licensee will be required to pay the Accelerator-Endorsed Licensee for use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks.

3. Restrictions on Accelerator Licensee Business Operations. Any restrictions placed on the Accelerator Licensee's business operations, which may include, but are not limited to:

   a. Ingredients, formulas, and processes the Accelerator Licensee is required to use;

   b. Sources of products;

   c. Advertising; and

   d. Third party vendors the Accelerator-Endorsed Licensee contracted with that the Accelerator Licensee will also be required to utilize;

4. Accelerator-Endorsed Licensee Obligations. All assistance the Accelerator-Endorsed Licensee will provide which may include, but is not limited to:

   a. Assistance in hiring and training of employees;

   b. Establishing prices;

   c. Establishing administrative, bookkeeping, accounting, and inventory control procedures;

   d. Resolving operating problems; and

   e. Licensed Premises and equipment buildout.

5. Accelerator Licensee Obligations. If the Accelerator Licensee will be required to:

   a. Comply with branding;

   b. Utilize only the intellectual property of the Accelerator-Endorsed Licensee;

   c. Use of identified third-party vendors; and

   d. Selling product to specific purchasers.

6. Terms of Renewal, Termination, and Dispute Resolution. Any terms regarding renewal of the business relationship, termination of the business relationship, and dispute resolution. Any dispute resolution terms may not require Division or State Licensing Authority involvement.

7. Advertising. Any terms regarding advertising including the amount and methods of advertising, the distribution of costs for advertising, whether the Accelerator Licensee may do its own advertising, and how the costs of advertising will be distributed.

8. Agreements. All agreements between the Accelerator-Endorsed Licensee and Accelerator Licensee, including leases for property or equipment and any nondisclosure agreements.

C. Division of Liability.

1. Equipment. The Accelerator-Endorsed Licensee and the Accelerator licensee are individually and separately responsible for their own equipment.

2. Ingredients. The Accelerator-Endorsed Licensee and the Accelerator Licensee are individually and separately responsible for their own ingredients, unless otherwise expressly agreed to in the equity partnership agreement.

3. Inventory Tracking and Record Keeping. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with the Inventory Tracking Requirements in the 3-800 Series Rules and the Business Records in the 3-900 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements such as purchasing RFID tags for use by the Accelerator Licensee.

4. Security and Surveillance. The Accelerator-Endorsed Licensee and the Accelerator Licensee are individually and separately required to comply with security and surveillance requirements in the 3-200 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements.

5. Other.

   a. Accelerator Licensee Liability. An Accelerator Licensee is solely liable and responsible for all conduct and any violations that occur on the Accelerator Licensee's Licensed Premises.

   b. Accelerator-Endorsed Licensee Liability. An Accelerator-Endorsed Licensee that makes available a separate premises in the Accelerator-Endorsed Licensee's possession to an Accelerator Licensee and who is in compliance with the Marijuana Code and these Rules will only be liable and responsible for conduct

and any violations that occur on the Accelerator-Endorsed Licensee's Licensed Premises.

D. Operational Control. The Accelerator-Endorsed Licensee and the Accelerator Licensee are each responsible for the operational control at their separate Licensed Premises.

E. Intellectual Property. An Accelerator-Endorsed Licensee must permit and require the Accelerator Licensee to use the Accelerator-Endorsed Licensee's intellectual property. The Accelerator-Endorsed Licensee will maintain ownership and control of its intellectual property. The Accelerator Licensee shall maintain ownership and control of intellectual property it creates.

Part 4 – Regulated Marijuana Testing Program

Basis and Purpose – 4-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the mandatory testing portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-105 was previously Rules M and R 1502, 1 CCR 212-1 and 1 CCR 212-2.

4-105 – Regulated Marijuana Testing Program: Mandatory Testing

A. Required Sample Submission. A Regulated Marijuana Business may be required by the Division to submit a Sample(s) of Regulated Marijuana it possesses to a Medical Marijuana Testing Facility or a Retail Marijuana Testing Facility at any time regardless of whether ~~its process has been validated~~it has achieved a Reduced Testing Allowance and without notice.

1. Samples collected pursuant to this Rule may be tested for potency or contaminants which may include, but is not be limited to, Pesticide, microbials, mycotoxin, molds, ~~metals~~elemental impurities, residual solvents, biological contaminants, and chemical contaminants.

2. When a Sample(s) is required to be submitted for testing, the Regulated Marijuana Business may not Transfer or process into a Medical Marijuana Concentrate or Medical Marijuana Product any Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product, or Transfer or process into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product, from the Inventory Tracking System package, Harvest Batch or Production Batch from which the Sample was taken, ~~unless or~~ until it passes all required testing.

B. Methods for Determining Required Testing.

1. Random Testing. The Division may require Samples to be submitted for testing through any one or more of the following processes: random process, risk-based process, or other internally developed process, regardless of whether a Regulated Marijuana Business has achieved a Reduced Testing Allowance~~'s process has been validated~~.

2. Inspection or Enforcement Tests. In addition, the Division may require a Regulated Marijuana Business to submit a Sample for testing if the Division has reasonable grounds to believe that:

a. Regulated Marijuana is contaminated or mislabeled;

b. A Regulated Marijuana Business is in violation of any product safety, health or sanitary statute, rule or regulation; or

c. The results of a test would further an investigation by the Division into a violation of any statute, rule, or regulation.

3. Beta Testing. The Division may require a Regulated Marijuana Business to submit Samples from certain randomly selected Harvest Batches or Production Batches for potency or contaminant testing prior to implementing mandatory testing.

C. Minimum Testing Standards. The testing requirements contained in this 4-100 Series are the minimum required testing standards. Regulated Marijuana Businesses are responsible for ensuring adequate testing on any Regulated Marijuana they produce or Transfer to ensure safety for human consumption.

D. Additional Sample Types. The Division may also require a Regulated Marijuana Business to submit Samples comprised of items other than Regulated Marijuana to be tested for contaminants which may include, but may not be limited to, Pesticide, microbials, molds, ~~metals~~elemental impurities, residual solvents, biological contaminants, and chemical contaminants. The following is a non-exhaustive list of the types of Samples that may be required to be submitted for contaminant testing:

1. Specific Regulated Marijuana plant(s) or any portion of a Regulated Marijuana plant(s);

2. Any growing medium, water, or other substance used in the cultivation process;

3. Any water, solvent, or other substance used in the processing of a Regulated Marijuana Concentrate;

4. Any Ingredient or substance used in the manufacturing of a Regulated Marijuana Product; or

5. Swab of any equipment or surface.

E. R&D Testing.

1. R&D Tests. A Regulated Marijuana Business may submit Test Batches from a Harvest or Production Batch for R&D testing. R&D testing may be performed for any test required by these 4-100 Series Rules or any other test.

a. Passing R&D Test Results. If a Harvest or Production Batch passes an R&D test it shall not constitute a pass for the purposes of compliance with required contaminant or potency testing. If a Harvest or Production Batch passes an R&D test it shall not constitute a pass for purposes of obtaining or maintaining ~~process validation~~a Reduced Testing Allowance. *See* Rules 4-120 and 4-125.

b. Failing R&D Test Results. If a Harvest or Production Batch fails an R&D test that is a contaminant or potency test required by these rules, it does not require compliance with failed test procedures. *See* Rule 4-135. A Licensee cannot obtain ~~process validation~~a Reduced Testing Allowance if a Harvest or Production Batch fails an R&D test that is required by contaminant and potency testing rules. *See* Rules 4-120 and 4-125. If a Licensee ~~is process validated~~has a Reduced Testing Allowance, and fails an R&D test that is required by contaminant and

potency testing rules, the Licensee must comply with Rules 4-120(F)(2) and 4-125(H)(2).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing sampling procedures and rules for the Division's Regulated Marijuana sampling and testing program. This Rule 4-110 was previously Rules M and R 1504, 1 CCR 212-1 and 1 CCR 212-2.

4-110 – Regulated Marijuana Testing Program: Sampling Procedures

A. Collection of Samples.

1. Sample Increment Collection. All Samples submitted for testing pursuant to this Rule must be collected by Division representatives or in accordance with the Division's sampling policy reflected in the marijuana laboratory testing reference library available at the Colorado Department of Public Health and Environment's website. This reference library may be continuously updated as new materials become available in accordance with section 25-1.5-106(3.5)(d), C.R.S.

2. Sample Increment Selection. The Division may elect, at its sole direction, to assign Division representatives to collect Sample Increments, or may otherwise direct Sample Increment selection, including, but not limited to, through Division designation of a Harvest Batch or Production Batch in the Inventory Tracking System from which a Regulated Marijuana Business shall select Samples for testing. A Regulated Marijuana Business, its Controlling Beneficial Owners, Passive Beneficial Owners, and employees shall not attempt to influence the Sample Increments selected by Division representatives. If the Division does not select the Harvest Batch or Production Batch to be tested, a Regulated Marijuana Business must collect and submit Sample Increments that are representative of the Harvest Batch or Production Batch being tested.

3. Adulteration or Alteration Prohibited. Pursuant to section 44-10-701(3)(b) and (9), C.R.S., it is unlawful for a Licensee or its agent to knowingly adulterate or alter, or attempt to adulterate or alter, any Sample Increments or Test Batches of Regulated Marijuana ~~for the purpose of circumventing contaminant testing detection limits or potency testing requirements~~. The Sample Increments collected and submitted for testing must be representative of the Harvest Batch or Production Batch being tested. A violation of this sub-paragraph (A)(3) shall be considered a license violation affecting public safety and the person who commits adulteration or alteration of Sample Increments or Test Batches commits a class 2 misdemeanor and may be punished as provided in section 18-1.3-501, C.R.S.

4. Timing of Sample Increments for Harvest Batches and Production Batches. A Licensee shall not collect Sample Increments or submit Test Batches for testing until the Test Batch has completed all required steps and is in its final form as outlined in the standard operating procedures of the Licensee submitting the Test Batch, with the exception of packaging and labeling requirements which shall comply with Rule 3-1025.

a. The following examples illustrate various methods, which are not limited to those listed herein, that a Licensee's standard operating procedures may include to verify a Test Batch completed all required steps and is in its final form pursuant to this Rule:

i. The Licensee's standard operating procedures may include procedures that ensure the addition of all Ingredients or Additives has occurred and that the Harvest Batch or Production Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules. This~~It may~~ also includes creating Ppre-Rr~~o~~lled Marijuana and Infused Pre-Rolled Marijuana~~joints from the Harvest Batch or Production Batch~~;

ii. For a Production Batch of Concentrate, the Licensee's standard operating procedure may include procedures that ensure the entire Production Batch associated with the Test Batch has completed all sifting, extracting, purging, winterizing, and steps to remove plant pigments and ensuring the addition of all Ingredients and Additives has occurred.

iii. For a Production Batch of Regulated Marijuana Product, the Licensee's standard operating procedure may include procedures that ensure the addition of all Ingredients and Additives has occurred and the Production Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules.

b. A Test Batch from a Harvest Batch or Production Batch shall be packaged and labeled according to Series 3-1025 prior to Transfer to a Regulated Marijuana Testing Facility.

c. This Rule 4-110(A)(4) does not apply for the submission of Test Batches submitted for R&D testing.

5. Vaporizer Delivery Device. This subsection (A)(5) is effective January 1, 2022. Retail Marijuana Concentrate that has been placed into a Vaporizer Delivery Device must be sampled and tested using a methodology that allows the laboratory to analyze the emission of the contents of the Vaporizer Delivery Device.

B. Designated Test Batch Collector Training, Documentation, and Designation.

1. Required Sample Increment Collection Training. To become a Designated Test Batch Collector an Owner Licensee or Employee Licensee involved in the Sample Increment Collection of Regulated Marijuana must be designated by a manager or Owner Licensee as such and must also complete either in-house training provided by the Regulated Marijuana Business or training from a third-party vendor. Nothing in this rule requires a Designated Test Batch Collector to be employed by the Regulated Marijuana Business making the designation.

2. Designated Test Batch Collection Training Required Topics. The training required to become a Designated Test Batch Collector must include at least the following topics:

a. Part 4–100 Rule Series - Regulated Marijuana Testing Program;

b. The Marijuana Business's standard operating procedures on creating a Sampling Plan and Test Batches, and the CDPHE's Sampling Procedures.

c. "Guidance on Marijuana Sampling Procedures" Training Video or an equivalent training covering the following subjects:

i. Introduction to Sample Increment Collection:

A. Cross contamination as it relates to Sample Increment Collection;

B. Sample Increment Collection and how it works;

C. Sample Increment Collection documentation and record keeping requirements;

D. Penalties for Sample Increment or Test Batch adulteration or alteration;

E. Use of and disinfection of the Designated ~~Sample~~ Test Batch Collection Area; and

F. Use of the Sample Plan.

3. Documentation of Designated Test Batch Collector Training. Any individual receiving the Designated Test Batch Collector training must sign and date a document which shall be maintained by the Regulated Marijuana Business as a business record pursuant to Rule 3-905. The document must acknowledge the following:

a. The identity of the Person that created the training, such as the Regulated Marijuana Business or a third-party vendor; and

b. That all required topics of the training identified in this Rule have been reviewed and understood by the Owner Licensee or Employee Licensee.

C. Test Batch Collection Requirements.

1. Required Minimum of Two Test Batch Collectors. At a minimum, two Designated Test Batch Collectors shall be involved in the collection of Sample Increments such that at least one Designated Test Batch Collector is responsible for collecting the Sample Increments and another Designated Test Batch Collector is responsible for reviewing documentation associated with the collection of Sample Increments in a timely manner and prior to any Transfer of the Production Batch or Harvest Batch from which Sample Increments were collected. This review can be completed in person or may be completed remotely by reviewing image(s) of the Test Batch and associated documentation.

2. Sample Plan Required. A Designated Test Batch Collector must establish a Sample Plan consistent with the Regulated Marijuana Business's Standard Operating Procedure for Sample Increment Collection. At a minimum, a Sample Plan must include the following:

a. The date, amount or weight, and specific location for each Sample Increment collected;

b. Identification of and acknowledgements from all Designated Test Batch Collectors involved in the Sample Increment Collection; and

c. If applicable, the strain name(s) for each Harvest Batch from which Sample Increments are collected.

D. Minimum Number of Sample Increments Per Test Batch Submission. These sampling rules shall apply until such time as the State Licensing Authority revises these rules to implement a statistical sampling model. Unless a greater amount is required to comply with these rules or is required by a Regulated Marijuana Testing Facility to perform all requested testing, each Test Batch of Regulated Marijuana must contain at least the number of Sample Increments prescribed by this Section.

1. A Test Batch of Regulated Marijuana must be packaged and labeled according to Rule 3-1025.

2. The minimum number of Sample Increments required to be collected for each Test Batch from a Harvest Batch of Retail Marijuana or Medical Marijuana shall be determined by Table 4-110.C.2.T.

3. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of ~~Retail Marijuana Product, Medical~~Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Audited Product and Alternative Use Product shall be determined by Table 4-110.-C.2.T.

   a. The Retail Marijuana Products Manufacturer or Medical Marijuana Products Manufacturer shall determine what constitutes a "Serving" and thus how many Servings are contained in a Production Batch of Regulated Marijuana Product, except that no serving of Edible Retail Marijuana Product can contain more than 10mg of active THC

   b. Because all Test Batches of ~~Retail Marijuana of Retail Marijuana Product and Medical~~Regulated Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not match up within a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Regulated Marijuana Products, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana are submitted for testing. For example, if a Production Batch of 4000 chocolate bars is manufactured, with each bar containing 100 mg THC and 10 servings per bar, the Production Batch would contain 40,000 Sample Increments which would require collection of at least 33 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 40 Sample Increments for testing (4 complete chocolate bars in final form).

   c. No matter how small the Production Batch of ~~Retail Marijuana Product, or Medical~~Regulated Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana a minimum of two finished packages in final form must be submitted for a Test Batch.

4. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate shall be determined by Table 4-110.-C.2.T.

   a. Because all Test Batches of Retail Marijuana Concentrate and Medical Marijuana Concentrate are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not match up with the number of Sample Increments in a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Marijuana Concentrate are submitted for testing. For example, if a Production Batch of 4,000 Vaporizer Delivery Devices is manufactured, with each Vaporizer Delivery Device containing 500 milligrams of

Marijuana Concentrate, the Production Batch would contain 2,000 grams of Marijuana Concentrate, which would require collection of at least 15 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 16 Sample Increments for testing (8 vaporizer Delivery Devices in final form).

b. No matter how small the Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate, a minimum of two finished packages must be submitted for a Test Batch.

Table 4-110.C.2.T

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana**			**Regulated Marijuana Concentrate**			**Regulated Marijuana Product**	
	Total Weight of Harvest Batch (lbs)	Total Weight of Harvest Batch (grams)	**Minimum Weight of Test Batch (grams)**	Total Weight of Production Batch (lbs)	Total Weight of Production Batch (grams)	**Minimum Weight of Test Batch (grams)**	Number of Servings within Production Batch	**Minimum Number of Units for a Test Batch for a 10 Serving Unit**
5	0.000 - 0.999	0.0 - 435.5	**2.50**	0.000 - 0.999	0.0-453.5	**1.25**	0 - 99	**2**
8	1.00 - 9.999	435.6 - 4535.9	**4.00**	1.00 - 1.999	453.6 - 907.1	**2.00**	100 - 999	**2**
15	10.000 - 19.999	4536.0 - 9071.8	**7.50**	2.00 - 4.999	907.2 - 2267.9	**3.75**	1000 - 4999	**2**
22	20.000 - 39.999	9071.9 - 18143.6	**11.00**	5.000 - 14.999	2268.0 - 6803.8	**5.50**	5000 - 9999	**3**
33	40.000 - 99.999	18143.7 - 45359.2	**16.50**	15.000 – 49.999	6803.9 - 22679.6	**8.25**	10000 - 49999	**4**
43	100.000 - 199.999	45359.3 - 90718.4	**21.50**	50.000 – 99.999	22679.7 - 45359.2	**10.75**	50000 - 99999	**5**
53	200.000 - 499.999	90718.5 - 226796.1	**26.50**	100.000 – 249.999	45359.3 - 113398.0	**13.25**	100000 - 249999	**6**
80	500 or more	226796.2 or more	**40.00**	250 or more	113398.1 or more	**20.00**	250000 or more	**8**

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana (Sample Increment = 0.5 grams)**		
	Total Weight of Harvest Batch (lbs)	Total Weight of Harvest Batch (grams)	**Minimum Weight of Test Batch (grams)**
5	0.000 -0.999	0.0 -453.5	**2.50**
8	1.00 -9.999	453.6 -4535.9	**4.00**
15	10.000 -19.999	4536.0 - 9071.8	**7.50**
22	20.000 -39.999	9071.9 - 18143.6	**11.00**
33	40.000 -99.999	18143.7 - 45359.2	**16.50**
43	100.000 - 199.999	45359.3 - 90718.4	**21.50**
53	200.000 - 499.999	90718.5 -226796.1	**26.50**
80	500 or more	226796.2 or more	**40.00**

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana Concentrate (Sample Increment = 0.25 g)**		
	Total Weight of Production Batch (lbs)	Total Weight of Production Batch (grams)	**Minimum Weight of Test Batch (grams)**
5	0.000 -0.999	0.0-453.5	**1.25**
8	1.00 - 1.999	453.6-907.1	**2.00**
15	2.00 - 4.999	907.2-2267.9	**3.75**
22	5.000 - 14.999	2268.0-6803.8	**5.50**
33	15.000 – 49.999	6803.9-22679.6	**8.25**
43	50.000 – 99.999	22679.7-45359.2	**10.75**
53	100.000 – 249.999	45359.3-113398.0	**13.25**
80	250 or more	113398.1 or more	**20.00**

Minimum	**Regulated Marijuana Products (Sample Increment = 1 Serving)**

Number of Sample Increments Required to be Collected per Test Batch	Number of Servings within Production Batch	Minimum Number of Units for a Test Batch for a 5-Serving Unit*	Minimum Number of Units for a Test Batch for a 10-Serving Unit*	Minimum Number of Units for a Test Batch for a 20-Serving Unit*	Minimum Number of Units for a Test Batch for a 100-Serving Unit*
5	0 - 99	2	2	2	2
8	100 - 999	2	2	2	2
15	1000 - 4999	3	2	2	2
22	5000 - 9999	5	3	2	2
33	10000 - 49999	7	4	2	2
43	50000 - 99999	9	5	3	3
53	100000 - 249999	11	6	3	3
80	250000 or more	16	8	4	4
*Other serving amounts per unit are acceptable. These are provided as examples.					

Minimum Number of Sample Increments Required to be Collected per Test Batch	Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana (Sample Increment – 0.25 g)				
	Number of Pre-Rolls within Production Batch	Minimum Number of Pre-Rolls for a Test Batch for a < or = 0.25 g Pre-Roll*	Minimum Number of Pre-Rolls for a Test Batch for a 0.50 g Pre-Roll) *	Minimum Number of Pre-Rolls for a Test Batch for a 1.00 g Pre-Roll*	Minimum Number of Pre-Rolls for a Test Batch for a 2.00 g Pre-Roll*
5	0 - 99	5	3	2	2
8	100 - 999	8	4	2	2
15	1000 - 4999	15	8	4	2

22	5000 - 9999	**22**	**11**	**6**	**3**
33	10000 - 49999	**33**	**17**	**9**	**5**
43	50000 - 99999	**43**	**22**	**11**	**6**
53	100000 - 249999	**53**	**27**	**14**	**7**
80	250000 or more	**80**	**40**	**20**	**10**
*Other Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana unit sizes are acceptable. These are provided as examples.					

ED. Regulated Marijuana Testing Facility Selection. Unless otherwise restricted or prohibited by these rules or ordered by the State Licensing Authority, a Regulated Marijuana Business may select which Medical Marijuana Testing Facility or Retail Marijuana Testing Facility will test a Test Batch made up of Sample Increments collected pursuant to this Rule. However, the Division may elect, at its sole discretion, to assign a Regulated Marijuana Testing Facility to which a Regulated Marijuana Business must submit for testing any Test Batch made up of Sample Increments collected pursuant to this Rule.

FE. Industrial Hemp Product Sampling Procedures. Absent sampling and testing standards established by the Colorado Department of Public Health and Environment for the sampling and testing of Industrial Hemp Product, a Person Transferring an Industrial Hemp Product to a Licensee pursuant to the Marijuana Code and these Rules shall comply with the sampling and testing standards set forth in these 4-100 Series Rules – Regulated Marijuana Testing Program and as required by these Rules.

GF. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish the portion of the Division's mandatory testing and sampling program that is applicable to Regulated Marijuana Businesses, and specifically Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities. While the Marijuana Code requires the State Licensing Authority to establish acceptable limits of potential contaminants, it also requires the State Licensing Authority to enact a plus or minus 15 percent potency variance, which is also included in this rule. This Rule 4-115 was previously Rules M and R 712, 1 CCR 212-1 and 1 CCR 212-2.

4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program

A. Division Authority. The Division may require that a Test Batch be submitted to a specific Regulated Marijuana Testing Facility for testing to verify compliance, perform investigations, compile data or address a public health and safety concern.

1. Independent Third Party Review. The Division may require Regulated Marijuana to undergo an independent third-party review to verify that the Regulated Marijuana does not pose a threat to public health and safety when the Division, in consultation with the Colorado Department of Public Health and Environment, has objective and reasonable grounds to believe and finds, upon a full investigation, one of the following:

   a. The Regulated Marijuana contains one or more substances known to cause harm; or

   b. The Regulated Marijuana contains one or more substances that could be toxic as consumed or applied in accordance with the intended use.

2. The fact that Regulated Marijuana contains marijuana shall not constitute grounds to require an independent third-party review. Ingredients Generally Recognized as Safe by the U.S. Food & Drug Administration or that are regulated by the U.S. Food & Drug Administration under the Dietary Supplement Health and Education Act of 1994 that are included in Edible Medical Marijuana Product or Edible Retail Marijuana Product shall not constitute grounds to require an independent third-party review.

3. Quarantine. In addition to any other remedies provided by law, the Division may immediately quarantine Regulated Marijuana pursuant to Rule 4-135(A) in any one of the following circumstances:

   a. The Division has objective and reasonable grounds to believe and finds, upon a full investigation, that a Regulated Marijuana Business has been guilty of deliberate and willful violations of these rules;

   b. The Regulated Marijuana or Alternative Use Product poses a potential threat to public health and safety;

   c. The Division has received one or more reports of an adverse event related to Regulated Marijuana or Alternative Use Product. For purpose of this Rule, adverse event means any untoward medical occurrence associated with the use of Regulated Marijuana or Alternative Use Product—this could include any unfavorable and unintended sign (including hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom, or disease temporally associated with the use of a Regulated Marijuana or Alternative Use Product;

   d. The Division determines the independent third-party audit submitted pursuant to Rules 5-325(B) or 6-325(B) does not meet the requirements of Rules 5-325 or 6-325; or

   e. The Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer has violated or is not in compliance with all of the requirements in Rules 5-325 or 6-325.

4. Any quarantine pursuant to subparagraph (A)(3) above shall remain in effect unless ~~and until~~ the Regulated Marijuana undergoes an independent third-party review to verify the Regulated Marijuana does not pose a risk to public health and safety.

5. For the purpose of this Rule, full investigation means a reasonable ascertainment of the underlying facts on which the agency action is based.

B. Standard Minimum Weight of Test Batches and Photo Documentation.

1. Standard Minimum Weight of Test Batches.

a. Regulated Marijuana and Regulated Marijuana Concentrate. A Medical Marijuana Testing Facility must establish a standard minimum weight of Medical Marijuana and Medical Marijuana Concentrate, and a Retail Marijuana Testing Facility must establish a standard minimum weight of Retail Marijuana and Retail Marijuana Concentrate that must be included in a Test Batch for every type of test that it conducts.

b. Regulated Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana. Regulated Marijuana Testing Facilities must establish a standard number of Samples required to be included in each Test Batch of ~~Medical Marijuana Product or Retail~~Regulated Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for every type of test that it conducts. *See* Rule 4-110 – Regulated Marijuana Testing Program – Sampling Procedures.

2. Photo Documentation of Test Batches.

a. A Regulated Marijuana Testing Facility shall digitally photograph each Test Batch it receives to document the Sample Increments collected, condition of the Test Batch, and compliance with these rules. *See* Rule 4-110(A)(5) -Test Batch Container and Packaging.

b. The Regulated Marijuana Testing Facility must maintain the digital photographs of each Test Batch as business records. *See* Rule 3-905 - Required Business Records.

c. Upon request by the Division, a Regulated Marijuana Testing Facility must provide copies of the digital photographs of Test Batches within seven days of the request unless a different deadline is agreed to.

C. Rejection of Test Batches.

1. A Regulated Marijuana Testing Facility may not accept a Test Batch that is smaller than its standard minimum amount.

2. A Regulated Marijuana Testing Facility may not accept a Test Batch that it knows was not taken in accordance with these rules or proceed with testing of a Test Batch for which adulteration is suspected, unless otherwise permitted by Rule 4-105(E), and except a Regulated Marijuana Testing Facility may accept a Test Batch that was collected by Division representatives or that was collected by a Licensee pursuant to Division direction.

D. Permissible Levels of Contaminants. If Regulated Marijuana is found to have a contaminant in levels exceeding those established as permissible under this Rule, then it shall be considered to have failed contaminant testing. Notwithstanding the permissible levels established in this Rule, the Division reserves the right to determine, upon good cause and reasonable grounds, that a particular Test Batch presents a risk to the public health or safety and therefore shall be considered to have failed a contaminant test.

1. Microbials (Bacteria, Fungus)

Substance	**Acceptable Limits ~~Per Gram~~**	**Product to be Tested**
~~Water Activity~~	~~0.65 aW~~	~~Regulated Marijuana Flower shake, kief and trim.~~
–Shiga-toxin producing ~~Escherichia coli~~ *Escherichia coli* (STEC)*- Bacteria	Absent in 1 g ~~< 1 Colony Forming Unit (CFU)~~	• Regulated Marijuana ~~F~~flower, shake, and trim (other than wet whole plant allocated for extraction); • -Regulated Marijuana
~~Salmonella~~ *Salmonella* species* – Bacteria	Absent in 1 g ~~< 1 Colony Forming Unit (CFU)~~	
Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus)	Absent in 1 g	

Total Yeast and Mold	< 10^4 Colony Forming Unit (CFU) per 1 ml or 1 g	Products (other than Audited Product); • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana; • ~~Water~~Physical Separation-Based, Heat/Pressure-Based, and Food-Based Medical Marijuana Concentrate; • ~~Water~~Physical Separation-Based, Heat/Pressure-Based, and Food-Based Retail Marijuana Concentrate; • Industrial Hemp Products; • Pressurized Metered Dose Inhalers; • Vaporizer Delivery Device; • Solvent-Based Medical Marijuana Concentrate produced through Remediation; • Solvent-Based Retail Marijuana Concentrate produced through Remediation;~~.~~ • Solvent-Based Medical Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials prior to extraction; • Solvent-Based Retail Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials prior to extraction; • Re-testing of Regulated Marijuana flower, shake, and trim that has undergone Decontamination.

	≤10^1 CFU~~cfu~~/ml or ≤10^1 CFU~~cfu~~/g	Audited Product: administration by metered dose nasal spray or vaginal administration
	≤10^2 CFU~~cfu~~/ml or ≤10^2 CFU~~cfu~~/g	Audited Product: rectal administration
Total aerobic microbial count	≤10^2 CFU~~cfu~~/ml or ≤10^2 CFU~~cfu~~/g	Audited Product: administration by metered dose nasal spray or vaginal administration
	≤10^3 CFU~~cfu~~/ml or ≤10^3 CFU~~cfu~~/g	Audited Product: rectal administration
Staphylococcus ~~A~~aureus	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray or vaginal administration
Pseudomonas aeruginosa	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray or vaginal administration
~~*Bile tolerant gram negative bacteria*~~Bile tolerant gram negative bacteria	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray
Candida albicans	Absent in 1 ml or 1 g	Audited Product: vaginal administration

*The Regulated Marijuana Testing Facility shall contact the Colorado Department of Public Health and Environment when STEC and Salmonella are detected beyond the acceptable limits.

1.5 Water Activity

Substance	**Acceptable Limits**	**Product to be Tested**
Water Activity	0.65 aW	• Regulated Marijuana flower shake, and trim (other than wet whole plant); • Retesting of Regulated Marijuana flower, shake, and trim that has undergone Decontamination; • Kief; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana.

2. Mycotoxins

Substance	**Acceptable Limits ~~Per Gram~~**	**Product to be Tested**

Aflatoxins (B1, B2, G1, and G2)	< 20 Pparts Pper Bbillion (PPB) (total of B1 + B2 + G1 + G2)	• Solvent-Based Medical Marijuana Concentrate manufactured from Medical Marijuana flower or trim that failed microbial testing; • Solvent-Based Retail Marijuana Concentrate manufactured from Retail Marijuana flower or trim that failed microbial testing; • Solvent-Based Medical Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials prior to extraction; • Solvent-Based Retail Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials prior to extraction; • Regulated Marijuana flower, shake, and trim that has undergone Decontamination.
Ochratoxin A	< 20 parts per billion (PPB)	

3. Residual Solvents

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
Acetone	< 1,000 Parts Per Million (PPM)	• Solvent-Based Medical Marijuana Concentrate; • Solvent-Based Retail Marijuana Concentrate; • Industrial Hemp Product (if a solvent was used)
Butanes	< 1,000 Parts Per Million (PPM)	
Ethanol***	< 1,000 Parts Per Million (PPM)	
Heptanes	< 1,000 Parts Per Million (PPM)	
Isopropyl Alcohol	< 1,000 Parts Per Million (PPM)	
Propane	< 1,000 Parts Per Million (PPM)	
Benzene**	< 2 Parts Per Million (PPM)	
Toluene**	< 180 Parts Per Million (PPM)	
Pentane	< 1,000 Parts Per Million (PPM)	
Hexane**	< 60 Parts Per Million (PPM)	

Total Xylenes (m,p, o-xylenes)**	< 430 ~~Parts Per Million (~~PPM~~)~~	
Methanol**	< 600 ~~Parts Per Million (~~PPM~~)~~	
Ethyl Acetate	< 1000 ~~Parts Per Million (~~PPM~~)~~	
Any other solvent not permitted for use pursuant to Rules 5-315 and 6-315.	None Detected	

** Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use per Rule 6-315, limits have been listed here accordingly.

***Note: Solvent-Based Medical Marijuana Concentrate and Solvent-Based Retail Marijuana Concentrate that exceeds the acceptable limit for ethanol may only be used in Medical Marijuana Concentrate or Medical Marijuana Product, or Retail Marijuana Concentrate or Retail Marijuana Product, which intended use is oral consumption, skin and body products, a vaporizer delivery device, pressurized metered dose inhaler, or Audited Product .

4. ~~Metals~~Elemental Impurities

Substance	**Acceptable Limits ~~Per Gram~~ Based on Intended Use**	**Product to be Tested**
~~Metals~~ Elemental Impurities (Arsenic, Cadmium, Lead and Mercury)	**Inhaled Product or Audited Product: administration by metered dose nasal spray** Lead – Max Limit: < .5 ~~ppm~~PPM Arsenic – Max Limit: < 0.2 PPM~~ppm~~ Cadmium – Max Limit: < 0.2 PPM~~ppm~~ Mercury – Max Limit: < 0.1 PPM~~ppm~~	• Regulated Marijuana ~~F~~flower, shake, ~~and~~ trim, and wet whole plant; • ~~Water~~Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • ~~Water~~Physical Separation-Based, Food-Based, Heat/Pressure-Based and Solvent Based Retail Marijuana
	Topical and/or Transdermal Lead – Max Limit: < 10 PPM~~ppm~~ Arsenic – Max Limit: < 3 PPM~~ppm~~ Cadmium – Max Limit: < 3 PPM~~ppm~~ Mercury – Max Limit: < 1 PPM~~ppm~~	

	Oral Consumption or Audited Product: rectal or vaginal administration Lead – Max Limit: < 1 PPM~~ppm~~ Arsenic – Max Limit: < 1.5 PPM~~ppm~~ Cadmium – Max Limit: < 0.5 PPM~~ppm~~ Mercury – Max Limit: < 1.5 PPM~~ppm~~	Concentrate; • Regulated Marijuana Product; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana; • Pressurized Metered Dose Inhaler; • Vaporizer D~~d~~elivery D~~d~~evice; • Audited Product; • Industrial Hemp Product

5. Pesticides

Substance	**Action Limit**	**Product to be Tested**
Abamectin (Avermectins: B1a & B1b)	< 0.07 ~~Parts Per Million (~~PPM~~)~~	• Regulated Marijuana flower, shake, and trim (other than wet whole plant allocated for extraction);~~,~~ • ~~Regulated Marijuana Concentrate~~Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana.
Azoxystrobin	< 0.02 ~~Parts Per Million (~~PPM~~)~~	
Bifenazate	< 0.02 ~~Parts Per Million (~~PPM~~)~~	
Etoxazole	< 0.01 ~~Parts Per Million (~~PPM~~)~~	
Imazalil	< 0.04 ~~Parts Per Million (~~PPM~~)~~	
Imidacloprid	< 0.02 ~~Parts Per Million (~~PPM~~)~~	
Malathion	< 0.05 ~~Parts Per Million (~~PPM~~)~~	
Myclobutanil	< 0.04 ~~Parts Per Million (~~PPM~~)~~	
Permethrin (mix of isomers)	< 0.04 ~~Parts Per Million (~~PPM~~)~~	
Spinosad (Mixture of A and D)	< 0.06 ~~Parts Per Million (~~PPM~~)~~	
Spiromesifen	< 0.03 ~~Parts Per Million (~~PPM~~)~~	
Spirotetramat	< 0.02 ~~Parts Per Million (~~PPM~~)~~	
Tebuconazole	< 0.01 ~~Parts Per Million (~~PPM~~)~~	

6. Other Contaminants

Pesticide	If the Test Batch is found to contain banned prohibited Pesticide not listed in paragraph (5) above, or the improper application of a permitted Pesticide, then that Test Batch shall be considered to have failed contaminant testing.
Chemicals	If the Test Batch is found to contain levels of any chemical that could be toxic if consumed or as applied, then the Division may determine that the Test Batch has failed contaminant testing.
Microbials	If the Test Batch is found to contain levels of any microbial that could be toxic if

	consumed or present, then the Division may determine that the Test Batch has failed contaminant testing.
~~Metals~~Elemental Impurities	If the Test Batch is found to contain levels of any ~~metal~~ elemental impurities that could be toxic if consumed or present then the Division may determine that the Test Batch has failed contaminant testing.

7. Division Notification. A Regulated Marijuana Testing Facility must notify the Division by timely input in the Inventory Tracking System if a Test Batch is found to contain levels of a contaminant not listed within this Rule that could be injurious to human health if consumed. *See* Rule 3-825.

E. Potency Testing.

1. Cannabinoids Potency Profiles. A Regulated Marijuana Testing Facility may test and report results for any Cannabinoid provided the test is conducted in accordance with the Regulated Marijuana Testing Facility's standard operating procedure.

2. Reporting of Results.

a. For potency tests on Regulated Marijuana, ~~and~~ Regulated Marijuana Concentrate, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana, results must be reported by listing a single percentage concentration for each Cannabinoid that represents an average of all Samples within the Test Batch. This includes reporting the Total THC in addition to each Cannabinoid required in Rule 4-125.

b. For potency tests conducted on Regulated Marijuana Product, whether conducted on each individual Production Batch or via ~~process validation~~a Reduced Testing Allowance per Rule 4-125, results must be reported by listing the total number of milligrams contained within a single Regulated Marijuana Product unit for sale for each Cannabinoid and stating whether the THC content is homogenous as defined in Paragraphs 3 and 4 of this subparagraph E.

c. Effective Date for Reporting D8-THC, D10-THC, and Exo-THC. Requirements for reporting potency test results for D8-THC, D10-THC, and Exo-THC shall take effect on July 1, 2022.

3. Failed Potency Tests for Medical Marijuana Product.

a. If the Cannabinoid content of Medical Marijuana Product is determined not to be homogeneous, then it shall be considered to have failed potency testing. A Production Batch of Medical Marijuana Product shall be considered homogeneous if a minimum of a total of four servings from two packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label. A Production Batch of Medical Marijuana Product shall be considered homogenous if a minimum of a total of four servings from four individual single serve packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label.

i. The four servings must also test within the allowed potency variance set forth in subparagraph E(5) of this Rule 4-115.

ii. Any Cannabinoid that makes up less than 10 percent of the total amount of Cannabinoids in the Medical Marijuana Product shall not be subject to the requirements set forth in this subparagraph (E)(3).

b. If an individually packaged Edible Medical Marijuana Product is determined to have more than the total milligrams of THC stated on the Container, or less than the total milligrams of THC stated on the Container, then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (E)(5) of this Rule 4-115 shall apply to potency testing.

4. Failed Potency Tests for Retail Marijuana Product.

a. If the Cannabinoid content of Retail Marijuana Product is determined not to be homogeneous, then it shall be considered to have failed potency testing. A Production Batch of Retail Marijuana Product shall be considered homogeneous if a minimum of a total of four servings from two packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label. A Production Batch of Retail Marijuana Product shall be considered homogenous if a minimum of a total of four servings from four individual single serve packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label.

i. The four servings must also test within the allowed potency variance set forth in subparagraph E(5) of this Rule 4-115.

ii. Any Cannabinoid that makes up less than 10 percent of the total amount of Cannabinoids in the Retail Marijuana Product shall not be subject to the requirements set forth in this subparagraph (E)(4).

b. If an individually packaged Edible Retail Marijuana Product is determined to have more than 100 milligrams of THC within it, then the Test Batch shall be considered to have failed potency testing. If an individually packaged Edible Retail Marijuana Product is determined to have more than the total milligrams of THC stated on the Container, or less than the total milligrams of THC stated on the Container, then the Test Batch shall be considered to have failed potency testing. If a single serving in an individually packaged Edible Retail Marijuana Product is determined to have more than 10 milligrams of THC then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (E)(5) of this Rule 4-115 shall apply to potency testing.

5. Potency Variance. Regulated Marijuana Product provided to the Regulated Marijuana Testing Facility must comply with the following potency variance:~~.~~

a. For Regulated Marijuana Product with a Target Potency or making a potency claim for any cannabinoid of more than 2.5 milligrams per serving the potency variance shall differ no more than plus or minus 15 percent.

b. For Regulated Marijuana Product with a Target Potency or making a potency claim for any cannabinoid of 2.5 milligrams or less per serving the potency variance shall differ no more than the greater of plus or minus 0.5 mg or 40 percent per serving.

F. Testing Regulated Marijuana Ready for Transfer. All tests must occur at the time the Regulated Marijuana is ready for Transfer to another Regulated Marijuana Business, according to the required steps outlined in the standard operating procedures of the Licensee submitting the Test Batch.

Basis and Purpose – 4-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the contaminant testing and related process validationReduced Testing Allowance portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-120 was previously Rules M and R 1501, 1 CCR 212-1 and 1 CCR 212-2.

4-120 – Regulated Marijuana Testing Program: Contaminant Testing

A. Contaminant Testing Required.

1. Unless aA Medical Marijuana Cultivation Facility's andor a Medical Marijuana Products Manufacturer's cultivation or production process has achieved process validation under this Rule, it shall not Transfer or process into a Medical Regulated Marijuana, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Medical Marijuana Concentrate or Medical Marijuana Product any Medical Marijuana unless Samples from each Harvest Batch or Production Batch from which that Medical Marijuana was derived has been tested by a Medical Marijuana Testing Facility for contaminants and passed all contaminant tests required by this Rule, except as permitted in Rule 5-205(C) or the cultivation or production process has achieved a Reduced Testing Allowance under this Rule.

2. Unless aA Retail Marijuana Cultivation Facility's, an Accelerator Cultivator, a Retail Marijuana Product Manufacturing Facility's cultivation or production process, or an Accelerator Manufacturer cultivation or production process has achieved process validation under this Rule, it shall not Transfer, or process Regulated Marijuana, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, into a Retail Marijuana Concentrate, or Retail Marijuana Product any Retail Marijuana unless Samples from each Harvest Batch or Production Batch from which that Retail Marijuana was derived has been tested by a Retail Marijuana Testing Facility for contaminants and passed all contaminant tests required by this Rule, except as permitted in Rule 6-205(C) or the cultivation or production process has achieved a Reduced Testing Allowance under this Rule.

B. Process ValidationReduced Testing Allowance and Ongoing Testing – Contaminant Testing.

1. Regulated Marijuana. A Medical Marijuana Cultivation Facility's, a Retail Marijuana Cultivation Facility's, or an Accelerator Cultivator's cultivation process shall be deemed validated acceptable for Contaminant testing if every Harvest Batch that it produced during at least a six-week period but no longer than a 12-week period passed all contaminant tests required by Paragraph (C) of this Rule. This must include at least six Test Batches. A Medical Marijuana Cultivation Facility, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator can obtain process validationachieve a Reduced Testing Allowance for all contaminants listed in paragraph (C) of this Rule at the same time or separately for each contaminant.

a. Visual Microbial Growth. If a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator is aware that a Harvest

Batch contains visual microbial contamination, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator shall subject the Harvest Batch to microbial contaminant testing pursuant to Rule 4-120(C)(1). If the Test Batch fails testing, then the Harvest Batch shall be subject to the requirements in Rule 4-135(C). The Licensees must also follow Rule 4-120(F)(2).

2. Regulated Marijuana Concentrate, ~~or~~ Regulated Marijuana Product, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana. A Medical Marijuana Cultivation Facility's, Retail Marijuana Cultivation Facility's, Accelerator Cultivator's, Medical Marijuana Products Manufacturer's, Retail Marijuana Products Manufacturer's, or an Accelerator Manufacturer's production process shall be deemed ~~validated~~ acceptable for contaminant testing if for a particular type of Regulated Marijuana Concentrate, ~~or~~ Regulated Marijuana Product, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana every Production Batch that it produced during at least a four-week period but no longer than an eight-week period passed all contaminant tests required by Paragraph (C) of this Rule. This must include Test Batches from at least four Production Batches. If a Regulated Marijuana Concentrate or Regulated Marijuana Product is manufactured using a different extraction process or infusion process or using any different Additives or Botanically Derived Compounds, it will be considered a different type of Regulated Marijuana Concentrate or Regulated Marijuana Product and therefore must ~~be process validated~~ separately achieve a Reduced Testing Allowance. If Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana is produced using different input materials, such as a different marijuana category (e.g. flower or trim), different wrapper materials, different processes, or different equipment, they must achieve separate Reduced Testing Allowances.

   a. Regulated Marijuana Concentrate Produced from Wet Whole Plant Not Tested for Microbial Contamination. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer may obtain process validation for a Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination by the cultivating Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator, provided that:

      i. Qualification Form. The Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall provide a qualification form to the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator that cultivates the wet whole plant, inquiring production processes that cover:

         A. Implemented quality management systems;

         B. Record keeping;

         C. Notification of Material Change;

         D. Notification of a wet whole plant microbial Test Batch failure;

         E. Cultivation and post-harvest procedures;

         F. Cleaning; and

G. Corrective action and preventative action.

ii. Completion Required. The Licensee that received a qualification form pursuant to this Rule, and wishes to supply the Regulated Marijuana Business, must complete, sign and return the qualification form to the originating Regulated Marijuana Business attesting that the Licensee can complete the processes as stated in the qualification form.

iii. Approval. The Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall ensure purchased or accepted wet whole plant conforms with specified approval requirements at the discretion of the accepting Licensee that shall include, but are not limited to:

A. Notification by the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator when a Material Change is made to a cultivation process;

B. Inspect the wet whole plant Harvest Batch for visual microbial contamination. If visual microbial contamination is identified in the Harvest Batch of wet whole plant, the Licensee shall subject the Harvest Batch to microbial contaminant testing pursuant to Rule 4-120(C)(1). If the Test Batch fails testing, then the Harvest Batch shall be subject to the requirements in Rule 4-135(C). The Licensee must also follow Rule 4-120(F)(2); and

C. Evidence of wet whole plant process validations and ongoing testing pursuant to this Rule.

iv. Origin Verification. Verification of the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator that cultivated the wet whole plant used to manufacture the Regulated Marijuana Concentrate.

b. Recordkeeping Requirements. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall maintain copies of documents and other records evidencing compliance with this Rule as part of its business books and records. *See* Rule 3-905 – Business Records Required.

3. ~~Process Validation is~~Reduced Testing Allowances are Effective for One Year. Once a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, an Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer has successfully ~~obtained process validation~~achieved a Reduced Testing Allowance for each of the contaminants listed in paragraph (C) of this Rule, the ~~process validation~~Reduced Testing Allowance is effective for one year from the date of the first passing harvest date or production date required to satisfy the ~~process validation~~Reduced Testing Allowance requirements.

4. Regulated Marijuana Ongoing Contaminant Testing. After successfully ~~obtaining process validation~~achieving a Reduced Testing Allowance, once every 30 days a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator shall subject at least one Harvest Batch to all contaminant testing required by

Paragraph (C) of this Rule. If during any 30-day period a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator does not possess a Harvest Batch that is ready for testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator must subject its first Harvest Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Harvest Batch subject to ongoing contaminant testing fails contaminant testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator shall follow the procedure in Paragraph (F)(2) of this Rule. Ongoing contaminant testing pursuant to this Rule 4-120 shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

a. The Division may reduce the frequency of ongoing contaminant testing required by Medical Marijuana Cultivation Facilities and Retail Marijuana Cultivation Facilities if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

b. If the Licensee fails to comply with paragraph (B)(4) of this Rule, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator is no longer ~~process validated~~authorized a Reduced Testing Allowance.

5. Regulated Marijuana Concentrate, ~~or~~ Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana Ongoing Contaminant Testing. After successfully ~~obtaining process validation~~achieving a Reduced Testing Allowance, once every 30 days a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer shall subject at least one Production Batch to all contaminant testing required by Paragraph (C) of this Rule. If during any 30-day period a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer does not possess a Production Batch that is ready for testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer must subject its first Production Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Production Batch submitted for ongoing contaminant testing fails contaminant testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer shall follow the procedure in Paragraph (F)(2) of this Rule.

a. The Division may reduce the frequency of ongoing contaminant testing required by Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, and Retail Marijuana Products Manufacturers if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

b. If the Licensee fails to comply with paragraph (B)(5) of this Rule, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator

Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer is no longer ~~process validated~~authorized a Reduced Testing Allowance.

C. Required Contaminant Tests.

1. Microbial Contaminant Testing. Harvest Batches of Regulated Marijuana, flower, shake, and trim (other than wet whole plant allocated for extraction), re-testing of Regulated Marijuana flower, shake, and/or trim that has undergone Decontamination, Production Batches of ~~Water~~Physical Separation-, Heat/Pressure-, or Food-Based Medical Marijuana Concentrate, Production Batches of ~~Water~~Physical Separation-, Heat/Pressure-, or Food-Based Retail Marijuana Concentrate, Solvent-Based Medical Marijuana Concentrate produced through Remediation, Solvent-Based Medical Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbial contamination prior to extraction, Solvent-Based Retail Marijuana Concentrate produced through Remediation, Solvent-Based Retail Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbial contamination prior to extraction, Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Industrial Hemp Products, Pressurized Metered Dose Inhalers, Vaporizer Delivery Devices, and Audited Product must be tested for microbial contamination by a Regulated Marijuana Testing Facility at the frequency established by Paragraphs (A) and (B) of this Rule. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and/or amounts present of microbial contaminants listed in Rule 4-115(D)(1): ~~Water Activity,~~ Shiga-toxin producing Escherichia coli (STEC)*- Bacteria, *Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus),* Salmonella species* – Bacteria, Total Yeast and Mold, Total aerobic microbial count, *Staphylococcus Aureus, Pseudomonas aeruginosa, Bile tolerant gram negative bacteria and Candida albicans*.

~~a. Effective Date for Required Water Activity Testing: Requirements for water activity testing pursuant to this rule shall take effect on July 1, 2021.~~

~~b. Wet Whole Plant Exempt From Required Water Activity Testing: Regulated Marijuana wet whole plant is exempt from required water activity testing.~~

a. Effective Date for Required *Aspergillus* Testing. Requirements for *Aspergillus* testing pursuant to this rule shall take effect on July 1, 2022.

1.5 Water Activity Testing. Harvest Batches of Regulated Marijuana, flower, shake, and trim (other than wet whole plant), re-testing of Regulated Marijuana flower, shake, and/or trim that has undergone Decontamination, Keith, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana at the frequency established by Paragraphs (A) and (B) of this Rule.

2. Residual Solvent Contaminant Testing. Production Batches of Solvent-Based Medical Marijuana Concentrate, Solvent-Based Retail Marijuana Concentrate, and Audited Product that contains any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate produced by a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer must be tested by a Regulated Marijuana Testing Facility for residual solvent contamination at the frequency established by Paragraphs (A) and (B) of this Rule. The residual solvent contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of acetone, butane, ethanol, heptanes, isopropyl alcohol, propane, benzene*, toluene*, pentane, hexane*, methanol*, ethyl acetate, and total xylenes* (m, p, o – xylenes).

* Note: These solvents are not approved for use. Testing is required for these solvents due to their possible presence in the solvents approved for use per Rule 5-315 and 6-315.

3. Mycotoxin Contaminant Testing. As part of Remediation, each Production Batch of Solvent-Based Medical Marijuana Concentrate produced by a Medical Marijuana Products Manufacturer or Solvent-Based Retail Marijuana Concentrate produced by a Retail Marijuana Products Manufacturer or an Accelerator Manufacturer from Regulated Marijuana that failed microbial contaminant testing, and Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination must be tested by a Regulated Marijuana Testing Facility for mycotoxin ~~and microbial~~ contamination. Each failed Harvest Batch of Regulated Marijuana flower, shake, and/or trim and each failed Production Batch of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana that has undergone Decontamination must be tested by a Regulated Marijuana Testing Facility for mycotoxin contamination. The mycotoxin contaminant test must include, but need not be limited to, testing to determine the presence of, and amounts present of, aflatoxins (B1, B2, G1, and G2) and ochratoxin A. This is in addition to all other contaminant testing required by this Paragraph (C). This contaminant test cannot ~~be process validated~~achieve a Reduced Testing Allowance in accordance with subparagraph (B)(2) of this Rule, except Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination pursuant to paragraph (B) of this Rule.

4. Pesticide Contaminant Testing. Harvest Batches of Regulated Marijuana, ~~and~~ Production Batches of Regulated Marijuana Concentrate, Production Batches of Pre-Rolled Marijuana, and Production Batches of Infused Pre-Rolled Marijuana must be tested for Pesticide contamination by a Regulated Marijuana Testing Facility at the frequency established by this Rule 4-120(A) and (B). The Pesticide contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of, the Pesticides listed in Rule 4-115(E)(5).

   a. Effective Date for Required Pesticide Contaminant Testing for Production Batches of Regulated Marijuana Concentrate: Requirements for Pesticide contaminant testing for Production Batches of Regulated Marijuana Concentrate pursuant to this rule shall take effect on July 1, 2021.

5. ~~Metals~~ Elemental Impurities ~~Contaminant~~ Testing.

   a. Each Harvest Batch and Production Batch of Regulated Marijuana must be tested for ~~metals~~ elemental impurities ~~contamination~~ by a Regulated Marijuana Testing Facility at the frequency established in paragraphs (A) and (B) of this Rule. The ~~metals~~ elemental impurities ~~contamination~~ test must include, but need not be limited to, testing to determine the presence of, and amounts present of, arsenic, cadmium, lead, and mercury.

   b. Emissions Testing. This subsection (C)(5)(b) is effective January 1, 2022. Each Harvest Batch and Production Batch of Regulated Marijuana Concentrate in a Vaporized Delivery Device must be tested for ~~metals~~ elemental impurities ~~contamination~~ via emissions testing by a Regulated Marijuana Testing Facility at the frequency established in subparagraphs (A) and (B) of this Rule. The ~~metals~~ elemental impurities ~~contamination~~ test must include, but need not be limited to, testing to determine the presence and amounts of arsenic, cadmium, lead, and mercury.

D. Additional Required Tests. The Division may require additional tests to be conducted on a Harvest Batch or Production Batch prior to a Medical Marijuana Cultivation Facility, Retail

Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, a Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer Transferring, or processing into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product any Regulated Marijuana from that Harvest Batch or Production Batch. Additional tests may include, but need not be limited to, screening for Pesticide, chemical contaminants, biological contaminants, or other types of microbials, molds, ~~metals~~elemental impurities, or residual solvents.

E. Exemptions.

1. Medical Marijuana Concentrate.

a. A Medical Marijuana Products Manufacturer who combines multiple Production Batches of Solvent-Based Medical Marijuana Concentrate into a Production Batch of Solvent-Based Medical Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule and the 4-100 Series Rules only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive, or any other Ingredient was introduced during the combination of the Production Batches.

b. A Production Batch of Medical Marijuana Concentrate shall be considered exempt from this Rule if the Medical Marijuana Products Manufacturer that produced it does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Medical Marijuana Product, except that a Solvent-Based Medical Marijuana Concentrate must still be submitted for residual solvent contaminant testing and Medical Marijuana Concentrate must still be submitted for pesticide contaminant testing. The manufactured Medical Marijuana Product shall be subject to mandatory testing under this Rule.

2. Retail Marijuana Concentrate.

a. A Retail Marijuana Products Manufacturer or Accelerator Manufacturer who combines multiple Production Batches of Solvent-Based Retail Marijuana Concentrate into a Production Batch of Solvent-Based Retail Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule and the 4-100 Series Rules only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive or any other Ingredient was introduced during the combination of the Production Batches.

b. A Production Batch of Retail Marijuana Concentrate shall be considered exempt from this Rule if the Retail Marijuana Products Manufacturer that produced it does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Retail Marijuana Product, except that a Solvent-Based Retail Marijuana Concentrate must still be submitted for residual solvent contaminant testing and Retail Marijuana Concentrate must still be submitted for pesticide contaminant testing. The manufactured Retail Marijuana Product shall be subject to testing under this Rule.

3. Regulated Marijuana Wet Whole Plant.

a. Harvest Batches of Regulated Marijuana wet whole plant are exempt from required water activity testing.

b. A Harvest Batch of Regulated Marijuana wet whole plant that is allocated for extraction in the Inventory Tracking System shall be considered exempt from microbials testing required by this Rule if the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that is produced from the wet whole plant is tested for microbials and mycotoxins.

F. ~~Required Re-Validation~~Events Requiring Re-Authorization for a Reduced Testing Allowance - Contaminants.

1. Material Change ~~Re-Validation~~. If a ~~Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer~~ Licensee makes a Material Change to its cultivation or production process or its standard operating procedures ~~manual~~, then it must have the first five Harvest Batches or Production Batches produced using the new procedures tested for all of the contaminants required by Paragraph (C) of this Rule regardless of whether its process has ~~been~~ previously ~~validated~~ achieved a Reduced Testing Allowance regarding contaminants. If any of those tests fail, then the Regulated Marijuana Business's process must ~~be re-validated~~achieve a new Reduced Testing Allowance.

a. Pesticide or other Agricultural Substances. It is a Material Change if a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator begins using a new or different Pesticide or other agricultural substances (e.g. nutrients, fertilizers) during its cultivation process.

b. Solvents. It is a Material Change if a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer begins using a new or different solvent or combination of solvents or changes any parameters for equipment related to the solvent purging process, including but not limited to, time, temperature, or pressure.

c. Cultivation. It is a Material Change if a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator begins using a new or different method for any material part of the cultivation process, including, but not limited to, changing from one growing medium to another.

d. Environmental Conditions. It is a Material Change if a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator changes parameters associated with environmental conditions, including temperature, humidity, or lighting. ~~Notification. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must notify the Regulated Marijuana Testing Facility of the Material Change.~~

e. Cleaning and Sanitation. It is a Material Change, if a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator makes changes to cleaning or sanitation processes.

f. Inputs and Contact Surfaces. It is a Material Change if a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator changes materials that have direct contact with product components, including but not limited to, ingredients, additives, or hardware such as Vaporizer Delivery Devices.

g. Testing Required Prior to Transfer or Processing. When a Harvest Batch or Production Batch is required to be submitted for testing pursuant to this Rule, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer that produced it may not Transfer or process Regulated Marijuana, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Regulated Marijuana Concentrate or Regulated Marijuana Product ~~into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product any of the Regulated Marijuana from that Harvest Batch or Production Batch~~ unless ~~and until~~ the Harvest Batch or Production Batch passes all required testing.

h. Notification. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer that is notified by a Regulated Marijuana Business that provides the Licensee with wet whole plant that a Material Change has been completed in their cultivation, environmental, cleaning or storage procedures, the Licensee shall re-validate mycotoxin contamination according to this Rule.

2. Failed Contaminant Testing and ~~Re-Validation~~Reduced Testing Allowance. Failed contaminant testing may constitute a violation of these rules.

a. If a Sample is required to be tested by these Rules or required to be tested by the Division pursuant to Rule 4-120(A) and fails contaminant testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall follow the procedures in Rule 4-135(B) for any Inventory Tracking System package, Harvest Batch, or Production Batch from which the failed Sample was taken.

b. The Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall also submit Test Batches from three new Harvest Batches or Production Batches of the Regulated Marijuana for contaminant testing by a Regulated Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails contaminant testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall ~~re-validate its process~~achieve a new Reduced Testing Allowance for contaminants.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k~~j~~), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the potency testing and related ~~process validation~~Reduced Testing Allowance portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-125 was previously Rules M and R 1503, 1 CCR 212-1 and 1 CCR 212-2.

4-125 – Regulated Marijuana Testing Program: Potency Testing

A. Potency Testing – General.

1. Test Batches. A Test Batch submitted for potency testing may only be comprised of Samples that are of the same strain of Medical Marijuana or Retail Marijuana or from the same Production Batch of Medical Marijuana Concentrate or Medical Marijuana Product, or from the same Production Batch of Retail Marijuana Concentrate or Retail Marijuana Product, or from the same Production Batch of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana.

2. Cannabinoid Profile. A potency test conducted pursuant to this Rule must at least determine the level of concentration of Delta-8 THC, Delta-9 THC, Delta-10 THC, exo-THC, THCA, CBD, CBDA, and CBN.

B. Potency Testing for Regulated Marijuana.

1. Initial Potency Testing. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility or an Accelerator Cultivator, must have potency tests conducted by a Regulated Marijuana Testing Facility on four Harvest Batches, created a minimum of one week apart, for each strain of Regulated Marijuana that it cultivates. *See* Rule 4-105(B).

a. The first potency test must be conducted on each strain prior to the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or the Accelerator Cultivator, Transferring or processing into a Medical Marijuana Concentrate any Medical Marijuana of that strain, or into a Retail Marijuana Concentrate any Retail Marijuana of that strain.

b. All four potency tests must be conducted on each strain no later than December 1, 2014 or six months after the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or the Accelerator Cultivator begins cultivating that strain, whichever is later.

2. Ongoing Potency Testing. After the initial four potency tests, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator, shall have each strain of Regulated Marijuana that it cultivates tested for potency at least once per quarter.

a. If the Licensee fails to comply with paragraph (B)(2) of this Rule, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or the Accelerator Cultivator is no longer ~~process validated~~authorized for a Reduced Testing Allowance.

C. Potency Testing for Regulated Marijuana Concentrate except Kief.

1. A Medical Marijuana Cultivation Facility or a Medical Marijuana Products Manufacturer must have a potency test conducted by a Medical Marijuana Testing Facility on every Production Batch of Medical Marijuana Concentrate that it produces prior to Transferring or processing into a Medical Marijuana Product any of the Medical Marijuana Concentrate from that Production Batch.

2. A Retail Marijuana Cultivation Facility, Accelerator Cultivator, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must have a potency test conducted by a Retail Marijuana Testing Facility on every Production Batch of Retail Marijuana

Concentrate that it produces prior to Transferring or processing into a Retail Marijuana Product any of the Retail Marijuana Concentrate from that Production Batch.

D. Potency Testing for ~~Regulated Marijuana~~ Kief. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Cultivator, must have a potency test conducted by a Regulated Marijuana Testing Facility on every ~~Harvest~~ Production Batch of Kief that it produces prior to Transferring the Kief.

E. Potency Testing for Regulated Marijuana Product.

1. Potency Testing Required for Regulated Marijuana Product. A Medical Marijuana Products Manufacturer' Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer, shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of each type of Regulated Marijuana Product that it produces prior to Transferring any of the Regulated Marijuana Product from that Production Batch, unless the Medical Marijuana Products Manufacturer or the Retail Marijuana Products Manufacturer has successfully ~~completed process validation~~achieved a Reduced Testing Allowance for potency and homogeneity for the particular type of Regulated Marijuana Product.

2. Required Tests. Potency and homogeneity tests conducted on Regulated Marijuana Product must determine the level of concentration of the required Cannabinoids and whether or not THC is homogeneously distributed throughout the product.

3. Partially Infused Regulated Marijuana Products. If only a portion of a Regulated Marijuana Product is infused with Regulated Marijuana, then the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer must inform the Regulated Marijuana Testing Facility of exactly which portions of the Regulated Marijuana Product are infused and which portions are not infused.

E.1. Potency Testing Required for Pre-Rolled Marijuana.

1. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Products Manufacturer, Accelerated Manufacturer, Medical Marijuana Store, or Retail Marijuana Store shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of each type of Pre-Rolled Marijuana product that it produces prior to Transferring or selling any of the Pre-Rolled Marijuana from that Production Batch if the Regulated Marijuana Business is using multiple strains from different sources (e.g. self–grown source, wholesale source) and/or selecting only a part of the Harvest Batch(es) that is not representative of the entire Harvest Batch each time they produce a certain type of Pre-Rolled Marijuana (e.g. using only the shake/trim out of a Harvest Batch).

2. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Products Manufacturer, Accelerator Manufacturer, Medical Marijuana Store, or Retail Marijuana Store shall have potency tests conducted according to paragraph (F)(2)(a) and (b) of this Rule by a Regulated Marijuana Testing Facility for each type of Pre-Rolled Marijuana product that it produces prior to Transferring or selling any of the Pre-Rolled Marijuana from a Production Batch if each type of Pre-Rolled Marijuana is created using select parts of a single strain (e.g. flower only, shake/trim only) or a specific ratio of strains from specified sources (e.g. self--grown source, wholesale source) defined by the Regulated Marijuana Business' standard operating procedures.

a. Initial Potency Testing. Initial potency tests shall be conducted by a Regulated Marijuana Testing Facility on four Production Batches, created a minimum of one week apart, for each type of Pre-Rolled Marijuana that is created using a single strain or a specific ratio of strains defined by the Regulated Marijuana Business' standard operating procedures.

b. Ongoing Potency Testing. After the initial four potency tests, ongoing potency tests shall be conducted by a Regulated Marijuana Testing Facility at least once per quarter for each type of Pre-Rolled Marijuana that is created using a single strain or a specific ratio of strains defined by the Regulated Marijuana Business' standard operating procedures.

i. If the Licensee fails to comply with Paragraph (F)(2) of this Rule, the Regulated Marijuana Business is no longer granted a Reduced Testing Allowance for the ongoing potency testing requirement.

3. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Products Manufacturer, Accelerator Manufacturer, Medical Marijuana Store, or Retail Marijuana Store shall be considered exempt from potency testing if the Pre-Rolled Marijuana Production Batch uses a single strain and uses all parts of the Harvest Batch that were included in the potency testing of the Harvest Batch prior to creating the Pre-Rolled Marijuana Production Batches. In this case, the potency test results of the Harvest Batch shall be used for the Pre-Rolled Marijuana Production Batch.

4. Production Batches of Pre-Rolled Marijuana are exempt from homogeneity testing.

E.2. Potency Testing Required for Infused Pre-Rolled Marijuana.

1. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Products Manufacturer, or Accelerated Manufacturer, shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of Infused Pre-Rolled Marijuana product that it produces prior to Transferring any of the Infused Pre-Rolled Marijuana from that Production Batch.

2. Production Batches of Infused Pre-Rolled Marijuana are exempt from homogeneity testing.

F. ~~Process Validation~~Reduced Testing Allowance - Potency and Homogeneity.

1. A Retail Marijuana Products Manufacturer or Accelerator Manufacturer may ~~process validate~~achieve a Reduced Testing Allowance for potency and homogeneity for each type of Retail Marijuana Product it manufactures.

a. For Edible Retail Marijuana Products a potency test result that is within 15 percent of the target potency will count for ~~process validation~~a Reduced Testing Allowance.

i. For Edible Retail Marijuana Products that contain 2.5 milligrams of THC or less per serving, a potency test result that is within the greater of plus or minus 0.5 milligrams or 40 percent per serving will count for ~~process validation~~a Reduced Testing Allowance.

2. A Medical Marijuana Products Manufacturer may ~~process validate~~achieve a Reduced Testing Allowance for potency and homogeneity for each type of non-Edible Medical Marijuana Product and each type of Edible Medical Marijuana Product that it manufactures.

    a. For Edible Medical Marijuana Products that contain 100 milligrams of THC or less per Container, a potency test result that is within 15 percent of the target potency will count for ~~process validation~~a Reduced Testing Allowance.

        i. For Edible Medical Marijuana Products that contain 2.5 milligrams of THC or less per serving and less than 100 milligrams of THC per Container, a potency test result that is within the greater of plus or minus 0.5 milligrams or 40 percent per serving will count for ~~process validation~~a Reduced Testing Allowance.

    b. For Edible Medical Marijuana Products that contain between 101 and 500 milligrams of THC per Container, a potency test result that is within 10 percent of the target potency will count for ~~process validation~~a Reduced Testing Allowance.

    c. For Edible Medical Marijuana Products that contain 501 milligrams of THC or more per Container, a potency test result that is within 5 percent of the target potency will count for ~~process validation~~a Reduced Testing Allowance.

3. A Medical Marijuana Products Manufacturer's production process for a particular type of Medical Marijuana Product, and a Retail Marijuana Products Manufacturer's or Accelerator Manufacturer's production process for a particular type of Retail Marijuana Product shall be deemed ~~valid~~ acceptable regarding potency and homogeneity if every Production Batch that it produces for that particular type of Regulated Marijuana Product during at least a four-week period but no longer than an eight-week period passes all potency and homogeneity tests required by Rule 4-125(D)(2). This must include at least four Test Batches.

4. Expiration of ~~Process Validation~~a Reduced Testing Allowance. A Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall be required to ~~re-validate its process~~achieve a new Reduced Testing Allowance every 12 months from the date ~~process validation~~a Reduced Testing Allowance is achieved, after which point the ~~process validation~~Reduced Testing Allowance expires. If the process validation expires, the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall comply with the requirements of Paragraph (D)(1) of this Rule.

5. Regulated Marijuana Product Ongoing Potency and Homogeneity Testing. After successfully obtaining ~~process validation~~a Reduced Testing Allowance, once per quarter a Medical Marijuana Products Manufacturer, a Retail Marijuana Products Manufacturer, and an Accelerator Manufacturer shall subject at least one Production Batch of each type of Medical Marijuana Product or Retail Marijuana Product that it produces to potency and homogeneity testing required by Paragraph (D) of this Rule. If during any quarter a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer does not possess a Production Batch that is ready for testing, the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must subject its first Production Batch that is ready for testing to the required potency and homogeneity testing prior to Transfer or processing of the Regulated Marijuana. If a Test Batch submitted for ongoing potency and homogeneity testing fails potency and homogeneity testing, the Medical Marijuana Products Manufacturer, the Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall follow the procedure in Paragraph (F)(2) of this Rule. Ongoing

potency and homogeneity testing pursuant to this Rule 4-125 shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

a. The Division may reduce the frequency of ongoing potency and homogeneity testing required by Medical Marijuana Products Manufacturers, Retail Marijuana Products Manufacturers, and Accelerator Manufacturer if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing potency and homogeneity testing to the Licensee's last electronic mailing address provided to the Division.

b. If the Licensee fails to comply with paragraph (F)(5) of this Rule, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator is no longer ~~process validated~~authorized for a Reduced Testing Allowance.

G. Exemption. Any Regulated Marijuana that will be allocated for extraction in the Inventory Tracking System shall be considered exempt from potency testing pursuant to this Rule and the 4-100 Series Rules.

H. ~~Required Re-Validation~~Events Requiring Re-Authorization for a Reduced Testing Allowance - Potency and Homogeneity - Regulated Marijuana Product.

1. Material Change ~~Re-Validation~~. If a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer elects to ~~process validate~~achieve a Reduced Testing Allowance for any Medical Marijuana Products or Retail Marijuana Product for potency and homogeneity and it makes a Material Change to its production process for that particular type of Medical Marijuana Product or Retail Marijuana Product, then the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer ~~must re-validate the production process~~shall achieve a new Reduced Testing Allowance.

a. New Equipment. It is a Material Change if the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer begins using new or different equipment for any material part of the production process.

b. Notification. A Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must notify the Regulated Marijuana Testing Facility of a Material Change.

c. Testing Required Prior to Transfer. When a Production Batch is required to be submitted for testing pursuant to this Rule, the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer that produced it may not Transfer Regulated Marijuana Product from that Production Batch unless ~~or until~~ it obtains a passing test.

2. Failed Potency Testing ~~Re-Validation~~. Failed potency testing may constitute a violation of these rules.

a. If a Sample is required to be tested by these Rules or required to be tested by the Division pursuant to Rule 4-115(A) and fails potency testing, the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall follow the procedures in Rule 4-135(C) for any

Inventory Tracking System package or Production Batch associated with the failed Sample.

b. The Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall also submit Test Batches from three new Production Batches of the Medical Marijuana Product or Retail Marijuana Product for potency testing by a Regulated Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails potency testing, the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall ~~re-validate its process for potency~~achieve a new Reduced Testing Allowance.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(~~kj~~), 44-10-203(2)(d), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules requiring Regulated Marijuana Businesses to cover certain costs associated with the Division's Regulated Marijuana Sampling and Testing Program. This Rule 4-130 was previously Rules M and R 1506, 1 CCR 212-1 and 1 CCR 212-2.

4-130 – Regulated Marijuana Testing Program: Costs

The cost for all sampling and tests conducted pursuant to these rules shall be the financial responsibility of the Regulated Marijuana Business that is required to submit the Sample for testing.

Basis and Purpose – 4-135

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(~~kj~~), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules governing the quarantining of potentially contaminated product and the destruction of product that failed contaminant or potency testing for Division's Regulated Marijuana Sampling and Testing Program. This Rule 4-135 was previously Rules M and R 1507, 1 CCR 212-1 and 1 CCR 212-2.

4-135 – Regulated Marijuana Testing Program: Contaminated Product and Failed Test Results and Procedures

A. Quarantining of Product.

1. If the Division has reasonable grounds to believe that a particular Harvest Batch, Production Batch, or Inventory Tracking System package of Regulated Marijuana is contaminated or presents a risk to public safety, then the Division may require a Regulated Marijuana Business to quarantine it until the completion of the Division's investigation, which may include, but is not limited to, the receipt of any test results.

2. If a Regulated Marijuana Business is notified by any local or state agency, or by a Regulated Marijuana Testing Facility that a Test Batch failed a contaminant or potency testing, then the Regulated Marijuana Business shall quarantine any Regulated Marijuana from any Inventory Tracking System package, Harvest Batch or Production Batch associated with that failed Test Batch and must follow the procedures established pursuant to paragraph (B)(1), (B)(2), (B)(3) and/or (C) of this Rule.

3. Except as provided by this Rule, Regulated Marijuana that has been quarantined pursuant to this Rule must be physically separated from all other inventory and the Licensee may not Transfer or further process the Regulated Marijuana.

4. In addition to any other method authorized by law, the Division may implement the quarantine through the Inventory Tracking System by (a) indicating failed test results and (b) limiting the Licensee's ability to Transfer the quarantined Regulated Marijuana unless otherwise permitted by these rules.

B. Failed Contaminant Testing: All Contaminant Testing Except Microbial and Water Activity Testing of Regulated Marijuana Flower, ~~or~~ Trim, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, ~~and~~ Pesticide Testing, and Elemental Impurities Testing of Regulated Marijuana Flower or Trim. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed contaminant testing (except microbial and water activity testing of Regulated Marijuana flower or trim, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, and Pesticide testing), then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch or Production Batch pursuant to Rule 3-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

   a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

   b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

   c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal.; ~~or~~

3. The Regulated Marijuana Business may Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch~~es~~ that failed contaminant testing to another Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an

Accelerator Manufacturer for decontamination, if possible, and create two new Test Batches after decontamination has occurred, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal.

C. Failed Contaminant Testing: Microbial Testing of Regulated Marijuana Flower, Wet Whole Plant, ~~or~~ Trim, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana flower, wet whole plant, ~~or~~ trim, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana failed microbial testing, then for each Inventory Tracking System package or Harvest Batch or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch or Production Batch pursuant to Rule 2-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, ~~or~~ trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for microbial contaminant testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, ~~or~~ trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, ~~or~~ trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both Test Batches pass the required microbial testing, then the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet

whole plant, ~~or~~ trim or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

c. If one or both of the Test Batches do not pass microbial testing, then the Regulated Marijuana Business must:

i. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana pursuant to Rule 3-230 – Waste Disposal;

ii. Decontaminate and re-test in accordance with this Paragraph (C)(2); or

iii. Transfer the Inventory Tracking System package or Harvest Batch or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for Decontamination or Remediation pursuant to Paragraph (C)(3)(b) below.

3. In lieu of decontamination pursuant to Paragraph (C)(2) above, the Regulated Marijuana Business may T~~t~~ransfer all Inventory Tracking System packages associated with that failed Test Batch to a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator for decontamination, or may Transfer such Inventory Tracking System packages to a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer for decontamination and/or Remediation.

a. Decontamination. The Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator may decontaminate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, ~~or~~ trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for microbial contaminant testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, ~~or~~ trim or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, ~~or~~ trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

i. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities

ii. If both Test Batches pass the required microbial testing, then the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, ~~or~~ trim associated with each Test Batch, or Production

Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

iii. If one or both of the Test Batches that were created from Harvest Batches or Production Batches pursuant to Paragraph (C)(3)(a) do not pass microbial testing, the Regulated Marijuana Business must either:

A. Destroy and document the destruction of the Inventory Tracking System package, ~~or~~ Harvest Batch, or Production Batch pursuant to Rule 3-230 Waste Disposal;

B. Decontaminate and re-test in accordance with this paragraph;

C. Attempt Remediation pursuant to Paragraph (C)(3)(b), except for Production Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana; or

D. Transfer the Inventory Tracking System package, ~~or~~ Harvest Batch, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for Decontamination or Transfer the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, or trim for Remediation pursuant to Paragraph (C)(3).

b. Remediation. The Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer may Remediate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments. The new Test Batches are required to be re-tested for Microbial, Mycotoxin, and Water Activity contaminant testing. Such testing must comport with sampling procedures under Rule 4-110.

i. For Remediation, the Regulated Marijuana Business shall process the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim associated with the failed Test Batch into a Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

ii. The Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) – Regulated Marijuana Testing Program – Contaminant Testing, potency testing pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to microbial and mycotoxins contamination. Such testing must comport with the sampling procedures under Rule 4-110.

iii. If the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) fails contaminant testing, the Regulated Marijuana Business shall destroy and document the destruction of the Inventory Tracking System package(s) or Production Batch(es) of Solvent-Based

Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate pursuant to Rule 3-230 – Waste Disposal.

4. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

C.5. Failed Contaminant Testing: Water Activity Testing of Regulated Marijuana Flower, Trim, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana flower, trim, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana failed water activity testing, then for each Inventory Tracking System package or Harvest Batch or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch or Production Batch pursuant to Rule 2-230 – Waste Disposal; or

2. Decontaminate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for water activity testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana has undergone Decontamination, then it must also pass a microbial contaminant test prior to Transfer. The microbial contaminant is not required to occur until after the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana has passed water activity testing. If a Test Batch fails microbial contaminant testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both Test Batches pass the required water activity testing, then the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, trim or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

c. If one or both of the Test Batches do not pass water activity testing, then the Regulated Marijuana Business must:

i. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana pursuant to Rule 3-230 – Waste Disposal;

ii. Decontaminate and re-test in accordance with this Paragraph (C.5)(2); or

iii. Transfer the Inventory Tracking System package or Harvest Batch or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled

Marijuana for Decontamination or Remediation pursuant to Paragraph (C)(3)(b) below.

3. In lieu of decontamination pursuant to Paragraph (C)(2) above, the Regulated Marijuana Business may Transfer all Inventory Tracking System packages associated with that failed Test Batch to a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator for decontamination, or may Transfer such Inventory Tracking System packages to a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer for decontamination and/or Remediation.

a. Decontamination. The Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator may decontaminate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for water activity testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, trim or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana has undergone Decontamination, then it must also pass a microbial contaminant test prior to Transfer. The microbial contaminant testing is not required to occur until after the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, trim, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana has passed water activity testing. If a Test Batch fails microbial contaminant testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

i. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities

ii. If both Test Batches pass the required testing, then the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, trim associated with each Test Batch, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

iii. If one or both of the Test Batches that were created from Harvest Batches or Production Batches pursuant to Paragraph (C)(3)(a) do not pass water activity testing, the Regulated Marijuana Business must either:

A. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 Waste Disposal;

B. Decontaminate and re-test in accordance with this paragraph;

C. Attempt Remediation pursuant to Paragraph (C)(3)(b), except for Production Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana; or

D. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for Decontamination or Transfer the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, or trim for Remediation pursuant to Paragraph (C)(3).

b. Remediation. The Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer may Remediate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments. The new Test Batches are required to be re-tested for Microbial, Mycotoxin, and Water Activity contaminant testing. Such testing must comport with sampling procedures under Rule 4-110.

i. For Remediation, the Regulated Marijuana Business shall process the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim associated with the failed Test Batch into a Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

ii. The Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) – Regulated Marijuana Testing Program – Contaminant Testing, potency testing pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to microbial and mycotoxins contamination. Such testing must comport with the sampling procedures under Rule 4-110.

iii. If the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) fails contaminant testing, the Regulated Marijuana Business shall destroy and document the destruction of the Inventory Tracking System package(s) or Production Batch(es) of Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate pursuant to Rule 3-230 – Waste Disposal.

4. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

D. Failed Contaminant Testing: Pesticide Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed Pesticide testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Request that the Regulated Marijuana Testing Facility that reported the original fail conduct two additional analyses of the original Test Batch submitted in accordance with Rule 4-110.

a. If both retesting analyses pass the required Pesticide testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana, ~~or~~ Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

b. If one or both of the retesting analyses do not pass Pesticide testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal.

D.1. Failed Contaminant Testing: Elemental Impurities Testing of Regulated Marijuana Flower, Wet Whole Plant, and Trim. If a Regulated Marijuana Business is notified by the Division, or a Testing Facility that a Test Batch of Regulated Marijuana flower, wet whole plant, or trim failed elemental impurities testing, then for each Inventory Tracking System package or Harvest Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 Waste Disposal.

2. If the failed Test Batch is not deemed hazardous waste per the Resource Conservation and Recovery Act or other applicable federal, state, or local regulations, then the Regulated Marijuana Business may transfer all Inventory Tracking System packages associated with that failed Test Batch to a Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer for Remediation.

a. The Regulated Marijuana Business that Transfers the Retail Marijuana that failed elemental impurities testing must comply with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

b. The Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer may Remediate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim associated with the failed Test Batch by processing it into a Medical Marijuana Concentrate or Retail Marijuana Concentrate. No other Regulated Marijuana shall be included in the Medical Marijuana Concentrate or Retail Marijuana Concentrate.

c. In addition to all applicable regulations, the Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must comply with 3-230 (C) (1) and 6-315 (D) (9).

d. The Medical Marijuana Concentrate or Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) Regulated Marijuana Testing Program Contaminant Testing, potency testing pursuant to Rule 4-125 - Regulated Marijuana Testing Program - Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to elemental impurities testing. Such testing must comport with the sampling procedures under Rule 4- 110.

e. For elemental impurities testing, the Regulated Marijuana Business must create two new Test Batches from the Remediated Production Batch, each containing

the requisite number of Samples, and have those Test Batches tested. Such testing must comport with the sampling procedures under Rule 4-110.

i. A Licensee must either (1) submit both new Test Batches to the same Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Marijuana Testing Facilities.

ii. If both Test Batches pass the required elemental impurities testing, then the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

iii. If one or both of the Test Batches do not pass elemental impurities testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 - Waste Disposal.

f. All Production Batches undergoing Remediation for elemental impurities must be tested and are not subject to process validation testing exemptions.

3. Nothing in this Rule eliminates or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed elemental impurities testing from complying with the requirement to pay excise tax pursuant to article 28.8 of Title 39, C.R.S.

E. Failed Potency Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana Product failed potency testing, then for each Inventory Tracking System package or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Attempt corrective measures, if possible, and create two new Test Batches each containing the requisite number of Samples, and have those Test Batches tested for the required potency test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both new Test Batches pass potency testing, then the Inventory Tracking System package or Production Batch associated with each Test Batch may be Transferred.

c. If one or both of the Test Batches do not pass potency testing, then the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must destroy and document the destruction of Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal.

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Part 5 – Medical Marijuana Business License Types

5-100 Series – Medical Marijuana Stores

Basis and Purpose – 5-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d)(I)-(VI), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, C.R.S. The purpose of this rule is to establish a Medical Marijuana Store's license privileges. This Rule 5-105 was previously Rule M 401, 1 CCR 212-1.

5-105 – Medical Marijuana Store: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Medical Marijuana Business and Retail Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Store may share a Licensed Premises with a commonly-owned Retail Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Authorized Sources of Medical Marijuana. A Medical Marijuana Store may only Transfer Medical Marijuana that was obtained from a Medical Marijuana Business.

C. Authorized Transfers. A Medical Marijuana Store may only Transfer Medical Marijuana to a patient, a primary caregiver, another Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Products Manufacturer, or a Medical Marijuana Testing Facility.

D. Samples Provided for Testing. A Medical Marijuana Store may provide Samples of its products to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

E. Authorized On-Premises Storage. A Medical Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

F. Authorized Marijuana Transport. A Medical Marijuana Store is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken and delivered is a licensed Medical Marijuana Business. Nothing in this Rule prevents a Medical Marijuana Store from transporting its own Medical Marijuana.

G. Performance-Based Incentives. A Medical Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

H. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Medical Marijuana Store may Transfer Industrial Hemp Product to a patient only after it has verified:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Rule Series at a Medical Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Medical Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

I. Medical Marijuana Store Delivery Permit. A Medical Marijuana Store with a valid delivery permit may accept delivery orders and deliver Medical Marijuana to a patient who is 21 years of age or older, or the patient's parent or guardian who is also the patient's primary caregiver pursuant to Rule 3-615. A Medical Marijuana Store that does not possess a valid delivery permit cannot deliver Medical Marijuana to a patient, parent, or guardian.

J. Automated Dispensing Machines. A Medical Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to patients without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to patients.

K. Walk-up or Drive-Up Window. A Medical Marijuana Store may serve patients through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Medical Marijuana to a patient through either a walk-up window or a drive-up window, a Medical Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or a drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

   a. Prior to accepting an order or Transferring Medical Marijuana to a patient, the Employee Licensee or Owner Licensee must physically view and inspect the patient's identification and the patient's registry identification card.

   b. The Medical Marijuana Store may accept internet or telephone orders or may accept orders from the patient at the walk-up or drive-up window.

   c. All orders received through a walk-up window or drive-up window must be placed by the patient from a menu. The Medical Marijuana Store may not display Medical Marijuana at the walk-up window or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payment for Medical Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Medical Marijuana Store's video surveillance must enable the recording of the patient's identity (and patient's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the patient's identification, registry identification card, and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. A Medical Marijuana Store utilizing a walk-up or drive-up window must ensure that all Medical Marijuana is packaged and labeled in accordance with Rules 3-1010 and Rule 3-1015 prior to Transfer to the patient.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Licensing Authority.

8. Vehicle Prohibited in the Licensed Premises. A Medical Marijuana Store shall not permit any portion of a vehicle to enter any portion of the Licensed Premises.

Basis and Purpose – 5-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), and 44-10-501, C.R.S. The purpose of this rule is to establish the requirements and processes applicable to a Medical Marijuana Store registering patients for primary ~~center~~ store purposes. This Rule 5-110 was previously Rule M 402, 1 CCR 212-1.

5-110 – Registration of a Primary Medical Marijuana Store

A. Patient Designation Required. A Medical Marijuana Store may possess in the aggregate, only the amount of Medical Marijuana permitted by Rule 5-115 for each patient who has designated the Medical Marijuana Store as being his or her primary ~~center~~store. A patient's designation of a Medical Marijuana Store as his or her primary Medical Marijuana Store in accordance with these Rules establishes the Medical Marijuana Store registration requirements set forth in section 25-1.5-106(8)(f), C.R.S.

B. Change Only Allowed Every 30 Days. A Medical Marijuana Store shall not register a patient as being the patient's primary ~~center~~ store if the patient has designated another Medical Marijuana Store as his or her primary ~~center~~ store in the preceding 30 days. The Medical Marijuana Store and its employees must require a patient to sign in writing that he or she has not designated another Medical Marijuana Store as his or her primary ~~center~~ store before including that patient's Medical Marijuana in its maximum allowed on-hand Medical Marijuana inventory calculation under Rule 5-115.

C. Notification to Former Medical Marijuana Store. A Medical Marijuana Store must maintain a copy of a written or electronic notification that it provided to a patient's former primary Medical Marijuana Store advising that the Medical Marijuana Store has been designated as the patient's new primary Medical Marijuana Store.

D. Documents Required. The new primary Medical Marijuana Store shall maintain written authorization from the patient, any relative plant count waiver to support the number of ounces of Medical Marijuana (excluding Medical Marijuana Products and Medical Marijuana Concentrate) included in its on-hand inventory for that patient, a hard or electronic copy of the patient's registry

card, and a copy of the patient's proof of identification. *See also* Rule 3-905 – Business Records Required.

E. Violation Affecting Public Safety. Notwithstanding the provisions in Rule 5-110(B), it may be considered a violation affecting public safety for a Medical Marijuana Store and its employees to become a patient's primary ~~center~~ store when the patient already had designated one or more other Medical Marijuana Stores as his or her primary ~~center~~store.

Basis and Purpose – 5-115

The statutory authority for this includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k~~j~~), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, 44-10-501(10) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 14(4). The purpose of this rule is to clarify those acts that are prohibited, or limited in some fashion, by a licensed Medical Marijuana Store.

The sales limitations provision reflects the sales limitation imposed by statute. Clarifying the limitations on sales provides Medical Marijuana Stores and their employees with necessary information to avoid being complicit in a patient acquiring more Medical Marijuana than is lawful under the Colorado Constitution pursuant to Article XVIII, Subsection 14(4).

This Rule 5-115 was previously Rule M 403, 1 CCR 212-1.

5-115 – Medical Marijuana Sales: General Limitations or Prohibited Acts

A. Possession Limits. A Medical Marijuana Store may only possess at its Licensed Premises the number of ounces of Medical Marijuana (excluding Medical Marijuana Products and Medical Marijuana Concentrate) that equals the greater of: 1) twice the total, aggregate ounces of Medical Marijuana all of its registered patients are allowed to possess, or 2) the total, aggregate ounces of Medical Marijuana that the Medical Marijuana Store Transferred to patients in the thirty (30) previous calendar days. Under no circumstance shall a Medical Marijuana Store possess more Medical Marijuana than permitted by this subparagraph.

B. Medical Marijuana Products Manufacturers. A Medical Marijuana Store may also contract for the manufacture of Medical Marijuana Product with Medical Marijuana Products Manufacturer Licensees utilizing a contract as provided for in Rule 5-310 – Medical Marijuana Products Manufacturer: General Limitations or Prohibited Acts (Infused Product Contracts). Medical Marijuana distributed to a Medical Marijuana Products Manufacturer by a Medical Marijuana Store pursuant to such a contract for use solely in Medical Marijuana Product(s) that are returned to the contracting Medical Marijuana Store shall not be included for purposes of determining compliance with paragraph A.

B.5 Standard Operating Procedures. A Medical Marijuana Store must establish written standard operating procedures for the management and storage of Medical Marijuana inventory and the sale of Medical Marijuana to patients. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

C. Patient Sales ~~Limitations~~Requirements. A Medical Marijuana Store shall comply with the sales and Inventory Tracking requirements in Rule 5-125.

~~1. A Medical Marijuana Store and its employees shall not sell to a patient in a single business day, individually or in any combination, more than:~~

~~a. Two ounces of medical marijuana flower;~~

~~b. 40 grams of Medical Marijuana Concentrate; or~~

~~c. Medical Marijuana Products containing a combined total of 20,000 mg;~~

~~2. A Medical Marijuana Store and its employees shall not sell more than:~~

~~a. Six Immature plants unless the patient has designated the Medical Marijuana Store as his or her primary center and supplied it with documentation from the patient's provider allowing the patient more than six plants;~~

~~b. One half of the patient's extended plant count to a patient who has designated the Medical Marijuana Store as his or her primary center and supplied it with documentation from the patient's provider allowing the patient more than six plants; or~~

~~c. Six Medical Marijuana plant seeds unless the patient has designated the Medical Marijuana Store as his or her primary center and supplied it with documentation from the patient's provider allowing the patient more than six Medical Marijuana seeds. One Medical Marijuana plant is equivalent to one Medical Marijuana seed.~~

~~3. Exemptions to Sales Limitations.~~

~~a. A Medical Marijuana Store may sell Medical Marijuana or Medical Marijuana Product in an amount that exceeds the sales limitation in subparagraph (C)(1) of this Rule if:~~

~~i. The patient has received a provider recommendation for more than two ounces of Medical Marijuana flower and has designated the Medical Marijuana Store as his or her primary center; or~~

~~ii. The patient has received a provider recommendation exempting the patient from the Medical Marijuana Concentrate or Medical Marijuana Product sales limitation and the patient has designated the Medical Marijuana Store as his or her primary center.~~

C.5. Educational Resource. When completing a sale of Medical Marijuana Concentrate, a Medical Marijuana Store shall provide the patient with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate

D. ~~For purposes of Rule 5-115(C), a single transaction to a patient includes multiple Transfers to the same patient during the same business day where the Medical Marijuana Store employee knows or reasonably should know that such Transfer would result in the patient possessing more than the quantities of Medical Marijuana set forth above. In determining the imposition of any penalty for violation of this Rule 5-115(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).~~Repealed.

E. Transfer Restriction.

1. Sampling Units. A Medical Marijuana Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. A Medical Marijuana Store shall not Transfer any Medical Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

F. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Medical Marijuana to a patient.

G. Delivery Outside Colorado Prohibited. A Medical Marijuana Store holding a valid delivery permit shall not deliver Medical Marijuana to an address that is outside the state of Colorado.

H. Storage and Display Limitations. A Medical Marijuana Store shall not display Medical Marijuana outside of a designated Restricted Access Area or in a manner in which Medical Marijuana can be seen from outside the Licensed Premises. Storage of Medical Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

I. Transfer of Expired Product Prohibited. A Medical Marijuana Store shall not Transfer any expired Medical Marijuana Product to a patient.

J. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit

1. The Transfer of Edible Medical Marijuana Product in the following shapes is prohibited:

   a. The distinct shape of a human, animal, or fruit; or

   b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Medical Marijuana Business. Nothing in this subparagraph (L)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Packaging, Labeling, and Product Safety.

3. Edible Medical Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Medical Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

K. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If a~~A~~ Medical Marijuana Store is notified of any Adverse Health Event related to Regulated Marijuana it Transferred to a patient, the Medical Marijuana Store ~~that Transfers Audited Product and/or Alternative Use Product~~ must report ~~any~~ the Adverse Health Event ~~adverse event related to an Audited Product and/or Alternative Use Product directly~~ to both the originating ~~Medical~~ Regulated Marijuana ~~Products Manufacturer~~Business that Transferred the ~~Audited Product or Alternative Use Product~~Regulated Marijuana to the Medical Marijuana Store and the Colorado Department of Public Health and Environment. The Medical Marijuana Store must submit the report ~~must be submitted~~ within forty-eight (48) hours ~~after learning~~ from its receipt of notification of the Adverse Health Event ~~adverse event by the Medical Marijuana Store~~. ~~For the purpose of this Rule, adverse event means any untoward medical occurrence associated with the use of marijuana—this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom or disease temporally associated with the use of a marijuana product, and may include concerns or reports on the quality or possible adverse reactions to a specific Audited Product or Alternative Use Product.~~ To the extent known after reasonable diligence to ascertain the information, the report to the Medical Marijuana Products Manufacturer must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch number of the Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana Product~~Audited Product or Alternative Use Product~~.

2. General Complaints. [UNDER FURTHER REVIEW]

L. Corrective and Preventive Action. This paragraph L shall be effective January 1, 2021. A Medical Marijuana Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

M. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(b), 44-10-203(1)(kj), and 44-10-203(3)(h), C.R.S. The purpose of this rule is to establish that a Medical Marijuana Store must control and safeguard access to certain areas where Medical Marijuana will be sold, and to prevent diversion to non-patients. This Rule 5-120 was previously Rule M 404, 1 CCR 212-1.

5-120 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Medical Marijuana is sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area – Only Medical Marijuana Patients Allowed."

B. Patients in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times to ensure that only persons with a valid patient registry card or caregivers

permitted to deliver Medical Marijuana to homebound patients as permitted by section 25-1.5-106(9)(e), C.R.S., are present in the Restricted Access Area. When allowing a patient or caregiver access to a Restricted Access Area, Employee Licensees shall make reasonable efforts to limit the number of patients in relation to the number of Employee Licensees in the Restricted Access Area at any time.

C. Display of Medical Marijuana. The display of Medical Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the patient must be supervised by the Employee Licensee at all times when patients are present.

D. Pregnancy Warning. Medical Marijuana Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Basis and Purpose– 5-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, C.R.S. The purpose of this rule is to identify Medical Marijuana Store sales requirements including patient quantity limits, Inventory Tracking System requirements to identify discrepancies with daily authorized quantity limits and THC potency authorizations and to require that Medical Marijuana Stores provide an educational resource to patients regarding the use of Medical Marijuana Concentrate.

5-125 – Patient Sale Requirements

[THE BELOW STILL REFLECTS THE WORK GROUP VERSION – THIS IS UNDER REVIEW AND REMAINS SUBJECT TO CHANGE (AS WITH OTHER PROPOSED RULES THROUGHOUT)]

A. Sales Limitations.

1. A Medical Marijuana Store and its employees shall not sell to a patient in a single business day, individually or in any combination, more than:

   a. Two ounces of medical marijuana flower; or

   b. Eight grams of Medical Marijuana Concentrate for a patient over 21 years old, or two grams of Medical Marijuana Concentrate for a patient between 18 and 20 years old; or

   c. Medical Marijuana Products containing a combined total of 20,000 mg.

2. A Medical Marijuana Store and its employees shall not sell more than:

   a. Six Immature plants unless the patient has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six plants;

   b. One half of the patient's extended plant count to a patient who has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six plants; or

c. Six Medical Marijuana plant seeds unless the patient has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six Medical Marijuana seeds. One Medical Marijuana plant is equivalent to one Medical Marijuana seed.

3. Exemptions to Sales Limitations.

a. A Medical Marijuana Store may sell Medical Marijuana or Medical Marijuana Product in an amount that exceeds the sales limitation in subparagraph (C)(1) of this Rule if:

i. The patient has received a physician recommendation for more than two ounces of Medical Marijuana flower and the patient has designated the Medical Marijuana Store as his or her primary store;

ii. The patient has received a physician recommendation exempting the patient from the Medical Marijuana Product sales limitation and the patient has designated the Medical Marijuana Store as his or her primary store;

iii. The patient has designated the Medical Marijuana Store as his or her primary store and the patient has received a physician recommendation exempting the patient from the Medical Marijuana Concentrate sales limitation because:

A. The patient is homebound;

B. The uniform certification form specifically states that the patient needs more than eight grams of Medical Marijuana Concentrate if a patient is over 21 years old or two grams of Medical Marijuana Concentrate if the patient is between 18 and 20 years old;

C. It would be a significant Physical or Geographic Hardship for the patient to make a daily purchase; or

D. The patient had a registry identification card prior to 18 years of age.

b. "Physical Hardship" shall be determined by the patient's physician, be identified on the patient's uniform certification, and includes, but is not limited to, chronic or debilitating disease or disabling medical condition that restricts the mobility of the patient or another limited physical condition as determined by the patient's provider.

c. "Geographic Hardship" shall be determined by the patient's physician, be identified on the patient's uniform certification, and includes, but is not limited to any one of the following:

i. The patient lacks transportation;

ii. The distance between the patient's residence and the Medical Marijuana Store is greater than ___ miles;

iii. There are five or fewer Medical Marijuana Stores located in the patient's county of residence; or

iv. The provider recommended Medical Marijuana Product(s) that is not available from a Medical Marijuana Store(s) located in the patient's county of residence.

B. Multiple Transactions. For purposes of Rule 5-125(A), a single transaction to a patient includes multiple Transfers to the same patient during the same business day where the Medical Marijuana Store employee knows or reasonably should know that such Transfer would result in the patient possessing more than the quantities of Medical Marijuana set forth above. In determining the imposition of any penalty for violation of this Rule 5-125(A), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

C. Inventory Tracking Requirements.

1. Before Completing a Transfer of Medical Marijuana to a patient, a Medical Marijuana Store and its Employee Licensee shall access and retrieve real-time sales data based on the patient identification number to verify that a sale to the patient will not exceed the daily authorized sales limit. The Medical Marijuana Store and Employee Licensee shall decline to complete the Transfer of Medical Marijuana to the patient if it would exceed the patient's daily authorized purchase limit which may be determined by a user error message from the Inventory Tracking System.

2. At the time of the sale to the patient the Medical Marijuana Store and its Employee Licensee shall record the sale in real time in the Inventory Tracking System. A Medical Marijuana Store may use a secondary software platform to transmit patient sale data to the Inventory Tracking system.

3. Temporary Outage of Inventory Tracking System. A Medical Marijuana Store may rely on the uniform certification form and is not responsible for any unintentional sale in excess of the authorized Medical Marijuana quantity limit that occurs during the outage, provided that the Medical Marijuana Store uploads its sales data into the Inventory Tracking System as soon as reasonably practicable after the end of the outage. A temporary outage is any event in which there is a technology-related inability to enter or retrieve real time sales data from the Inventory Tracking System.

D. Educational Resource. When completing a sale of Medical Marijuana Concentrate, a Medical Marijuana Store and its Owner or Employee Licensee shall provide the patient with the tangible educational resource created by the State Licensing Authority regarding the use of Medical Marijuana Concentrate.

E. Confidentiality. All data collected pursuant to Rule, including any personal identifying patient information, is subject to the confidentiality requirements of 44-10-204, C.R.S.

F. Violation Affecting Public Safety. Violation of this Rule may be considered a license violation affecting public safety

5-200 Series – Medical Marijuana Cultivation Facility: License Privileges

Basis and Purpose – 5-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), 44-10-313, 44-10-502(5), and 44-10-503, C.R.S. The purpose of this rule is to

establish a Medical Marijuana Cultivation Facility's license privileges in addition to the privileges outlined in these rules. This Rule 5-205 was previously Rule M 501, 1 CCR 212-1.

5-205 – Medical Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Cultivation Facility may share a Licensed Premises with a commonly owned Retail Marijuana Cultivation Facility. However, a separate license is required for each specific business entity regardless of geographical location. In addition, a Medical Marijuana Cultivation Facility may share and operate at the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

B. Cultivation of Medical Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Medical Marijuana Concentrate Authorized. A Medical Marijuana Cultivation Facility may pPropagate, cultivate, harvest, prepare, cure, package, store, and label Medical Marijuana and Physical Separation-Based Medical Marijuana Concentrate~~, whether in concentrated form or otherwise~~. A Medical Marijuana Cultivation Facility may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Medical Marijuana Concentrate.

C. Authorized Transfers. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana and ~~Water~~Physical Separation-Based Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility, a Medical Marijuana Store, a Medical Marijuana Products Manufacturer, a Medical Marijuana Testing Facility, a Marijuana Research and Development Facility, or a Pesticide Manufacturer.

1. A Medical Marijuana Cultivation Facility shall not Transfer Flowering plants. A Medical Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Medical Marijuana Cultivation Facility may Transfer Sampling Units of Medical Marijuana or Medical Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-502(5), C.R.S., and Rule 5-230.

3. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

   a. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of decontamination and only after all other steps outlined in the Medical Marijuana Cultivation Facility's

standard operating procedures have been completed, including but not limited to drying, curing, and trimming; or

b. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the Medical Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

i. The Medical Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Medical Marijuana Cultivation Facility;

ii. An originating Medical Marijuana Cultivation Facility may only Transfer Medical Marijuana to one receiving Medical Marijuana Cultivation Facility that will be serving as a centralized processing hub.

iii. The Medical Marijuana or Medical Marijuana Concentrate is weighed prior to leaving the originating Medical Marijuana Cultivation Facility and immediately upon receipt at the receiving Medical Marijuana Cultivation Facility and in accordance with Rule 3-605;

iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

v. The receiving Medical Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Medical Marijuana Cultivation Facility is pursuing ~~process validation status, process validation~~a Reduced Testing Allowance, a Reduced Testing Allowance must be obtained separately for Medical Marijuana received from each originating Medical Marijuana Cultivation Facility. A Medical Marijuana Cultivation Facility that has achieved a Reduced Testing Allowance ~~is process validated~~ must maintain and produce complete testing records that can verify that facility's compliance with testing and ~~process validation~~Reduced Testing Allowance requirements; and

vi. The standard operating procedures for the originating Medical Marijuana Cultivation Facility and receiving Medical Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

D. Packaging Processed Medical Marijuana. Processed Medical Marijuana plants shall be packaged in units of ten pounds or less and labeled pursuant to the 3-1000 Series Rules – Labeling, Packaging, and Product Safety, and securely sealed in a tamper-evident manner.

E. Authorized Marijuana Transport. A Medical Marijuana Cultivation Facility is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken is a Medical Marijuana Business and the transportation order is delivered to a licensed Medical Marijuana Business or Pesticide Manufacturer. Nothing in this Rule prevents a Medical Marijuana Cultivation Facility from transporting its own Medical Marijuana.

F. Performance-Based Incentives. A Medical Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Medical Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 5-230 – Sampling Unit Protocols.

G. Authorized Sources of Medical Marijuana, Seeds, and Immature Plants. A Medical Marijuana Cultivation Facility shall only obtain Medical Marijuana seeds or Immature Plants from its own Medical Marijuana, properly Transferred Retail Marijuana cultivated at a Retail Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly Ttransferred from another Medical Marijuana Business pursuant to the inventory tracking requirements in the Rule 3-800 Series. A Medical Marijuana Cultivation Facility may also receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility or Accelerator Cultivator in compliance with Rules 5-235, 6-230, and 6-730. A Medical Marijuana Cultivation facility may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

H. Centralized Distribution Permit. A Medical Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores.

1. For purposes of a Centralized Distribution Permit only, the term “commonly owned” means at least one natural person who is disclosed to the Division who has a minimum of five percent ownership in both the Medical Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Medical Marijuana Store to which the Medical Marijuana Concentrate and Medical Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, a Medical Marijuana Cultivation Facility may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Medical Marijuana Cultivation Facility shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. A Medical Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Medical Marijuana Concentrate and Medical Marijuana Product from a Medical Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Medical Marijuana Stores.

    a. A Medical Marijuana Cultivation Facility may only accept Medical Marijuana Concentrate and Medical Marijuana Product that is packaged and labeled for sale to a patient pursuant to the 3-1000 Series Rules.

    b. A Medical Marijuana Cultivation Facility storing Medical Marijuana Concentrate and Medical Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Medical Marijuana Concentrate or Medical Marijuana Product on the Medical Marijuana Cultivation Facility’s Licensed Premises for more than 90 days from the date of receipt.

    c. All Transfers of Medical Marijuana Concentrate and Medical Marijuana Product by a Medical Marijuana Cultivation Facility shall be without consideration.

4. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

I. Transition Permit. A Medical Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 5-210

The statutory authority for this rule includes but is not limited to sections 44-10-201, 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-313, 44-10-401(2)(a)(II), 44-10-501, 44-10-502, 44-10-503, and 44-10-505, C.R.S. The purpose of this rule is to clarify what activity is or is not allowed at a Medical Marijuana Cultivation Facility. This Rule 5-210 was previously Rule M 502, 1 CCR 212-1.

5-210 – Medical Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Medical Marijuana Cultivation Facility is prohibited from Transferring Medical Marijuana and Medical Marijuana Concentrate that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Patient Prohibited. A Medical Marijuana Cultivation Facility is prohibited from Transferring Medical Marijuana to a patient. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-502(5), C.R.S., and Rule 5-230.

C. Inventory Limit. A Medical Marijuana Cultivation Facility shall not possess more plants than it is permitted to possess based on its production management class. *See* Rule 5-225 – Medical Marijuana Cultivation Facility: Production Management.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. A Medical Marijuana Cultivation Facility shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If a Medical Marijuana Cultivation Facility is notified of any possible Adverse Health Event associated with Regulated Marijuana, it must report the Adverse Health Event to the Colorado Department of Public Health and Environment. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch or Harvest Batch number of the Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

Basis and Purpose – 5-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(i), 44-10-203(2)(d)(I)-(VI), 44-10-502(3), and 44-10-401(2)(a)(II), C.R.S. The purpose of this rule is to permit laboratory testing of Medical Marijuana for Medical Marijuana Cultivation Facilities. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Businesses. This Rule 5-215 was previously Rule M 505, 1 CCR 212-1.

5-215 – Medical Marijuana Cultivation Facility: Testing

A. Samples on Demand. Medical Marijuana Cultivation Facility shall, upon request of the Division, submit a sufficient quantity of Medical Marijuana to a Medical Marijuana Testing Facility to enable laboratory or chemical analysis thereof. The Division will notify the Licensee of the results of the analysis. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System and Rule 3-405 – Business Records Required.

B. Samples Provided for Testing. A Medical Marijuana Cultivation Facility may provide Samples of its Medical Marijuana to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-405 – Business Records Required.

Basis and Purpose – 5-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(d), 44-10-203(1)(kj), 44-10-203(1)(c), 44-10-203(2)(d)(I)-(VI), and 44-10-401(2)(a)(II), C.R.S. The purpose of this rule is to establish the categories of Medical Marijuana Concentrate that may be produced at a Medical Marijuana Cultivation Facility and standards for the production of those concentrate. This Rule 5-220 was previously Rule M 506, 1 CCR 212-1.

5-220 – Medical Marijuana Cultivation Facility: Medical Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Medical Marijuana Concentrate. A Medical Marijuana Cultivation Facility may only produce ~~Water~~Physical Separation-Based Medical Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a

Limited Access Area. *See* Rule 3-405- Business Records Required. No other method of production or extraction for Medical Marijuana Concentrate may be conducted within the Licensed Premises of a Medical Marijuana Cultivation Facility unless the Controlling Beneficial Owner(s) of the Medical Marijuana Cultivation Facility also has a valid Medical Marijuana Products Manufacturer license and the room in which Medical Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Medical Marijuana Cultivation Facility produces ~~Water~~Physical Separation-Based Medical Marijuana Concentrate, then all areas in which those concentrates are produced and all Owner Licensees and Employees Licensees engaged in the production of those concentrate shall be subject to all of requirements imposed upon a Medical Marijuana Products Manufacturer that produces Medical Marijuana Concentrate, including general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 5-315 Medical Marijuana Products Manufacturer: Medical Marijuana Concentrate Production.

C. Possession of Other Categories of Medical Marijuana Concentrate.

1. It shall be considered a violation of this Rule if a Medical Marijuana Cultivation Facility possesses a Medical Marijuana Concentrate other than a ~~Water~~Physical Separation-Based Medical Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Medical Marijuana Cultivation Facility also has a valid Medical Marijuana Products Manufacturer license, or the Medical Marijuana Cultivation Facility has been issued a Centralized Distribution Permit and is in possession of the Medical Marijuana Concentrate in compliance with Rule 5-205(H).

2. Notwithstanding subparagraph (C)(1) of this Rule 5-220, a Medical Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Medical Marijuana Concentrate only when the possession is due to the Transfer of Medical Marijuana flower or trim that failed microbial testing to a Medical Marijuana Products Manufacturing Facility for processing into a Solvent-Based Medical Marijuana Concentrate, and the Medical Marijuana Products Manufacturer Transfers the resultant Solvent-Based Medical Marijuana Concentrate back to the originating Medical Marijuana Cultivation Facility.

a. The Medical Marijuana Cultivation Facility shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Medical Marijuana Concentrate manufactured out of Medical Marijuana flower or trim that failed microbial testing.

b. The Medical Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Medical Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Medical Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Medical Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or Marijuana Code.

D. Production of Alternative Use Product or Audited Product Prohibited. A Medical Marijuana Cultivation Facility shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. A Medical Marijuana Cultivation Facility is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Medical Marijuana Cultivation Facility received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from a Medical Marijuana Products Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 5-325.

Basis and Purpose – 5-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(5), 44-10-401(2)(a)(II), 44-10-502, C.R.S. The rule establishes a means by which to manage the overall production of Medical Marijuana. The intent of this rule is to encourage responsible production to meet demand for Medical Marijuana, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the sale of illegal marijuana. This Rule 5-225 was previously Rule M 507, 1 CCR 212-1.

5-225 – Medical Marijuana Cultivation Facility: Production Management

A. One Medical Marijuana Cultivation Facility per Licensed Premises. Except as permitted by subparagraph (B)(1)(b), a Licensed Premises shall only have one Medical Marijuana Cultivation Facility license and each Licensed Premises must be located at a distinct address recognized by the local jurisdiction.

1. Existing Medical Marijuana Cultivation Facilities that have Multiple Licenses at a single Licensed Premises.

a. Mandatory Collapse for Licenses with Identical Controlling Beneficial Owner Percentages.

i. Medical Marijuana Cultivation Facilities that have multiple licenses at a single Licensed Premises and that have identical Controlling Beneficial Owners holding identical ownership percentages are subject to mandatory collapse. Such Licensees shall notify the Division prior to June 30, 2019 which Medical Marijuana Cultivation Facility license they desire to survive. The Medical Marijuana Cultivation Facility license identified as the surviving license will remain active after July 1, 2019; all other Medical Marijuana Cultivation Facility licenses shall be surrendered effective July 1, 2019.

ii. The production management class for the surviving Medical Marijuana Cultivation Facility license will be calculated pursuant to subparagraph (B)(3) below using the aggregate average plants actually cultivated by all Medical Marijuana Cultivation Facility licenses that were located at the Licensed Premises during the period January 1, 2018 to December 31, 2018.

b. Optional Collapse for Licenses with Non-Identical Controlling Beneficial Owner Percentages. Medical Marijuana Cultivation Facilities that have multiple licenses at a single Licensed Premises and that do not have identical Controlling Beneficial Owners holding identical ownership percentages as of July 1, 2019, may continue operating all Medical Marijuana Cultivation Facility licenses that existed at that Licensed Premises prior to July 1, 2019. The maximum plant count for each such Medical Marijuana Cultivation Facility will be calculated pursuant to subparagraph (B)(3) below based on the number of average plants actually cultivated by that Medical Marijuana Cultivation Facility during the period January 1, 2018 to December 31, 2018.

i. Medical Marijuana Cultivation Facilities that are permitted to continue operating multiple licenses at a single Licensed Premises after July 1, 2019, may collapse through one or more approved change of ownership applications, or one or more voluntary license surrenders, establishing

identical Controlling Beneficial Owners holding identical ownership percentages for all Medical Marijuana Cultivation Facilities at the single Licensed Premises.

ii. For any change of ownership application or voluntary license surrender seeking collapse after July 1, 2019, the Medical Marijuana Cultivation Facility shall identify the license that will survive. The Medical Marijuana Cultivation Facility license identified as the surviving license will remain after collapse; all other Medical Marijuana Cultivation Facility licenses will be surrendered at the time of collapse.

iii. The class for the surviving Medical Marijuana Cultivation Facility license will be determined according to subparagraph (B)(3) below based on the aggregate average number of Medical Marijuana plants actually cultivated by all Medical Marijuana Cultivation Facility Licensees that were located at the Licensed Premises during the 180 days prior to the collapse.

2. Collapse after July 1, 2019. After July 1, 2019, Medical Marijuana Cultivation Facility licenses shall be permitted to collapse at a single Licensed Premises through an approved change of location application if all Medical Marijuana Cultivation Facility licenses for which collapse is sought meet the following requirements:

a. All Medical Marijuana Cultivation Facility licenses sought to be collapsed have been consistently operating for at least 180 days prior to the proposed collapse;

b. All Medical Marijuana Cultivation Facility licenses sought to be collapsed have identical Controlling Beneficial Owners holding identical ownership percentages;

c. There is no pending administrative action regarding any of Medical Marijuana Cultivation Facility licenses sought to be collapsed;

d. The class for the surviving Medical Marijuana Cultivation Facility license has not been decreased in the 180 days prior to the change of location application;

e. All Medical Marijuana Cultivation Facility Licensees identify the desired surviving license and agree that all other Medical Marijuana Cultivation Facility licenses will be surrendered at the time of collapse; and

f. Determining Class for Surviving License.

i. Surviving License Class Will Not Decrease. The class for the surviving license will not be decreased as a result of any approved change of location application.

ii. Surrendered License is Class 1, Class 2, or Class 3. For the surviving license to increase one class or one increment of 3,000 plants if already higher than class 3, during the 180 days prior to the change of location application, the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time.

iii. Surrendered License is Higher than Class 3. For the surviving license to increase by the maximum authorized plant count of the surrendered license, during the 180 days prior to the change of location application

the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Ttransferred at least 85% of the inventory it produced during that time. If during the 180 days prior to the change of location application, the surrendering license did not cultivate at least 50% of the maximum authorized plant count and Ttransfer at least 85% of the inventory it produced, the surviving license will only increase one class or one increment of 3,000 plants if already higher than class 3.

iv. Division Determination of Class. If a collapse results in a maximum authorized plant count in the middle of a class, the surviving license's maximum authorized plant count will be rounded up to the top of that class.

B. Production Management.

1. Production Management Classes.

a. Class 1: 1 – 500 plants

b. Class 2: 501 – 1,500 plants

c. Class 3: 1,501 – 3,000 plants

i. The maximum authorized plant count above 3,000 plants shall increase in one or two increments of 3,000 plants. A Medical Marijuana Cultivation Facility may be allowed to increase its maximum authorized plant count one or two increments of 3,000 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 5-225.

2. All initial Medical Marijuana Cultivation Facility licenses issued on or after July 1, 2019 will be issued as a Class 1 License.

3. Each Medical Marijuana Cultivation Facility with a license(s) granted before July 1, 2019, at a minimum, will be placed into the production management class that includes the average number of plants it cultivated during the period January 1, 2018 to December 31, 2018.

a. Medical Marijuana Cultivation Facilities with less than 180 days of consistent cultivation history will be placed into the class 1 production management class.

b. Any Medical Marijuana Cultivation Facility that artificially increases plant count or otherwise misrepresents any data in connection with its plant count will be placed into the class the Division determines it would have been placed into without the artificial increase or misrepresentation. In addition, any such artificial increase of plant count or other misrepresentation is a public safety violation that may result in administrative action.

4. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded but must be fully accounted for in the Inventory Tracking System.

5. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

6. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Medical Marijuana Cultivation Facilities that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, a Medical Marijuana Cultivation Facility that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Medical Marijuana flower and trim the Licensee produced that was Transferred to another Medical Marijuana Business in the previous 720 days.

2. Inventory Management for Medical Marijuana Cultivation Facilities That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, a Medical Marijuana Cultivation Facility that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Medical Marijuana flower and trim the Licensee produced that was Transferred to another Medical Marijuana Business in the previous 180 days.

D. Class Decrease. For any Medical Marijuana Cultivation Facility that is authorized to cultivate more than 500 plants, the Division may review the purchases, Transfers, and cultivated plant count in connection with the license renewal process or after an investigation. Based on the Division's review, it may reduce the Licensee's maximum allowed plant count to a lower production management class identified in subparagraph (B)(1) of this Rule 5-225. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Licensee Transferred less than 70% of the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days, the Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management class;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Existing inventory and inventory history;

5. Sales contracts;

6 Number of patients registered to any commonly owned Medical Marijuana Store; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Medical Marijuana Cultivation Facilities That Have One or Two Harvest Seasons Per Year.

a. After one harvest season during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management class increase to be authorized to cultivate the number of plants in the next highest production management class. The Licensee must demonstrate:

   i. That during the previous harvest season, prior to the class increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

   ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Medical Marijuana Business;

   iii. The Division may consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

   iv. Any other information requested to aid the Division in its evaluation of the production management class increase application.

b. If the Division approves the production management class increase application, the Licensee shall pay the applicable Expanded Production Management Class Fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in Classes 2 or 3 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Medical Marijuana Cultivation Facility license fee and the applicable expanded production management class fee at license renewal. *See* Rule 2-205 – Fees.

d. After one harvest season during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management classes, or (b) if already authorized to cultivate at a class 3, two increments of 3,000 plants (6,000 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two classes or two increments of 3,000 plant (6,000 plants total).

   i. The Licensee must demonstrate:

      A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count, and

      B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business;

      C. If the Medical Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Medical

Marijuana Cultivation Facility or related Medical Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Medical Marijuana Cultivation Facility currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two classes or two increments of 3,000 plants;

B. The Medical Marijuana Cultivation Facility cultivated on average at least 90% of its authorized plant count and during the preceding 360 days the Medical Marijuana Cultivation Facility and/or one or more commonly owned Medical Marijuana Stores Transferred in Medical Marijuana from one or more unrelated Medical Marijuana Cultivation Facility(ies);

C. The Medical Marijuana Cultivation Facility has entered into written agreement(s) or contract(s) for the sale of Medical Marijuana in the next 360 days supporting the requested two production management class increase or two increments of 3,000 plants; or

D. An established history of responsible cultivation and Transfer by the Medical Marijuana Cultivation Facility;

E. Any history of noncompliance with the Medical Code, Marijuana Code, and/or Rules by the Medical Marijuana Cultivation Facility, or any commonly owned Medical Marijuana Business, and/or any investigation of, or administrative action against, the Medical Marijuana Cultivation Facility or any commonly owned Medical Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Medical Marijuana Cultivation Facilities That Have More Than Two Harvest Seasons per Year.

a. After a 180-day period during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management class increase to be authorized to cultivate the number of plants in the next highest production management class. The Division may consider the following in determining whether to approve the production management class increase:

i. That for the 180 days prior to the production management class increase application, the Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the production management class increase application.

b. If the Division approves the production management class increase application, the Licensee shall pay the applicable Expanded Production Management class License Fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in Class 2 or Class 3 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Medical Marijuana Cultivation Facility license fee and the applicable expanded production management class fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing 180 days during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management classes, or (b) if already authorized to cultivate at a class 3, two increments of 3,000 plants (6,000 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two classes or increments of 3,000 plants (6,000 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business;

C. If the Medical Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a packing in the Inventory Tracking System during that time period and/or Transfers into the Medical Marijuana Cultivation Facility or related Medical Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Medical Marijuana Cultivation Facility currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two classes or two increments of 3,000 plants;

B. The Medical Marijuana Cultivation Facility cultivated on average at least 90% of its authorized plant count and during the

preceding 180 days the Medical Marijuana Cultivation Facility and/or one or more commonly owned Medical Marijuana Stores Transferred in Medical Marijuana from one or more unrelated Medical Marijuana Cultivation Facility(ies);

C. The Medical Marijuana Cultivation Facility has entered into a written agreement(s) or contract(s) for the sale of Medical Marijuana in the next 180 days supporting the requested two production management class increase or two increments of 3,000 plants;

D. An established history of responsible cultivation and Transfer by the Medical Marijuana Cultivation Facility;

E. Any history of noncompliance with the Medical Code, Marijuana Code, and/or Rules by the Medical Marijuana Cultivation Facility, or any commonly owned Medical Marijuana Business, and/or any investigation of, or administrative action against, the Medical Marijuana Cultivation Facility or any commonly owned Medical Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

e. A Medical Marijuana Cultivation Facility that does not have 180 days of cultivating history may apply to increase its plant count to a Class 2 or Class 3 pursuant only to this subparagraph (E)(2)(e). A Medical Marijuana Cultivation Facility applying for a production management class increase request under this subparagraph (E)(2)(e) must demonstrate all of the following at the time of application:

i. The Medical Marijuana Cultivation Facility making the class increase request also owns at least three Medical Marijuana Stores with identical Controlling Beneficial Owners;

ii. The Controlling Beneficial Owners of the Medical Marijuana Cultivation Facility and three Medical Marijuana Stores used to support the class increase request have owned the aforementioned Medical Marijuana Store licenses for at least the preceding 180 days;

iii. The three Medical Marijuana Stores used to support the class increase request have consistently Transferred Regulated Marijuana to consumers in the preceding 180 days and have a history of wholesale purchases that justify the need for a class increase above a class 1;

iv. In the 180 days preceding the Licensee's class increase request pursuant to this subparagraph (e), the Medical Marijuana Cultivation Facility, three Medical Marijuana Stores, and identical Controlling Beneficial Owners have not been subject to administrative action by the State Licensing Authority;

v. The Medical Marijuana Cultivation Facility making the class increase request has an established history of responsible cultivation and Transfers of its Regulated Marijuana inventory; and

vi. The Medical Marijuana Cultivation Facility subject to the class increase request has not previously requested a class increase pursuant to this subparagraph (e).

3. Application for Class Increase. Applications for a class increase shall be submitted on Division forms, and shall be complete and accurate. Applications for a class increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

F. Maximum Allowed Medical Marijuana Cultivation Facility Licenses.

1. A Person that is a Controlling Beneficial Owner with an Interest in Three or More Medical Marijuana Cultivation Facility Licenses. For every multiple of three Medical Marijuana Cultivation Facility licenses in which a Person is a Controlling Beneficial Owner, the Person must also be a Controlling Beneficial Owner in at least one Medical Marijuana Store. For example: (1) a Person that is a Controlling Beneficial Owner in three, four, or five Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least one Medical Marijuana Store; (2) a Person that is a Controlling Beneficial Owner in six, seven, or eight Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least two Medical Marijuana Stores; (3) a Person that is a Controlling Beneficial Owner in nine, ten, or eleven Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least three Medical Marijuana Stores; etcetera.

2. A Person that is a Controlling Beneficial Owner in Less than Three Medical Marijuana Cultivation Facility Licenses. A Person that is a Controlling Beneficial Owner in less than three Medical Marijuana Cultivation Facility licenses shall not be required to be a Controlling Beneficial Owner in a Medical Marijuana Store.

G. The State Licensing Authority, in his or her sole discretion, may adjust any of the plant limits described in this Rule 5-225 on an industry-wide aggregate basis for all Medical Marijuana Cultivation Facilities subject to that limitation.

Basis and Purpose – 5-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-401(2)(a)(II), and 44-10-502(5), C.R.S. The purpose of this rule is to establish the circumstances under which a Medical Marijuana Cultivation Facility may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Medical Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Medical Marijuana Cultivation Facility that Transfer Sampling Units. This Rule 5-230 was previously Rule M 508, 1 CCR 212-1.

5-230 – Medical Marijuana Cultivation Facility: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Medical Marijuana Cultivation Facility may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Medical Marijuana Cultivation Facility who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual designated as a Sampling Manager by a Medical Marijuana Cultivation Facility must possess a valid patient registry card.

3. An individual may be designated as a Sampling Manager by more than one Regulated Marijuana Business.

4. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

5. A Medical Marijuana Cultivation Facility that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-502(5), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 5-230. *See also* Rule 3-905 – Business Records Required. A Medical Marijuana Cultivation Facility shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Medical Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Medical Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Medical Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Medical Marijuana Cultivation Facility as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Medical Marijuana or fifteen grams of Medical Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Medical Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Medical Marijuana Cultivation Facility shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. A Medical Marijuana Cultivation Facility may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-502(5), C.R.S.

G. Recordkeeping Requirements. A Medical Marijuana Cultivation Facility shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Medical Marijuana Cultivation Facility shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Medical Marijuana Cultivation Facility shall also maintain copies of the Medical Marijuana Cultivation Facility's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), and 44-10-502(9)(a)-(c) and 38-28.8-302(2)(b), C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

5-235 – Medical Marijuana Cultivation Facility: Ability to Change Designation from Retail Marijuana to Medical Marijuana

A. Changing Designation: Beginning July 1, 2022, a Medical Marijuana Cultivation Facility may accept Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Medical Marijuana Cultivation Facility may only accept Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility are co-located;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Medical Marijuana Cultivation Facility must receive the Transfer and designate the inventory as Medical Marijuana in the Inventory Tracking System the same day. The Medical Marijuana Cultivation Facility must assign and attach an RFID tag reflecting its Medical Marijuana license number to the Medical Marijuana following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise treated as Retail

Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

Basis and Purpose – 5-240

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(a)(II), and 44-10-502(10)(a)-(c). The purpose of this rule is to allow a Medical Marijuana Cultivation Facility Licensee that plans to cultivate Medical Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

5-240 Medical Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Medical Marijuana Cultivation Facility Licensees that plan to cultivate Medical Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Medical Marijuana Cultivation Facility shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the Licensee operates, and if Transferring Medical Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. A Medical Marijuana Cultivation Facility may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission of a contingency plan, a contingency plan must be submitted with the Medical Marijuana Cultivation Facility's license renewal application. Any material change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary Contact. A primary contact for the Medical Marijuana Cultivation Facility must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Medical Marijuana Cultivation Facility shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Medical Marijuana, a Medical Marijuana Cultivation Facility shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

a. Medical Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

b. If Medical Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Medical Marijuana Cultivation Facility.

d. A Medical Marijuana Cultivation Facility that cultivates outdoors may identify and Transfer Medical Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of modifications or security and surveillance exemptions. Proposed modifications of the Licenses Premises and any anticipated exemptions to security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. A Medical Marijuana Cultivation Facility that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Medical Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan the licensee shall contact the Division and explain why they cannot return to normal business operations.

c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Medical Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Medical Marijuana Cultivation Facility acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Medical Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If a Medical Marijuana Cultivation Facility harvests, Transfers, or packages Medical Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

a. Harvest Requirements. If Medical Marijuana is harvested, the weight of Medical Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Medical Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

b. Transport Manifest. The Medical Marijuana Cultivation Facility acting pursuant to the contingency plan must report all Medical Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

ii. The Licensee shall manually fill out the dates, times, and individual transporting Medical Marijuana on a copy of the standing transport manifest.

iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan during any transport of Medical

Marijuana when it is not possible to use a Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Medical Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Medical Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Medical Marijuana to another Licensed Premises, a Medical Marijuana Cultivation Facility may finish that harvest at the receiving Licensed Premises if all Medical Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

   a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance.

   b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

5-300 Series – Medical Marijuana Products Manufacturers

Basis and Purpose – 5-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d)(I)-(VI), and 44-10-503, C.R.S. The purpose of this rule is to establish a Medical Marijuana Products Manufacturer's license privileges. This Rule 5-305 was previously Rule M 601, 1 CCR 212-1.

5-305 – Medical Marijuana Products Manufacturer: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Retail Marijuana Products Manufacturer may share and operate at the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Medical Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

   1. Each business or business entity holds a separate license;

   2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Medical Marijuana Products Manufacturer comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Medical Marijuana Products Manufacturer comply with all applicable rules. *See* 5-700 Series Rules.

B. Authorized Transfers. A Medical Marijuana Products Manufacturer is authorized to Transfer Medical Marijuana as follows:

1. Medical Marijuana Concentrate and Medical Marijuana Product.

a. A Medical Marijuana Products Manufacturer may Transfer its own Medical Marijuana Product and Medical Marijuana Concentrate to Medical Marijuana Stores, other Medical Marijuana Products Manufacturers, Medical Marijuana Testing Facility, Marijuana Research and Development Facility and Pesticide Manufactures.

b. A Medical Marijuana Products Manufacturer may Transfer Medical Marijuana Product and Medical Marijuana Concentrate to a Medical Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 5-305(B)(1)(b), a Medical Marijuana Products Manufacturer shall verify Medical Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 5-205 – Medical Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 5-305(B)(1)(b), A Medical Marijuana Products Manufacturer shall only Transfer Medical Marijuana Product and Medical Marijuana Concentrate that is packaged and labeled for Transfer to a patient. *See* 3-1000 Series Rules.

2. Medical Marijuana.

a. A Medical Marijuana Products Manufacturer may Transfer Medical Marijuana to another Medical Marijuana Products Manufacturer, a Medical Marijuana Store, a Marijuana Research and Development Facility or a Pesticide Manufacturer.

3. Sampling Units. A Medical Marijuana Products Manufacturer may also Transfer Sampling Units of its own Medical Marijuana Products and Medical Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-503(10), C.R.S., and Rule 5-320.

C. Manufacture of Medical Marijuana Concentrate, ~~and~~ Medical Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana Authorized. A Medical Marijuana Products Manufacturer may manufacture, prepare, package, and label Medical Marijuana Concentrate ~~and~~ Medical Marijuana Product~~, whether in concentrated form or that are~~ comprised of Medical Marijuana and other Ingredients intended for use or consumption, such as Edible Medical Marijuana Products, ointments, or tinctures. A Medical Marijuana Products Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. This subparagraph (C)(1) is effective July 1, 2020. A Medical Marijuana Products Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Medical Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Medical Marijuana Product the Medical Marijuana Products Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Medical Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Medical Marijuana Products Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. A Medical Marijuana Products Manufacturer may not manufacture, prepare, package, store, or label Medical Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing.

1. A Medical Marijuana Products Manufacturer may provide samples of its Medical Marijuana Concentrate or Medical Marijuana Product to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Medical Marijuana Products Manufacturer is authorized to utilize a Medical Marijuana Transporter for transportation of its Medical Marijuana Product or Medical Marijuana Concentrate so long as the place where transportation orders are taken is a licensed Medical Marijuana Business and the transportation order is delivered to a Medical Marijuana Business, or Pesticide Manufacturer. Nothing in this Rule prevents a Medical Marijuana Products Manufacturer from transporting its own Medical Marijuana or Medical Marijuana Concentrate.

G. Performance-Based Incentives. A Medical Marijuana Products Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Medical Marijuana Products Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 5-320 – Sampling Unit Protocols.

Basis and Purpose – 5-310

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-401(2)(a)(III), and 44-10-503, C.R.S. The Marijuana Code sets forth minimum requirements for written agreements between Medical Marijuana Products Manufacturers and Medical Marijuana Stores. Specifically, the written agreements must set forth the total amount of Medical Marijuana obtained from a Medical Marijuana Store to be used in the manufacturing process, and the total amount of Medical Marijuana Product to be manufactured from the Medical Marijuana obtained from the Medical Marijuana Store. This rule clarifies that the Division must approve such written agreements to ensure they meet those requirements. This rule also provides those acts that are generally limited or prohibited. This Rule 5-310 was previously Rule M 602, 1 CCR 212-1.

5-310 – Medical Marijuana Products Manufacturer: General Limitations or Prohibited Acts

A. Contract Required. Any contract required pursuant to section 44-10-503(3), C.R.S., shall contain such minimum requirements as to form and substance as required by statute. All contracts need

to be current and available for inspection on the Licensed Premises by the Division when requested. *See* Rule 3-905 – Business Records and Reporting.

B. Packaging and Labeling Standards Required. A Medical Marijuana Products Manufacturer is prohibited from Transferring Medical Marijuana Concentrate or Medical Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety

C. Transfer to Patient Prohibited. A Medical Marijuana Products Manufacturer is prohibited from Transferring Medical Marijuana to a patient. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-503(10), C.R.S., and Rule 5-320.

D. Adequate Care of Perishable Product. A Medical Marijuana Products Manufacturer must provide adequate refrigeration for perishable Medical Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Medical Marijuana Product. A Medical Marijuana Products Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Medical Marijuana Product is homogenous.

F. Use of Ingredients. A Medical Marijuana Products Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. A Medical Marijuana Products Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If a Medical Marijuana Products Manufacturer is notified of any possible Adverse Health Event associated with Regulated Marijuana, it must report the Adverse Health Event to the Colorado Department of Public Health and Environment. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch or Harvest Batch number of the Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

Basis and Purpose – 5-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(i), 44-10-401(2)(a)(III), and 44-10-503, C.R.S. The purpose of this rule is to establish the categories of Medical Marijuana Concentrate that may be produced at a Medical Marijuana Products Manufacturer and establish standards for the production of those concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S. This Rule 5-315 was previously Rule M 605, 1 CCR 212-1.

5-315 – Medical Marijuana Products Manufacturer: Medical Marijuana Concentrate Production.

A. Permitted Categories of Medical Marijuana Concentrate Production.

1. A Medical Marijuana Products Manufacturer may produce ~~Water~~Physical Separation-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate

2. A Medical Marijuana Products Manufacturer may also produce Solvent-Based Medical Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless ~~and until~~ it is approved by the Division.

3. A Medical Marijuana Products Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next formal rulemaking.

B. General Applicability. A Medical Marijuana Products Manufacturer that engages in the production of Medical Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Medical Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905 – Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Medical Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

    a. Conduct all necessary safety checks prior to commencing production;

    b. Prepare Medical Marijuana for processing;

    c. Extract Cannabinoids and other essential components of Medical Marijuana;

    d. Purge any solvent or other unwanted components from a Medical Marijuana Concentrate,

    e. Clean all equipment, counters and surfaces thoroughly; and

    f. Dispose of any waste produced during the processing of Medical Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Medical Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

    a. All standard operating procedures for each method of concentrate production used;

    b. The Medical Marijuana Products Manufacturer's quality control procedures;

    c. The emergency procedures;

    d. The appropriate use of any necessary safety or sanitary equipment;

    e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

    f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

    g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Medical Marijuana Concentrate.

    a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Medical Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Medical Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

C. ~~Water~~Physical Separation-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate. Medical Marijuana Products Manufacturer that engages in the production of a Medical Marijuana Concentrate must:

1. Ensure that all equipment, counters, and surfaces used in the production of a Medical Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Medical Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Medical Marijuana into a Medical Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Medical Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a ~~Water~~Physical Separation-Based Medical Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Medical Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Medical Marijuana Concentrate if a pressurized system is used in the production of a Medical Marijuana Concentrate.

D. Solvent-Based Medical Marijuana Concentrate. A Medical Marijuana Products Manufacturer that engages in the production of Solvent-Based Medical Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a local jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, which are available to the public;

    a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Medical Marijuana into a Medical Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

        i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules, and regulations.

        ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights, junction boxes, must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules, and regulations.

        iii. Determine whether a gas monitoring system must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

        iv. Determine whether fire suppression system must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

    b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Medical Marijuana Concentrate are to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

    c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Medical Marijuana Concentrate are to be produced, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

    d. Material Change. If a Medical Marijuana Products Manufacturer makes a Material Change to its ~~Licensed Premises,~~ equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its ~~Licensed Premises and~~ equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Medical Marijuana Products Manufacturer by the designer or manufacturer of any equipment used in the processing of Medical Marijuana into a Medical Marijuana Concentrate.

f. Records Retention. A Medical Marijuana Products Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Medical Marijuana Concentrate.

2. Ensure that all equipment, counters, and surfaces used in the production of a Solvent-Based Medical Marijuana Concentrate must be food-grade and must not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds, and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Medical Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Medical Marijuana Concentrate;

a. UL or ETL Listing.

i. If the system is UL or ETL listed, then a Medical Marijuana Products Manufacturer may use the system in accordance with the manufacturer's instructions.

ii. If the system is UL or ETL listed but the Medical Marijuana Products Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Medical Marijuana Products Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

b. Ethanol or Isopropanol. A Medical Marijuana Products Manufacturer Facility need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Medical Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

   a. A Medical Marijuana Products Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. A Medical Marijuana Products Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

   b. A Medical Marijuana Products Manufacturer is prohibited from using denatured alcohol to produce a Medical Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 5-315(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may a Medical Marijuana Products Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Medical Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Medical Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

9. Medical Marijuana Products Manufacturers Engaged in the Remediation of Medical Marijuana for elemental impurities. Medical Marijuana Products Manufacturers engaged in the Remediation of Medical Marijuana for elemental impurities shall:

   a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

      i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non Remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not subject to testing exemptions through process validation.

      ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

   b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

d. Regardless of which type of analyte, if the Medical Marijuana flower, wet whole plant, or trim has failed elemental impurities testing, the Licensee must implement Standard Operating Procedures to ensure:

i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

g. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational

Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the Licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

E. Ethanol and Isopropanol. If a Medical Marijuana Products Manufacturer only produces Solvent-Based Medical Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from the requirements in paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Medical Marijuana Products Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(3).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-320

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-401(2)(a)(III), and 44-10-503 C.R.S. The purpose of this rule is to establish the circumstances under which a Medical Marijuana Products Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Medical Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting, and recordkeeping requirements on a Medical Marijuana Products Manufacturer that Transfer Sampling Units. This Rule 5-320 was previously Rule M 606, 1 CCR 212-1.

5-320 – Medical Marijuana Products Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Medical Marijuana Products Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Medical Marijuana Products Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual designated as a Sampling Manager by a Medical Marijuana Products Manufacturer must possess a valid patient registry card.

3. An individual may be designated as a Sampling Manager by more than one Medical Marijuana Business.

4. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

5. A Medical Marijuana Products Manufacturer that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-503(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 5-320. *See also* Rule 3-905 – Business Records Required. A Medical Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Edible Medical Marijuana Product shall not exceed one serving size. Before designating any Sampling Units, a Medical Marijuana Products Manufacturer shall establish the specific serving size for each Edible Medical Marijuana Product it produces and maintain a record of the serving size in its standard operating procedures provided pursuant to subparagraph (A)(5).

2. A Sampling Unit of non-Edible Medical Marijuana Product shall not exceed the equivalent of one serving size. Before designating any Sampling Units, a Medical Marijuana Products Manufacturer shall establish the specific serving size for each non-Edible Medical Marijuana Product it produces and maintain a record of the serving size in its standard operating procedures provided pursuant to subparagraph (A)(5).

3. A Sampling Unit of Medical Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Medical Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Medical Marijuana Products Manufacturer as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

   a. Fourteen servings of Medical Marijuana Products; and

   b. Fifteen grams of Medical Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Medical Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Medical Marijuana Products Manufacturer shall verify with the recipient Sampling Manager that

the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any Person designated as a Sampling Manager.

D. Compensation Prohibited. A Medical Marijuana Products Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-503(10), C.R.S.

G. Record keeping requirements. A Medical Marijuana Products Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, A Medical Marijuana Products Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Medical Marijuana Products Manufacturer shall also maintain copies of the Medical Marijuana Products Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-325

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(i), 44-10-203(3)(b), 44-10-203(2)(d), 44-10-203(3)(a), 44-10-401(2)(a)(III), 44-10-503, and 44-10-701(3)(c), C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Medical Marijuana Products Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacturer or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for Medical Marijuana Products Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Medical Marijuana Product that is not within an intended use identified in Rule 3-1015. This Rule 5-325 was previously Rule M 607, 1 CCR 212-1.

5-325 – Medical Marijuana Products Manufacturer: Audited Product and Alternative Use Product

A. General Rule. A Medical Marijuana Products Manufacturer shall not Transfer Audited Product to a Medical Marijuana Store, another Medical Marijuana Products Manufacturer, or a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 5-325. The requirements of this Rule 5-325 are in addition to all other Rules that apply to Medical Marijuana Products Manufacturers; except where the context otherwise clearly requires this Rule 5-325 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and to the Local Licensing Authority as required by this Rule, a

Medical Marijuana Products Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (4) rectal administration to another Medical Marijuana Products Manufacturer, a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit, or a Medical Marijuana Store.

1. A written audit report from an independent third-party auditor that was completed within the last twenty-four (24) months shall be submitted to the Division and to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Medical Marijuana Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Medical Marijuana Products Manufacturer's renewal application if the Medical Marijuana Products Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Medical Marijuana Products Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

    a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

    b. Establish that the Medical Marijuana Products Manufacturer and the Audited Product meet all requirements of this Rule 5-325, including but not limited to the specific requirements of this Rule 5-325(C), 5-325(D), 5-325(E), 5-325(G), and 5-325(H);

    c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

    d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Medical Marijuana Products Manufacturer adheres to all applicable standard operating procedures;

    e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 5-325(E), including any Limited Access Area where the Audited Product is to be manufactured;

    f. Include the independent third-party auditor's findings;

    g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

    h. Include the independent third-party auditor's assessment that the Medical Marijuana Products Manufacturer demonstrated compliance with all requirements of Rule 5-325 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Medical Marijuana Products Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements outlined in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Medical Marijuana Products Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Medical Marijuana Products Manufacturer, as demonstrated by testing at a Medical Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Medical Marijuana Testing Facility.

c. Identification of all non-marijuana derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Medical Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Medical Marijuana Testing Facility, except that no Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Medical Marijuana Products Manufacturers, a Medical Marijuana Products Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Medical Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. A Medical Marijuana Products Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. A Medical Marijuana Products Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. A Medical Marijuana Products Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

    a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Employee Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product a Medical Marijuana Products Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

b. Ingredient identities and amounts;

c. Specifications on the delivery device (if applicable);

d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

e. Quality control procedures; and

f. Any other information needed to describe the Medical Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

a. Name of the Audited Product;

b. Master formulation record reference for the Audited Product;

c. Date and time of preparation of the Audited Product;

d. Production Batch number;

e. Signature or initials of individuals involved in each manufacturing step;

f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

g. Weight or measurement of each Ingredient;

h. Documentation of quality control procedures;

i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Medical Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a patient prior to any Transfer.

H. ~~Adverse Event Reporting. A Medical Marijuana Products Manufacturer that manufactures Audited Product must maintain a record of all complaints it receives, which may include concerns or reports on the quality or possible adverse reactions to a specific Audited Product. For purposes of this Rule, adverse event means any untoward medical occurrence associated with the use of marijuana – this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom or disease temporally associated with the use of a marijuana product. To the extent known after reasonable diligence to ascertain the information, the record must contain the name of the complainant, the date the complaint was received, the nature of the complaint, the steps taken to investigate the~~

~~complaint, the response to the complaint, and the name and Production Batch number of the Audited Product. Adverse events must also be reported directly to the Colorado Department of Public Health and Environment and the Division within48 hours of receipt by the Medical Marijuana Products Manufacturer.~~ Repealed.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. A Medical Marijuana Products Manufacturer shall not Transfer to a Medical Marijuana Store, to another Medical Marijuana Products Manufacturer, or a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit any Medical Marijuana Concentrate or Medical Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Medical Marijuana Products Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Medical Marijuana Products Manufacturer shall identify provisions of this Rule 5-325 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Medical Marijuana Products Manufacturer shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Medical Marijuana Products Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards and tests are in place.

3. A Medical Marijuana Products Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Medical Marijuana Products Manufacturer does not meet the burden established in this Rule 5-325.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Medical Marijuana Products Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. A Medical Marijuana Products Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 5-325. *See* Rule 3-905 – Business Records Required.

5-330 – Recall of Medical Marijuana Concentrate or Medical Marijuana Product – Repealed effective January 1, 2021.

Basis and Purpose – 5-335

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503, 44-10-503(12)(a)-(b), and 38-28.8-302(2)(b) C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from "Retail" to "Medical."

5-335 – Medical Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, a Medical Marijuana Products Manufacturer may accept Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Medical Marijuana Products Manufacturer may only accept Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer are co-located;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Medical Marijuana Products Manufacturer must receive the Transfer and designate the inventory as Medical Marijuana Concentrate in the Inventory Tracking System the same day. The Medical Marijuana Products Manufacturer must assign and attach an RFID tag reflecting its Medical Marijuana Products Manufacturer license number to the Medical Marijuana Concentrate following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

5-400 Series – Medical Marijuana Testing Facilities

Basis and Purpose – 5-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), C.R.S. The purpose of this rule is to establish the license privileges of a Medical Marijuana Testing Facility. This Rule 5-405 was previously Rule M 701.5, 1 CCR 212-1.

5-405 - Medical Marijuana Testing Facilities: License Privileges

A. Licensed Premises. A separate License is required for each specific Medical Marijuana Testing Facility and only those privileges granted by the Marijuana Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises.

B. Testing of Medical Marijuana Authorized. A Medical Marijuana Testing Facility may accept Samples of Medical Marijuana from Medical Marijuana Businesses for testing and research purposes only, which purposes may include the provision of testing services for Samples submitted by a Medical Marijuana Business for the purpose of product development. The Division may require a Medical Marijuana Business to submit a Sample of Medical Marijuana to a Medical Marijuana Testing Facility upon demand.

C. Testing of Industrial Hemp Product Authorized.

1. A Medical Marijuana Testing Facility may accept and test samples of Industrial Hemp Products.

2. Before a Medical Marijuana Testing Facility accepts a sample of Industrial Hemp Product, the Medical Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

3. A Medical Marijuana Testing Facility is responsible for entering and tracking samples of Industrial Hemp Product in the inventory tracking system pursuant to the 3-800 Series Rules.

4. A Medical Marijuana Testing Facility shall be permitted to test Industrial Hemp Product only in the category(ies) that the Medical Marijuana Testing Facility is certified to perform testing in pursuant to Rule 5-415 – Medical Marijuana Testing Facilities: Certification Requirements.

5. A Medical Marijuana Testing Facility may provide the results of any testing performed on Industrial Hemp Product to the Person submitting the sample of Industrial Hemp Product.

6. Nothing in these rules shall be construed to require a Medical Marijuana Testing Facility to accept and/or test samples of Industrial Hemp Product.

D. Testing Medical Marijuana for Patients in Research Project. A Medical Marijuana Testing Facility is authorized to accept Samples of Medical Marijuana from an individual person for testing under only the following conditions:

1. The individual person is:

a. A currently registered patient pursuant to section 25-1.5-106, C.R.S.; and

b. A participant in an approved clinical or observational study conducted by a Marijuana Research and Development Facility.

2. The Medical Marijuana Testing Facility shall require the patient to produce a valid patient registry card and a current and valid photo identification. *See* Rule 3-405(A) – Acceptable Forms of Identification.

3. The Medical Marijuana Testing Facility shall require the patient to produce verification on a form approved by the Division from the Marijuana Research and Development Facility that the patient is a participant in an approved clinical or observational Research Project

conducted by the Marijuana Research and Development Facility and that the testing will be in furtherance of the approved Research Project.

4. A primary caregiver may transport Medical Marijuana on behalf of a patient to the Medical Marijuana Testing Facility. A Medical Marijuana Testing Facility shall require the following documentation before accepting Medical Marijuana from a primary caregiver:

   a. A copy of the patient registry card and valid photo identification for the patient;

   b. A copy of the caregiver's registration with the State Department of Health pursuant to section 25-1.5-106, C.R.S. and a current and valid photo identification, *see* Rule 3-405 – Acceptable Forms of Identification; and

   c. A copy of the Marijuana Research and Development Facility's verification on a form approved by the Division that the patient is participating in an approved clinical or observational Research Project being conducted by the Marijuana Research and Development Facility and that the testing will be in furtherance of the approved Research Project.

5. The Medical Marijuana Testing Facility shall report all results of testing performed pursuant to this Paragraph (C.5) to the Marijuana Research and Development Facility identified in the verification form submitted pursuant to Paragraph (D)(3) or (4)(c), or as otherwise directed by the approved Research Project being conducted by the Marijuana Research and Development Facility. Testing result reporting shall conform with the requirements under these Rules.

E. Product Development Authorized. A Medical Marijuana Testing Facility may develop Medical Marijuana Product, but is not authorized to engage in the manufacturing privileges described in section 44-10-503, C.R.S. and Rule 5-305 – Medical Marijuana Products Manufacturer: License Privileges.

F. Transferring Samples to Another Licensed and Certified Medical Marijuana Testing Facility. A Medical Marijuana Testing Facility may Transfer Samples to another Medical Marijuana Testing Facility for testing. All laboratory reports provided to or by a Medical Marijuana Business, or to a patient or primary caregiver must identify the Medical Marijuana Testing Facility that actually conducted the test.

G. Authorized Medical Marijuana Transport. A Medical Marijuana Testing Facility is authorized to utilize a licensed Medical Marijuana Transporter to transport Samples of Medical Marijuana for testing, in accordance with the Marijuana Code and the rules adopted pursuant thereto, between the originating Medical Marijuana Business requesting testing services and the destination Medical Marijuana Testing Facility performing testing services. Nothing in this Rule requires a Medical Marijuana Business to utilize a Medical Marijuana Transporter to transport Samples of Medical Marijuana for testing.

Basis and Purpose – 5-410

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), 44-10-701, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Testing Facility. This Rule 5-410 was previously Rule M 702, 1 CCR 212-1.

5-410 – Medical Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is a Controlling Beneficial Owner or Passive Beneficial Owner of a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturing Facility, Medical Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or a Retail Marijuana Store shall not be a Controlling Beneficial Owner or Passive Beneficial Owner of a Medical Marijuana Testing Facility.

B. Conflicts of Interest. The Medical Marijuana Testing Facility shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the Medical Marijuana Testing Facility's testing processes or results, or that may diminish public confidence in the competency, impartiality, and integrity of the Medical Marijuana Testing Facility's testing processes or results. At a minimum, employees, owners or agents of a Medical Marijuana Testing Facility who participate in any aspect of the analysis and results of a Sample are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any on-going financial, employment, personal or business relationship with the Medical Marijuana Business that provided the Sample.

C. Transfer of Medical Marijuana Prohibited. A Medical Marijuana Testing Facility shall not Transfer Medical Marijuana to a Medical Marijuana Business, a consumer, a patient, or primary caregiver, except that a Medical Marijuana Testing Facility may Transfer a Sample to another Medical Marijuana Testing Facility.

D. Destruction of Received Samples. A Medical Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not Transferred to another Medical Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. *See* Rule 3-230 – Waste Disposal.

E. Sample Rejection. A Medical Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that that the Sample may have been tampered with.

F. Medical Marijuana Business Requirements Applicable. A Medical Marijuana Testing Facility shall be considered a Licensed Premises. A Medical Marijuana Testing Facility shall be subject to all requirements applicable to Medical Marijuana Businesses.

G. Medical Marijuana Testing Facility – Inventory Tracking System Required. A Medical Marijuana Testing Facility must use the Inventory Tracking System to ensure all Test Batches or Samples containing Medical Marijuana are identified and tracked from the point they are Transferred from a Medical Marijuana Business, a patient, or a patient's primary caregiver through the point of Transfer, destruction, or disposal. The Inventory Tracking System reporting shall include the results of any tests that are conducted on Medical Marijuana. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System, Rule 3-825 – Reporting and Inventory Tracking System, and Rule 5-405(D)(5). The Medical Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See* Rule 3-905 – Business Records Required and Rule 3-825 Reporting and Inventory Tracking

H. Industrial Hemp Testing Prohibited. A Medical Marijuana Testing Facility shall not perform testing on Industrial Hemp.

I. Testing of Unregistered or Untracked Industrial Hemp Products Prohibited. A Medical Marijuana Testing Facility is authorized to accept or test Industrial Hemp Product only if (1) the entity providing the Samples of Industrial Hemp Product is registered and regulated pursuant to Article 4 or Title 25, C.R.S., and (2) the Industrial Hemp Product being submitted for testing is tracked in the Inventory Tracking System.

Basis and Purpose – 5-415

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish a frame work for certification for Medical Marijuana Testing Facilities. This Rule 5-415 was previously Rule M 703, 1 CCR 212-1.

5-415 – Medical Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Medical Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Microbials;

2. Mycotoxins;

3. Residual solvents;

4. Pesticides;

5. THC and other Cannabinoid potency; ~~and~~

6. ~~Metals~~Elemental Impurities; and~~.~~

7. Water Activity.

B. In order to obtain certification for Pesticide testing, a Medical Marijuana Testing Facility must also obtain certification for mycotoxin testing.

C. Certification Procedures. The Medical Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in Proficiency Testing, and ongoing compliance with the applicable requirements in this Rule.

1. Certification Inspection. A Medical Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Medical Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, Proficiency Testing, quality control, quality assurance, security, chain of custody, Sample retention, space, records, and results reporting. In addition, a Medical Marijuana Testing Facility must be accredited under the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO/IEC 17025 standard. In order to obtain certification in a testing category from the Division, the Medical Marijuana Testing Facility's scope of accreditation must specify that particular testing category.

a. Subsequent to initial approval of a Medical Marijuana Testing Facility License, the Division may grant provisional certification if the Applicant has not yet obtained ISO/IEC 17025:2005 accreditation, but meets all other Division requirements. Such provisional certification shall be for a period not to exceed twelve months.

3. Personnel Qualifications.

   a. Laboratory Director. A Medical Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule 5-420 – Medical Marijuana Testing Facilities: Personnel.

   b. Employee Competency. A Medical Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing Samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Medical Marijuana Testing Facility must have a written standard operating procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

   a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign and date the revised version prior to use.

   b. A Medical Marijuana Testing Facility must maintain a copy of all standard operating procedures to include any revised copies for a minimum of three years. *See* Rule 5-450 – Medical Marijuana Testing Facilities: Records Retention and Rule 3-905 – Business Records Required.

5. Analytical Processes. A Medical Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Medical Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Medical Marijuana Testing Facility must successfully participate in a Division approved Proficiency Testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Medical Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Medical Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Medical Marijuana Testing Facility must establish a system to document the complete chain of custody for Samples from receipt through disposal.

10. Space. A Medical Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state and local requirements.

11. Records. A Medical Marijuana Testing Facility must establish a system to retain and maintain all required records. *See* Rule 5-450 – Medical Marijuana Testing Facilities: Records Retention and Rule 3-905 – Business Records Required.

12. Results Reporting. A Medical Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner. *See* Rule 3-825 – Reporting and Inventory Tracking System. A Medical Marijuana Testing Facility's process may require that the Regulated Marijuana Business remit payment for any test conducted by the Testing Facility prior to entry of the results of that test into the Inventory Tracking System. A Medical Marijuana Testing Facility's process established under this subparagraph (12) must be maintained on the Licensed Premises of the Medical Marijuana Testing Facility.

13. Conduct While Seeking Certification. A Medical Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner.

D. Violation Affecting Public Safety. A violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose – 5-420

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-420 was previously Rule M 704, 1 CCR 212-1.

5-420 – Medical Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Medical Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this Rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Medical Marijuana Testing Facility.

2. The laboratory director for a Medical Marijuana Testing Facility must meet one of the following qualification requirements:

a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

d. The laboratory director must hold a bachelor's degree in one of the natural sciences and have at least seven years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this Rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. *See* Rule 3-905 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Medical Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in and successfully participates in a Division approved Proficiency Testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process Samples, perform test procedures and report test results promptly and proficiently, avoid actual and apparent conflicts of interest, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for Sample processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

D. Change in Laboratory Director. In the event that the laboratory director leaves employment at the Medical Marijuana Testing Facility, the Medical Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Division within seven days of the laboratory director's departure; and

2. Designate an interim laboratory director within seven days of the laboratory director's departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Medical Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director's departure.

4. Notwithstanding the requirement of subparagraph (D)(3), the Medical Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Medical Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

E. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the three years of full-time laboratory experience.

F. Laboratory Testing Analyst.

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing.

2. Responsibilities. In order to independently perform any test for a Medical Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

Basis and Purpose – 5-425

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish standard operating procedures manual standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-425 was previously Rule M 705, 1 CCR 212-1.

5-425 – Medical Marijuana Testing Facilities: Standard Operating Procedure Manual

A. A standard operating procedure manual must include, but need not be limited to, procedures for:

1. Sample receiving;

2. Sample accessioning;

3. Sample storage;

4. Identifying and rejecting unacceptable Samples;

5. Recording and reporting discrepancies;

6. Security of Samples, aliquots and extracts and records;

7. Validating a new or revised method prior to testing Samples to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;

8. Aliquoting Samples to avoid contamination and carry-over;

9. Sample retention to assure stability, as follows:

   a. For Samples that comprise Test Batches submitted for testing other than Pesticide contaminant testing, Sample retention for 14 days;

   b. For Samples that comprise Test Batches submitted for Pesticide contaminant testing, Sample retention for 90 days.

10. Disposal of Samples;

11. The theory and principles behind each assay;

12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology (“NIST”);

13. Special requirements and safety precautions involved in performing assays;

14. Frequency and number of control and calibration materials;

15. Recording and reporting assay results;

16. Protocol and criteria for accepting or rejecting analytical procedure to verify the accuracy of the final report;

17. Pertinent literature references for each method;

18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;

19. Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;

20. A documented system for reviewing the results of testing calibrators, controls, standards, and subject tests results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results. Are corrective actions implemented and documented, and does the laboratory contact the requesting entity; and

21. Policies and procedures to follow when Samples are requested for referral and testing by another certified Medical Marijuana Testing Facility or an approved local state agency's laboratory.

Basis and Purpose – 5-430

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish analytical processes standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-430 was previously Rule M 706, 1 CCR 212-1.

5-430 – Medical Marijuana Testing Facilities: Analytical Processes

A. Gas Chromatography ("GC"). A Medical Marijuana Testing Facility using GC must:

1. Document the conditions of the gas chromatograph, including the detector response;

2. Perform and document preventive maintenance as required by the manufacturer;

3. Ensure that records are maintained and readily available to the staff operating the equipment;

4. Document the performance of new columns before use;

5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;

6. Establish criteria of acceptability for variances between different aliquots and different columns; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

B. Gas Chromatography Mass Spectrometry ("GC/MS"). A Medical Marijuana Testing Facility using GC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Document the changes of septa as specified in the standard operating procedure;

3. Document liners being cleaned or replaced as specified in the standard operating procedure;

4. Ensure that records are maintained and readily available to the staff operating the equipment;

5. Maintain records of mass spectrometric tuning;

6. Establish written criteria for an acceptable mass-spectrometric tune;

7. Document corrective actions if a mass-spectrometric tune is unacceptable;

8. Monitor analytic analyses to check for contamination and carry-over;

9. Use selected ion monitoring within each run to assure that the laboratory compares ion ratios and retention times between calibrators, controls and Samples for identification of an analyte;

10. Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;

12. Define the criteria for designating qualitative results as positive;

13. When a library is used to qualitatively identify an analyte, the identity of the analyte must be confirmed before reporting results by comparing the relative retention time and mass spectrum to that of a known standard or control run on the same system; and

14. Evaluate the performance of the instrument after routine and preventive maintenance (*e.g.* clipping or replacing the column or cleaning the source) prior to analyzing subject Samples.

C. Immunoassays. A Medical Marijuana Testing Facility using Immunoassays must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a Sample is not included within the types of Samples approved by the manufacturer; and

4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer's instructions.

D. Thin Layer Chromatography ("TLC"). A Medical Marijuana Testing Facility using TLC must:

1. Apply unextracted standards to each thin layer chromatographic plate;

2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;

3. Include in their written procedure the storage of unused thin layer chromatographic plates;

4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;

5. Verify that the spotting technique used precludes the possibility of contamination and carry-over;

6. Measure all appropriate RF values for qualitative identification purposes;

7. Use and record sequential color reactions, when applicable;

8. Maintain records of thin layer chromatographic plates; and

9. Analyze an appropriate matrix blank with each batch of Samples analyzed.

E. High Performance Liquid Chromatography ("HPLC"). A Medical Marijuana Testing Facility using HPLC must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Monitor and document the performance of the HPLC instrument each day of testing;

4. Evaluate the performance of new columns before use;

5. Create written standards for acceptability when eluting solvents are recycled;

6. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

F. Liquid Chromatography Mass Spectroscopy ("LC/MS"). A Medical Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Maintain records of mass spectrometric tuning;

4. Document corrective actions if a mass-spectrometric tune is unacceptable;

5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;

7. Compare two transitions and retention times between calibrators, controls and Samples within each run;

8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and

9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

G. Other Analytical Methodology. A Medical Marijuana Testing Facility using other methodology or new methodology must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:

   a. Verification of Accuracy

   b. Verification of Precision

   c. Verification of Analytical Sensitivity

   d. Verification of Analytical Specificity

   e. Verification of the LOD

   f. Verification of the LOQ

   g. Verification of the Reportable Range

   h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.

3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing Samples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing Samples.

Basis and Purpose – 5-435

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish a proficiency testing program for Medical Marijuana Testing Facilities. This Rule 5-435 was previously Rule M 707, 1 CCR 212-1.

5-435 – Medical Marijuana Testing Facilities: Proficiency Testing

A. Proficiency Testing Required. A Medical Marijuana Testing Facility must participate in a Proficiency Testing Program for each approved category in which it seeks certification under Rule 5-415 – Medical Marijuana Testing Facilities: Certification Requirements.

B. Participation in Designated Proficiency Testing Event. If required by the Division as part of certification, the Medical Marijuana Testing Facility must have successfully participated in a proficiency test in the category for which it seeks certification, within the preceding 12 months.

C. Continued Certification. To maintain continued certification, a Medical Marijuana Testing Facility must participate in the designated proficiency testing program with continued satisfactory performance as determined by the Division as part of certification. The Division may designate a local agency, state agency, or independent third-party to provide Proficiency Testing.

D. Analyzing Proficiency Testing Samples. A Medical Marijuana Testing Facility must analyze Proficiency Testing Samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment as used in its standard operating procedures.

E. Proficiency Testing Attestation. The laboratory director and all testing analysts that participated in a Proficiency Testing must sign corresponding attestation statements.

F. Laboratory Director Must Review Results. The laboratory director must review and evaluate all Proficiency Testing results.

G. Remedial Action. A Medical Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved on any test during a Proficiency Test. Remedial action documentation must include a review of Samples tested and results reported since the last successful proficiency testing event. A requirement to take remedial action does not necessarily indicate unsatisfactory participation in a Proficiency Testing event.

H. Unsatisfactory Participation in Proficiency Testing Event. Unless the Medical Marijuana Testing Facility positively identifies at least 80% of the target analytes tested, participation in the Proficiency Testing will be considered unsatisfactory. A positive identification must include accurate quantitative and qualitative results as applicable. Any false positive results reported will be considered an unsatisfactory score for the proficiency testing event.

I. Consequence of Unsatisfactory Participation in Proficiency Testing Event. Unsuccessful participation in a Proficiency Testing event may result in limitation, suspension or revocation of Rule 5-415 certification.

Basis and Purpose – 5-440

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Medical Marijuana Testing Facility. This Rule 5-440 was previously Rule M 708, 1 CCR 212-1.

5-440 – Medical Marijuana Testing Facilities: Quality Assurance and Quality Control

A. Quality Assurance Program Required. A Medical Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:

1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the laboratory director or designated supervisory analyst on an ongoing basis to ensure the effectiveness of actions taken over time;

2. Review by the laboratory director or designated supervisory analyst of all ongoing quality assurance; and

3. Review of the performance of validated methods used by the Medical Marijuana Testing Facility to include calibration standards, controls and the standard operating procedures used for analysis on an ongoing basis to ensure quality improvements are made when problems are identified or as needed.

B. Quality Control Measures Required. A Medical Marijuana Testing Facility must establish, monitor, and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and accuracy of results reported. Such quality control measures must include, but shall not be limited to:

1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;

2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;

3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;

4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer;

5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;

6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;

7. Avoiding mixing different lots of reagents in the same analytical run;

8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;

9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of samples analyzed;

10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;

11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;

12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;

13. Analyzing an appropriate matrix blank and control with each analytical run, when available;

14. Analyzing calibrators and controls in the same manner as unknowns;

15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the Standard Operating Procedure is met;

16. Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the Standard Operating Procedure;

17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and

18. Performing testing analysts that follow the current standard operating procedures manual for the test or tests to be performed.

Basis and Purpose – 5-445

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish chain of custody standards for a Medical Marijuana Testing Facility. In addition, it establishes the requirement that a Medical Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains. This Rule 5-445 was previously Rule M 709, 1 CCR 212-1.

5-445 – Medical Marijuana Testing Facilities: Chain of Custody

A. General Requirements. A Medical Marijuana Testing Facility must establish an adequate chain of custody and Sample requirement instructions that must include, but not be limited to;

1. Issue instructions for the minimum Sample requirements and storage requirements;

2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Sample;

3. Document the condition and amount of Sample provided at the time of receipt;

4. Document all persons handling the original Samples, aliquots, and extracts;

5. Document all Transfers of Samples, aliquots, and extracts referred to another certified Medical Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;

6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;

7. Secure the Laboratory during non-working hours;

8. Secure short and long-term storage areas when not in use;

9. Utilize a secured area to log-in and aliquot Samples;

10. Ensure Samples are stored appropriately; and

11. Document the disposal of Samples, aliquots, and extracts.

Basis and Purpose – 5-450

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish records retention standards for a Medical Marijuana Testing Facility. This Rule 5-450 was previously Rule M 710, 1 CCR 212-1.

5-450 – Medical Marijuana Testing Facilities: Records Retention

A. General Requirement. A Medical Marijuana Testing Facility must maintain all required business records. *See* Rule 3-905 - Business Records Required.

B. Specific Business Records Required: Records Retention. A Medical Marijuana Testing Facility must establish processes to preserve records in accordance with Rule 3-905 that includes, but is not limited to;

1. Test Results, including final and amended reports, and identification of analyst and date of analysis;

2. Quality Control and Quality Assurance Records, including accession numbers, Sample type, and acceptable reference range parameters;

3. Standard Operating Procedures;

4. Personnel Records;

5. Chain of Custody Records;

6. Proficiency Testing Records; and

7. Analytical Data to include data generated by the instrumentation, raw data calibration standards, and curves.

Basis and Purpose – 5-455

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), C.R.S. The purpose of this rule is to require Medical Marijuana Testing Facilities to provide failed test results to the Medical Marijuana Business or Person submitting the sample and to report any failed test result in the inventory tracking system. This Rule 5-455 was previously Rule M 712(D), 1 CCR 212-1.

5-455 – Notification of Medical Marijuana Business

If Medical Marijuana failed a contaminant test, then the Medical Marijuana Testing Facility must immediately (1) notify the Medical Marijuana Business that submitted the Test Batch or Sample for testing and any Person as directed by an approved Research Project being conducted by a Marijuana Research

and Development Facility; and (2) report the failure in accordance with the Inventory Tracking System reporting requirements in Rule 3-825(C).

5-500 Series – Medical Marijuana Transporters

Basis and Purpose – 5-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(a)(V), 44-10-505, C.R.S. The purpose of this rule is to establish the license privileges of Medical Marijuana Transporter licensees. This Rule 5-505 was previously Rule M 1601, 1 CCR 212-1.

5-505 – Medical Marijuana Transporter: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Medical Marijuana Transporter may share a location with an identically owned Retail Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Transportation of Medical Marijuana and Medical Marijuana Product Authorized. A Medical Marijuana Transporter may take transportation orders, receive, transport, temporarily store, and deliver Medical Marijuana to a Medical Marijuana Business or to a Pesticide Manufacturer. A Medical Marijuana Transporter may not sell, give away, buy, or receive complimentary Medical Marijuana under any circumstances. A Medical Marijuana Transporter does not include a Licensee that transports its own Medical Marijuana.

C. Authorized Sources of Medical Marijuana. A Medical Marijuana Transporter may only transport and store Medical Marijuana that it received directly from the originating Medical Marijuana Business.

D. Authorized On-Premises Storage. A Medical Marijuana Transporter is authorized to store transported Medical Marijuana on its Licensed Premises or permitted off-premises storage facility. All transported Medical Marijuana must be secured in a Limited Access Area, and tracked consistently with the inventory tracking rules.

E. Delivery to Patients Pursuant to Delivery Permit.

1. Prior to January 2, 2021, all Medical Marijuana Transporters are prohibited from delivering Regulated Marijuana to patients.

2. After January 2, 2021, only Medical Marijuana Transporters that possess a valid delivery permit may deliver Medical Marijuana pursuant to contracts with Medical Marijuana Stores that also possess valid delivery permits. All deliveries of Medical Marijuana to patients must comply with all requirements of Rule 3-615.

3. License Violation Affecting Public Safety. Any violation of subparagraph E of this Rule is a license violation affecting public safety.

Basis and Purpose – 5-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(a)(V), 44-10-505, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Medical Marijuana Transporter. This Rule 5-510 was previously Rule M 1602, 1 CCR 212-1.

5-510 – Medical Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Medical Marijuana Transporter is prohibited from buying, selling, or giving away Medical Marijuana or from receiving complimentary Medical Marijuana. A Medical Marijuana Transporter shall not place or hold a lien or secured interest on Medical Marijuana.

B. Licensed Premises Permitted. A Medical Marijuana Transporter shall maintain a Licensed Premises if it: (1) temporarily stores any Medical Marijuana, or (2) modifies any information in the Inventory Tracking System generated transport manifest. The Licensed Premises shall be in a local jurisdiction that authorizes the operation of Medical Marijuana Stores. If a Medical Marijuana Transporter Licensed Premises is shared with a Retail Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a local jurisdiction that authorizes the operation of both Medical Marijuana Stores and Retail Marijuana Stores.

C. Off-Premises Storage Permit. A Medical Marijuana Transporter may maintain one or more permitted off-premises storage facilities. *See* Rule 3-610 – Off-Premises Storage of Regulated Marijuana and Regulated Marijuana Product: All Regulated Marijuana Businesses.

D. Storage Duration. A Medical Marijuana Transporter shall not store Medical Marijuana for longer than seven days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable seven day storage duration begins and applies regardless of which of the Medical Marijuana Transporter's premises receives the Medical Marijuana first, (i.e. the Medical Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities). A Medical Marijuana Transporter with a valid delivery permit may store Medical Marijuana for delivery to patients pursuant to the delivery permit for no longer than seven days from receipt at its Licensed Premises or off-premises storage facility.

E. Control of Medical Marijuana. A Medical Marijuana Transporter is responsible for the Medical Marijuana once it takes control of the Medical Marijuana and until the Medical Marijuana Transporter delivers it to the receiving Medical Marijuana Business, Pesticide Manufacturer, or deliveries to a patient, parent, or guardian pursuant to a valid delivery permit. For purposes of this Rule, taking control of the Medical Marijuana means removing it from the originating Medical Marijuana Business's Licensed Premises and placing the Medical Marijuana in the transport vehicle or the Delivery Motor Vehicle.

F. Location of Orders Taken and Delivered. A Medical Marijuana Transporter is permitted to take orders on the Licensed Premises of any Medical Marijuana Business to transport Medical Marijuana between Medical Marijuana Businesses. The Medical Marijuana Transporter shall deliver the Medical Marijuana to the Licensed Premises of a licensed Medical Marijuana Business, or Pesticide Manufacturer. A Medical Marijuana Transporter may also deliver Medical Marijuana to patients, parents, or guardians pursuant to a contract with a Medical Marijuana Store if it possesses a valid delivery permit.

G. A Medical Marijuana Transporter shall receive Medical Marijuana from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee, or Pesticide Manufacturer. The Medical Marijuana Transporter shall deliver the Medical Marijuana in the same, unaltered packaging to the final destination Licensee.

H. A Medical Marijuana Transporter with a valid delivery permit shall receive Medical Marijuana that has been weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Medical Marijuana Store or at the Medical Marijuana Store's off-premises storage facility after receipt of a delivery order. Medical Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Medical Marijuana has been packaged and labeled for delivery to the patient, parent, or guardian as required by the 3-1000 Series Rules.

I. A Medical Marijuana Transporter must not deliver Medical Marijuana to patients, parents, or guardians while also transporting Regulated Marijuana between Licensed Premises in the Delivery Motor Vehicle.

J. Opening of Sealed Packages or Containers and Re-Packaging Prohibited. A Medical Marijuana Transporter shall not open Containers of Medical Marijuana. Medical Marijuana Transporters are prohibited from re-packaging Medical Marijuana.

K. Temperature-Controlled Transport Vehicles. A Medical Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Medical Marijuana.

L. Damaged, Refused, or Undeliverable Medical Marijuana. Any damaged Medical Marijuana that is undeliverable to the final destination Medical Marijuana Business, or any Medical Marijuana that is refused by the final destination Medical Marijuana Business shall be transported back to the originating Medical Marijuana Business. Any Medical Marijuana that cannot be delivered to the patient, parent, or guardian pursuant to a valid delivery permit shall be returned to the originating Medical Marijuana Store or the Medical Marijuana Store's off-premises storage facility within the same business day or pursuant to paragraph D of this Rule.

M. Transport of Medical Marijuana Vegetative Plants Authorized. Medical Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255 or due to a one-time Ttransfer pursuant to Rule 3-805. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed. This restriction shall not apply to Immature plants.

5-600 Series – Medical Marijuana Business Operators

Basis and Purpose – 5-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish the license privileges of a Medical Marijuana Business Operator license. This Rule 5-605 was previously Rule M 1701, 1 CCR 212-1.

5-605 – Medical Marijuana Business Operator: License Privileges

A. Privileges Granted. A Medical Marijuana Business Operator shall only exercise those privileges granted to it by the Marijuana Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Medical Marijuana Business Operator may exercise those privileges only on behalf of the Medical Marijuana Business(es) it operates. A Medical Marijuana Business shall not contract to have more than one Medical Marijuana Business Operator providing services to the Medical Marijuana Business at any given time. A Medical Marijuana Business Operator may not provide any operational services to a Marijuana Research and Development Facility.

B. Licensed Premises of the Medical Marijuana Business(es) Operated. A separate license is required for each specific Medical Marijuana Business Operator, and each licensed or registered Medical Marijuana Business Operator may operate one or more other Medical Marijuana Business(es). A Medical Marijuana Business Operator shall not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Medical Marijuana Business Operator at the Licensed Premises of the Medical Marijuana Business(es) it operates.

C. Entities Eligible to Hold Medical Marijuana Business Operator License or Registration. A Medical Marijuana Business Operator license may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership, or sole proprietorship.

D. Separate Place of Business. A Medical Marijuana Business Operator shall designate and maintain a place of business separate from the Licensed Premises of any Medical Marijuana Business(es) it operates. A Medical Marijuana Business Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Medical Marijuana Businesses, except as set forth in Rules 5-610 and 5-620. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Medical Marijuana or Medical Marijuana Product is prohibited at a Medical Marijuana Business Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Medical Marijuana Business Operator and each of its Controlling Beneficial Owners required to hold an Owner License, as well as the agents and employees of the Medical Marijuana Business Operator, shall be agents of the Medical Marijuana Business(es) the Medical Marijuana Business Operator is contracted to operate, when engaged in activities related, directly or indirectly, to the operation of such Medical Marijuana Business(es), including for purposes of taking administrative action against the Medical Marijuana Business being operated. *See* § 44-10-901(1), C.R.S. Similarly, a Medical Marijuana Business Operator and its Controlling Beneficial Owners required to hold an Owner License, as well as the officers, agents and employees of the Medical Marijuana Business Operator, may be disciplined for violations committed by the Controlling Beneficial Owners, agents or employees of the Medical Marijuana Business acting under their direction or control. A Medical Marijuana Business Operator may also be disciplined for violations not directly related to a Medical Marijuana Business it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules, and Regulations. A Medical Marijuana Business Operator, and each of its Controlling Beneficial Owners, agents and employees engaged, directly or indirectly, in the operation of the Medical Marijuana Business(es) it operates, shall comply with all state and local laws, ordinances, rules, and regulations applicable to the Medical Marijuana Business(es) being operated.

Basis and Purpose – 5-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Business Operator. This Rule 5-610 was previously Rule M 1702, 1 CCR 212-1.

5-610 – Medical Marijuana Business Operators: General Limitations or Prohibited Acts

A. Financial Interest. A Person who holds an Owner's Interest in a Medical Marijuana Business Operator may also hold an Owner's Interest in another Medical Marijuana Business. A Medical Marijuana Business may be operated by a Medical Marijuana Business Operator where each has one or more Controlling Beneficial Owners or Passive Beneficial Owners in common. A Person may receive compensation for services provided by a Medical Marijuana Business Operator in accordance with these rules.

B. Sale of Marijuana Prohibited. A Medical Marijuana Business Operator is prohibited from selling, distributing, or Transferring Medical Marijuana to another Medical Marijuana Business, a patient, or a consumer, except when acting as an agent of a Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

C. Consumption Prohibited. A Medical Marijuana Business Operator, and its Controlling Beneficial Owners, Passive Beneficial Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Medical Marijuana Business Operator, and any of its Controlling Beneficial Owners, agents, or employees engaged in the operation of the Medical Marijuana Business(es) it operates, must use the Inventory Tracking System account of the Medical Marijuana Business(es) it operates, in accordance with all requirements, limitations, and prohibitions applicable to the Medical Marijuana Business(es) it operates.

E. Compliance with Requirements and Limitations Applicable to the Medical Marijuana Business(es) Operated. In operating any other Medical Marijuana Business(es), a Medical Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Medical Marijuana Business(es) being operated, under state and local laws, ordinances, rules, and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Medical Marijuana Business may grant access to its Inventory Tracking System account to the Controlling Beneficial Owners who are required to hold Owner Licenses, as well as the licensed agents and employees of a Medical Marijuana Business Operator having duties related to Inventory Tracking System activities of the Medical Marijuana Business(s) being operated.

1. The Controlling Beneficial Owners, agents, and employees of a Medical Marijuana Business Operator granted access to a Medical Marijuana Business's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Controlling Beneficial Owner of a Medical Marijuana Business being operated by a Medical Marijuana Business Operator must be an Inventory Tracking System Trained Administrator for the Medical Marijuana Business's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Medical Marijuana Business Operator's Controlling Beneficial Owners, agents, and employees:

    a. When its contract with the Medical Marijuana Business Operator expires by its terms;

    b. When its contract with the Medical Marijuana Business Operator is terminated by any party; or

    c. When it is notified that the license of the Medical Marijuana Business Operator, or a specific Controlling Beneficial Owner, agent or employee of the Medical Marijuana Business Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Medical Marijuana Businesses. A Medical Marijuana Business Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Medical Marijuana Business(es) it operates, and shall not use or disseminate documents or information obtained from a Medical Marijuana Business it operates for any purpose not authorized by the Marijuana Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Medical Marijuana Business to promote the interests of the Medical Marijuana Business Operator or its Controlling Beneficial Owners, Passive Beneficial Owners, Indirect Financial Interest Holders, agents or employees, or any Person other than the Medical Marijuana Business it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Medical Marijuana Business and a Medical Marijuana Business Operator:

1. Must acknowledge that the Medical Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees who are engaged, directly or indirectly, in operating the Medical Marijuana Business, are agents of the Medical Marijuana Business being operated, and must not disclaim an agency relationship;

2. May provide for the Medical Marijuana Business Operator to receive direct remuneration from the Medical Marijuana Business, including a portion of the profits of the Medical Marijuana Business being operated, subject to the following limitations:

a. The portion of the profits to be paid to the Medical Marijuana Business Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Medical Marijuana Business being operated;

b. The Medical Marijuana Business Operator shall not be granted, and may not accept:

i. A security interest in the Medical Marijuana Business being operated, or in any assets of the Medical Marijuana Business;

ii. An ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Medical Marijuana Business being operated, or a future or contingent right to the same, including but not limited to options or warrants;

c. The Medical Marijuana Business Operator shall not guarantee the Medical Marijuana Business's debts or production levels.

3. Shall permit the Medical Marijuana Business being operated to terminate the contract with the Medical Marijuana Business Operator at any time, with or without cause.

I. A Medical Marijuana Business Operator may engage in dual operation of a Medical Marijuana Business and a Retail Marijuana Business at a single location, to the extent the Medical Marijuana Business being operated is permitted to do so pursuant to subsection 44-10-501(2)(a), C.R.S., and the Medical Marijuana Business Operator shall comply with the rules promulgated pursuant to the Marijuana Code, including the requirement of obtaining a valid license as a Retail Marijuana Business Operator.

J. Any Medical Marijuana Business Operators and the Medical Marijuana Business Operator's Owner Licensee(s) that are appointed by a court to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Medical Marijuana Business must comply with Rule 2-275(F).

Basis and Purpose – 5-615

The statutory authority for this rule includes but is not limited to sections, 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish license requirements for the Medical Marijuana Business Operator's Controlling

Beneficial Owners, agents and employees, including those directly or indirectly engaged in the operation of other Medical Marijuana Business(es). This Rule 5-615 was previously Rule M 1703, 1 CCR 212-1.

5-615 – Medical Marijuana Business Operators: Employee Licenses for Personnel

A. Required Licenses.

1. Owner Licenses. All natural persons who are Controlling Beneficial Owners in a Medical Marijuana Business Operator must have a valid Owner License, associated with the Medical Marijuana Business Operator license. Such an Owner License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana Business Operator and for work performed on behalf of, or at the Licensed Premises of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

2. Employee Licenses. All natural persons who are agents or employees of a Medical Marijuana Business Operator that are actively engaged, directly or indirectly, in the management, supervision, or operation of one or more other Medical Marijuana Businesses, including but not limited to all agents or employees who will come into contact with Medical Marijuana, who will have access to Limited Access Areas, or who will have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated, must hold a valid Employee License. The Employee License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana Business Operator and for work at the Licensed Premises of, or on behalf of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

B. Employee Licenses Not Required. Employee Licenses are not required for Passive Beneficial Owners of a Medical Marijuana Business Operator or for natural persons who will not come into contact with Medical Marijuana, will not have access to Limited Access Area(s) of the Medical Marijuana Business(es) being operated, and will not have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated.

C. Designation of Management Personnel of a Medical Marijuana Business Operated by a Medical Marijuana Business Operator. If a Medical Marijuana Business Operator is contracted to manage the overall operations of a Medical Marijuana Business's Licensed Premises, the Medical Marijuana Business shall designate separate and distinct management personnel on the Licensed Premises who is an officer, agent, or employee of the Medical Marijuana Business Operator, which shall be a natural person with a valid Owner License or Employee License, as set forth in paragraph A of this Rule, and the Medical Marijuana Business shall comply with the reporting provisions of subsection 44-10-313, C.R.S.

Basis and Purpose – 5-620

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish records retention standards for a Medical Marijuana Business Operators. This Rule 5-620 was previously Rule M 1704, 1 CCR 212-1.

5-620 – Medical Marijuana Business Operators: Business Records Required

A. General Requirement. A Medical Marijuana Business Operator must maintain all required business records as set forth in Rule 3-905 - Business Records Required, except that:

1. A Medical Marijuana Business Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Medical Marijuana Business Operator will not come into contact with Medical Marijuana at its separate place of business; and

2. A Medical Marijuana Business Operator is not required to maintain records related to inventory tracking, or transport, because a Medical Marijuana Business Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator shall be maintained at the Licensed Premises of such Medical Marijuana Business(es).

B. All records required to be maintained shall be maintained at the Medical Marijuana Business Operator's separate place of business, and not at the Licensed Premises of the Medical Marijuana Business(es) it operates.

5-700 Series – Marijuana Research and Development Facilities

Basis and Purpose – 5-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(kl), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to establish and clarify the distinct license privilege granted to Marijuana Research and Development Facilities by the State Licensing Authority. This Rule 5-705 was previously Rule M 1901, 1 CCR 212-1.

5-705 – Marijuana Research and Development Facilities: License Privileges

A. License Privileges.

1. Licensed Premises. A Marijuana Research and Development Facility may share a Licensed Premises with a commonly owned Medical Marijuana Testing Facility. Additionally, a Marijuana Research and Development Facility with an R&D Co-Location Permit may share a Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility.

   a. If a Marijuana Research and Development Facility shares its Licensed Premises with a commonly owned Medical Marijuana Testing Facility, the Licensees shall physically segregate all Medical Marijuana used for research purposes in order to prevent contamination or any other effect on Medical Marijuana submitted to the Medical Marijuana Testing Facility for testing.

   b. If a Marijuana Research and Development Facility shares its Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility, the Marijuana Research and Development Facility must first obtain an R&D Co Location Permit for that Licensed Premises and must comply with all terms and conditions of the R&D Co-Location Permit.

2. Authorized Sources of Medical Marijuana. A Medical Marijuana Cultivation Facility and Medical Marijuana Products Manufacturer may Transfer Medical Marijuana to a Marijuana Research and Development Facility.

a. A Marijuana Research and Development Facility may also accept and possess Regulated Marijuana obtained in accordance with an approved Research Project.

b. Upon receipt of Regulated Marijuana pursuant to Rule 5-705(A)(2)(a), a Marijuana Research and Development Facility shall immediately enter the Regulated Marijuana as Medical Marijuana in its Inventory Tracking System and shall follow all requirements of the Marijuana Code and these Rules including but not limited to inventory tracking and packaging and labeling. As part of and in compliance with the conditions of an approved Research Project, a Marijuana Research and Development Facility may Transfer the Medical Marijuana to another Marijuana Research and Development Facility or to a Medical or Retail Marijuana Testing Facility. In no event shall any marijuana obtained or Transferred pursuant to this Rule be consumed by humans or utilized in human subject research.

3. Cultivation of Marijuana Authorized. A Marijuana Research and Development Facility may grow, cultivate, possess, and Transfer Medical Marijuana for use in research only.

4. Production of Marijuana Concentrate. A Marijuana Research and Development Facility and a Medical Marijuana Cultivation Facility are subject to the same restrictions concerning Medical Marijuana Concentrate production. Therefore, a Marijuana Research and Development Facility may produce Medical Marijuana Concentrate only as allowed by, and in conformance with, Rule 5-220(A)-(B).

5. Production of Marijuana Products. A Marijuana Research and Development Facility and a Medical Marijuana Products Manufacturer are subject to the same restrictions concerning Medical Marijuana Product manufacturing. Therefore, a Marijuana Research and Development Facility may manufacture Medical Marijuana Product only as allowed by, and in conformance with, Rule 5-305.

6. Authorized Marijuana Transport. A Marijuana Research and Development Facility is authorized to utilize a licensed Medical Marijuana Transporter for transportation of Medical Marijuana to other Marijuana Research and Development Facility Licensees so long as the place where transportation orders are taken and delivered is a Marijuana Research and Development Facility. Nothing in this Rule prevents a Marijuana Research and Development Facility from transporting its own Medical Marijuana to other Marijuana Research and Development Facilities.

B. R&D Co-Location Permit. A Marijuana Research and Development Facility may obtain an R&D Co-Location Permit to operate at the same Licensed Premises as a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility under the following circumstances:

1. The Marijuana Research and Development Facility must apply on current Division forms and pay any applicable fees.

2. A Marijuana Research and Development Facility may only apply for and hold an R&D Co-Location Permit if the Local Licensing Authority or Local Jurisdiction allow for Marijuana Research and Development Facility to operate at the same location as the specified Regulated Marijuana Business. Any R&D Co-Location Permit issued by the Division is conditioned upon the Marijuana Research and Development Facility's receipt of all required Local Licensing Authority or Local Jurisdiction approvals or acknowledgements.

3. The Marijuana Research and Development Facility and the specified Regulated Marijuana Business shall be commonly owned.

4. Prior to operating in the same Licensed Premises pursuant to an R&D Co-Location Permit, the Marijuana Research and Development Facility shall submit a co-location plan and standard operating procedures to the Division. The co-location plan and standard operating procedures shall demonstrate protocols to prevent cross-contamination and protect public health and safety, including but not limited to:

    a. Standards and controls for maintaining physical separation between the Marijuana Research and Development Facility's research activities and the cultivating or manufacturing activities of the co-located Regulated Marijuana Business; and

    b. Standards and controls for maintaining physical separation between the Marijuana Research and Development Facility's Medical Marijuana and the co-located Regulated Marijuana Business's Regulated Marijuana.

5. The Division may request the assistance of the Colorado Department of Public Health and Environment or any other state or local agency in reviewing the co-location plan and standard operating procedures, and in determining whether the co-location plan and standard operating procedures demonstrate protocols to prevent cross-contamination and protect public health and safety.

6. Modifying the co-location plan and standard operating procedures shall be considered a ~~material~~ significant change to the Licensed Premises. *See* Rule 2-260 – Changing, Altering, or Modifying the Licensed Premises.

7. Record keeping, inventory tracking, packaging and labeling for the Marijuana Research and Development Facility and co-located Regulated Marijuana Business must enable the Division, Local Licensing Authority, or Local Jurisdiction to clearly distinguish the inventory, transactions, and activities of the Marijuana Research and Development Facility from the inventory, transactions, and activities of the co-located Regulated Marijuana Business.

Basis and Purpose - 5-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k~~j~~), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-313(7), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to clarify those acts that are prohibited, or limited in some fashion, by a Marijuana Research and Development Facility. This Rule 5-710 was previously Rule M 1902, 1 CCR 212-1.

5-710 – Marijuana Research and Development Facility: General Limitations or Prohibited Acts

A. Restrictions Applicable to Any Marijuana Research and Development Facility.

1. Packaging and Labeling Standards Required. A Marijuana Research and Development Facility is prohibited from Transferring to a Licensee or any other Person Medical Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Rule Series – Labeling, Packaging, and Product Safety.

    a. Unless the Medical Marijuana was subject to contaminant testing required by the Marijuana Code and these rules, a Marijuana Research and Development Facility shall disclose to any individual receiving Medical Marijuana as part of an approved Research Project that the Medical Marijuana has not been subject to mandatory contaminant testing.

2. Transfers to Individuals. A Marijuana Research and Development Facility is prohibited from Transferring Medical Marijuana to any individual, unless as part of an approved Research Project.

3. Consumption Prohibited. A Marijuana Research and Development Facility shall not permit the consumption of Medical Marijuana on its Licensed Premises, unless the consumption is part of an approved Research Project and the Marijuana Research and Development Facility does not share a Licensed Premises with a Regulated Marijuana Business.

4. Worker Health and Safety. A Marijuana Research and Development Facility shall comply with all applicable federal, state, and local laws regarding worker health and safety.

5. Performance Incentives. A Marijuana Research and Development Facility may not use performance-based incentives to compensate its employees, agents, or contractors who will conduct research, development, or testing.

6. Licensure and Research Projects. A Marijuana Research and Development Facility shall not engage in any research activities until the State Licensing Authority or its delegate approves both (1) its business license application, pursuant to Rule 2-215, and (2) one or more Research Project(s), pursuant to Rule 5-715.

   a. A Marijuana Research and Development Facility may submit its business license application prior to or in conjunction with its Research Project proposal. Except that the Marijuana Research and Development Facility may not engage in any research activities except in conjunction with an approved Research Project.

   b. If a Marijuana Research and Development Facility's license expires or is suspended or revoked, the Licensee shall immediately cease all activities associated with the privileges of licensure, including but not limited to research.

B. Restrictions Applicable to Marijuana Research and Development Facilities.

1. Transfer Restriction. A Marijuana Research and Development Facility may only Transfer Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product to:

   a. A Medical Marijuana Testing Facility for testing;

   b. A natural person as part of and in compliance with the conditions of an approved Research Project;

   c. In the case of Medical Marijuana cultivated at the Licensed Premises of the Marijuana Research and Development Facility, to another Marijuana Research and Development Facility; or

   d. In the case of an Immature Plant that has not been exposed to a chemical prohibited by Rule 3-325, to another Medical Marijuana Business.

Basis and Purpose – 5-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to ensure that any research or development conducted by a Marijuana Research and Development Facility shall be in furtherance of a Research Project approved by the Division. The purpose of this rule is also to establish the applicable requirements necessary for Marijuana Research

and Development Facilities to seek and receive Division approval for all proposed Research Projects. This Rule 5-715 was previously Rule M 1904, 1 CCR 212-1.

5-715 – Marijuana Research and Development Facility: Project Approval

A. Project Approval. Prior to engaging in any research activities, a Marijuana Research and Development Facility shall obtain approval from the Division for a Research Project by submitting a Research Project proposal. Any research or development conducted by a Marijuana Research and Development Facility shall be in furtherance of an approved Research Project.

1. General. A Marijuana Research and Development Facility Applicant or Licensee shall seek approval of the Division by submitting its Research Project proposal.

a. A Research Project proposal shall include a description of the Research Project's defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date.

i. The description of the proposed Research Project proposal shall include the quantity of Medical Marijuana, Medical Marijuana Concentrate, and/or Medical Marijuana Product reasonably required to conduct the proposed Research Project, the total quantity of which is subject to approval by the Division as part an approved Research Project.

b. A Marijuana Research and Development Facility may enter into contracts or agreements with a public higher education research institution or another Marijuana Research and Development Facility to conduct the proposed Research Project. A Marijuana Research and Development Facility Applicant or Licensee shall disclose all contracts or agreements with a public higher education research institution or a Marijuana Research and Development Facility.

i. If a Marijuana Research and Development Facility enters into a contract or agreement to conduct a Research Project with a public higher education research institution, all research activities involving possession of Medical Marijuana shall occur at the Marijuana Research and Development Facility's Licensed Premises. Employees, agents, or contractors of the public higher education research institution may not work at or conduct research activities at the Marijuana Research and Development Facility's Licensed Premises unless they hold an Employee License issued by the State Licensing Authority.

c. A Marijuana Research and Development Facility may submit additional Research Project proposals at any time during which its license is current and valid.

2. Private Research. Unless the proposed Research Project is being conducted in whole or in part by a Public Institution or with Public Money, the Marijuana Research and Development Facility Applicant or Licensee shall obtain a review of its proposed Research Project by one or more independent reviewers. The Division, in its discretion, may require a Marijuana Research and Development Facility Applicant or Licensee to nominate multiple independent reviewers. The Division must approve each nominated independent reviewer.

a. Fees and Costs. The Applicant or Licensee shall be solely responsible for any fees or costs associated with all aspects and all stages of the independent reviewer's services.

b. Qualifications of an Independent Reviewer. Each independent reviewer nominated by a Marijuana Research and Development Facility Applicant or Licensee must be a qualified researcher within the field of study that relates to proposed Research Project.

i. The Division may consult with the Colorado Department of Public Health and Environment and/or the Colorado Department of Agriculture in reviewing whether a nominated independent reviewer is qualified to review the Marijuana Research and Development Facility's Research Project.

ii. The Division, in its discretion, may require a nominated independent reviewer or the Marijuana Research and Development Facility to provide additional information or analysis that the Division deems pertinent to its review of whether to approve the Licensee's nomination of the independent reviewer.

c. Conflicts of Interest. A Marijuana Research and Development Facility Applicant or Licensee must disclose all pre-existing financial, employment, business, or personal relationships between the Marijuana Research and Development Facility or any of its Owner Licensees and each independent reviewer. In determining whether to approve an independent reviewer, the Division may consider whether a pre-existing relationship exists that could affect the independent reviewer's independence or appearance of independence.

d. Independent Reviewer Approval Required. If a Marijuana Research and Development Facility Applicant or Licensee nominates an independent reviewer who is not approved by the Division, the State Licensing Authority may deny a Research Project on that ground unless ~~and until~~ the Marijuana Research and Development Facility Applicant or Licensee nominates another independent reviewer who is approved by the Division.

e. Independent Reviewer Report. After an independent reviewer has been approved by the Division, the Marijuana Research and Development Facility Applicant or Licensee shall submit a report by the independent reviewer to the Division as part of its Research Project proposal. The independent reviewer's report shall address the following criteria as described in the Research Project's description:

i. The identity of the independent reviewer and his/her employer;

ii. Any compensation paid by the Marijuana Research and Development Facility Applicant or Licensee for the review and report;

iii. A description of the review conducted by the independent reviewer, including but not limited to an identification of all documents that were reviewed;

iv. An analysis by the independent reviewer as to whether the proposed Research Project constitutes a type of approved research pursuant to Rule 5-720(A) and the reason(s) supporting the reviewer's analysis;

v. An assessment of the total quantity of Medical Marijuana reasonably required to conduct the proposed Research Project;

vi. An assessment of whether the proposed Research Project presents any type of danger to the public health and/or safety, and/or whether the proposed Research Project presents any health or safety risks;

vii. An assessment of whether the proposed Research Project has a strong scientific basis, appropriate study design, and technically sound scientific methodology;

viii. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee is qualified to perform the proposed Research Project, including whether Marijuana Research and Development Facility Applicant or Licensee's employees are qualified to perform the proposed Research Project;

ix. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate resources and protocols to conduct the proposed Research Project;

x. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate personnel, expertise, facilities, infrastructure, funding, and other human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D);

xi. The following certification by the independent reviewer: "I hereby certify and affirm that I do not have any financial, employment, business, or personal relationship with [INSERT MARIJUANA RESEARCH AND DEVELOPMENT FACILITY NAME] ("Licensee") that would influence or affect my review of the Licensee's proposed Research Project activity. Other than the fees disclosed herein, neither the Licensee nor any other person has given me anything of value or made any promises to me that would influence or affect my review of the Licensee's proposed research activity. I further certify and affirm that this report was drafted by me, and that the information, analysis, and conclusions herein represent solely my work and conclusions."; and

xii. The signature of the independent reviewer.

f. The Marijuana Research and Development Facility shall maintain copies of all documents and correspondence sent to or from the independent reviewer. *See* Rule 3-905 – Business Records Required.

g. The Division, in its discretion, may require the independent reviewer and/or the Marijuana Research and Development Facility Applicant or Licensee to provide additional information or analysis that the Division deems pertinent to its review of the Applicant or Licensee's Research Project proposal.

h. The State Licensing Authority may decline to approve a Research Project proposal if an independent reviewer or the Division through further investigation concludes that:

i. The description of the Research Project does not meet the requirements of section 44-10-507, C.R.S., and these rules;

ii. The proposed Research Project presents a danger to the public health and/or safety, and/or the research to be conducted pursuant to the Research Project presents any health or safety risks;

iii. The proposed Research Project lacks scientific value or validity;

iv. The Marijuana Research and Development Facility Applicant or Licensee is not qualified to perform the proposed research;

v. The Marijuana Research and Development Facility Applicant or Licensee does not have the appropriate resources and/or protocols to conduct the proposed research;

vi. The Marijuana Research and Development Facility Applicant or Licensee lacks the appropriate personnel, expertise, facilities, infrastructure, funding, or human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D);

vii. The independent reviewer(s) cannot meet the certification requirements in this Rule; or

viii The Marijuana Research and Development Facility Applicant or Licensee or the proposed Research Project is otherwise not in compliance with the Marijuana Code or these rules.

3. Projects with Public Institutions or Money. If a Marijuana Research and Development Facility Applicant or Licensee's proposed Research Project will be conducted in whole or in part with a Public Institution or Public Money, the Division shall refer the Licensee's Research Project proposal to the Scientific Advisory Council established by section 25-1.5-106.5(3), C.R.S., for review.

a. The Marijuana Research and Development Facility Applicant or Licensee shall supply the Scientific Advisory Council with any information and/or documents requested by the Scientific Advisory Council within the deadline imposed by the Scientific Advisory Council. A Marijuana Research and Development Facility Applicant or Licensee's failure to supply information and/or documents requested by the Scientific Advisory Council within the deadline set by the Scientific Advisory Council shall be grounds for denial of the Research Project proposal.

b. The Scientific Advisory Council shall review the proposed Research Project to ensure that the proposed Research Project meets the requirements of Rule 5-720(A).

c. The Scientific Advisory Council shall also assess the adequacy of the following:

i. The proposed Research Project's quality, study design, value, or impact;

ii. Whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate personnel, expertise, facilities, infrastructure, funding, and human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D); and

iii. Whether the amount of Medical Marijuana the Marijuana Research and Development Facility Applicant or Licensee proposes to grow or possess is consistent with the proposed Research Project's scope and goals.

d. The Scientific Advisory Council shall communicate the results of its review of the proposed Research Project to the Division. If the Scientific Advisory Council determines that the requirements of either Paragraph (b) or (c) of this Rule are not satisfied, then the proposed Research Project shall be denied.

e. The Marijuana Research and Development Facility shall maintain copies of all documents and correspondence sent to or from the Scientific Advisory Council. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 5-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule to establish the limited research purposes authorized for Marijuana Research and Development Facilities. The purpose of this rule is also to establish additional requirements for Research Projects involving human subjects and animal subjects, as well as restrictions on the use of Pesticides. The rule also establishes reporting requirements and explains when the State Licensing Authority may require a Marijuana Research and Development Facility to undergo an audit of its research activities. This Rule 5-720 was previously Rule M 1905, 1 CCR 212-1.

5-720 – Marijuana Research and Development Facility: Authorized Research Activities

A. Authorized Research. A Marijuana Research and Development Facility is authorized to engage in the following research at its Licensed Premises:

1. Chemical Potency and Composition Levels.

2. Clinical Investigations of Marijuana-Derived Products.

3. Efficacy and Safety of Administering Marijuana as Part of Medical Treatment.

4. Genomic Research.

5. Horticultural Research.

6. Agricultural Research.

7. Marijuana-Affiliated Products or Systems. A marijuana-affiliated product or system includes products or systems such as marijuana delivery systems and cultivation or processing equipment.

B. Pesticide Research. A Marijuana Research and Development Facility shall not engage in any research activities involving Pesticides unless the Marijuana Research and Development Facility has applied for and received any necessary license, registration, certification, or permit from the Colorado Department of Agriculture pursuant to the Pesticide Act, sections 35-9-101 *et seq.,* C.R.S., and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.

1. A Marijuana Research and Development Facility engaged in research activities involving Pesticide shall at all times comply with the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S., Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S., and all rules promulgated pursuant thereto.

C. Research Involving Human Subjects. A Marijuana Research and Development Facility shall not conduct any research involving human subjects unless all aspects of its proposed Research Project have been reviewed and approved by an Institutional Review Board that is registered and in good standing with Office for Human Research Protections, U.S. Department of Health and Human Services.

1. A Marijuana Research and Development Facility shall include proof of approval and ongoing oversight and review by an Institutional Review Board as part of its Research Project proposal. A Research Project may be approved conditioned upon subsequent Institutional Review Board approval. A Licensee shall not engage in any Research Project involving human subjects until it receives approval by the Institutional Review Board and its Research Project is approved. A Marijuana Research and Development Facility conducting research involving human subjects shall also comply with any ongoing monitoring required by the Institutional Review Board.

2. A Marijuana Research and Development Facility conducting research involving human subjects shall at all times comply with the U.S. Department of Health and Human Services' requirements for protection of human research subjects, including additional safeguards necessary for vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, 45 C.F.R. part 46, and all other relevant federal and/or state laws and regulations regarding research on human subjects, as well as all prevailing ethical standards and requirements for research involving human subjects.

3. A Marijuana Research and Development Facility conducting research involving human subjects shall obtain informed consent from any individual participating in such research prior to the individual's participation in the research. A Marijuana Research and Development Facility shall comply with U.S. Food and Drug Administration requirements for informed consent and additional safeguards for children in clinical investigations, 21 C.F.R. part 50, as part of approval and ongoing oversight and review by an Institutional Review Board.

D. Research Involving Animal Subjects. A Marijuana Research and Development Facility shall not conduct any research involving animal subjects as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g) unless the Marijuana Research and Development Facility is registered with the U.S. Department of Agricultural pursuant to the Animal Welfare Act, 7 U.S.C. §§ 2131 *et seq.*

1. A Marijuana Research and Development Facility shall include proof of its current registration with the U.S. Department of Agriculture as part of its Research Project proposal. Failure to be registered with the U.S. Department of Agriculture shall be grounds for denial of Research Project proposal involving animal subjects.

2. A Marijuana Research and Development Facility shall at all times treat animal subjects as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g) involved in research humanely and consistent with all relevant federal and/or state laws and regulations, as well as all prevailing ethical standards and requirements for research on such animals.

E. Research Involving Testing of Marijuana. A Marijuana Research and Development Facility may only engage in research regarding the testing of Medical Marijuana if the following criteria are met:

1. Testing Qualifications. A Marijuana Research and Development Facility must meet at least one of the following standards:

a. The Marijuana Research and Development Facility also holds a Medical Marijuana Testing Facility license and has been certified pursuant to Rule 5-415;

b. The Marijuana Research and Development Facility is accredited to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO 17025 standard; or

c. The Marijuana Research and Development Facility is part of an institution of higher education whose protocols have been approved by the Colorado Department of Public Health and Environment.

2. A Marijuana Research and Development Facility proposing to engage in research regarding the testing of Medical Marijuana shall include in its Research Project proposal documentation establishing its testing qualification pursuant to Paragraph (E)(1) of this Rule. *See* Rule 5-715 – Marijuana Research and Development Facilities: Project Approval.

F. Transfers of Marijuana Used in Research. A Marijuana Research and Development Facility shall not Transfer to any Person any Medical Marijuana unless such Transfer is authorized under Rule 5-710. Otherwise, a Marijuana Research and Development Facility shall at the conclusion of its research destroy all remaining Medical Marijuana subject to the Marijuana Research and Development Facility's approved Research Project. Unless otherwise provided, a Research Project will be deemed concluded on its defined end date as provided in the Marijuana Research and Development Facility's Research Project proposal that was submitted to and approved by the Division. The Marijuana Research and Development Facility shall ensure destruction of such remaining Medical Marijuana is destroyed in conformance with Rule 3-230.

G. Periodic Reporting. A Marijuana Research and Development Facility shall submit to the Division a report regarding the status of approved Research Projects every six months following the Division's approval of its Research Project.

1. The periodic reports shall address the Marijuana Research and Development Facility's compliance and progress with its approved Research Project.

2. The periodic reports shall include any protocol changes or reported protocol deviations, as well as enrollment numbers and adverse events for studies involving human subjects.

3. If the Marijuana Research and Development Facility is conducting its Research Project in whole or in part with a Public Institution or Public Money, the Division shall submit the Marijuana Research and Development Facility's periodic reports to the Scientific Advisory Council for review.

4. If an adverse event occurs, the Marijuana Research and Development Facility shall immediately notify the Division of the adverse event on the form prepared by the Division.

H. Suspension or Revocation of Project Approval. Research Project approval is subject to revocation or suspension if the Marijuana Research and Development Facility's research has materially diverged from the Marijuana Research and Development Facility's approved Research Project, violates the Marijuana Code or the rules promulgated thereto, or presents a risk to public health and safety. *See* 8-200 Series Rules – Discipline.

I. Reporting of Research Results. A Marijuana Research and Development Facility shall supply the Division with copies of all final reports, findings, or documentation regarding the outcomes of approved Research Projects.

J. Independent Research Audit. The State Licensing Authority in its discretion may at any time require that a Marijuana Research and Development Facility undergo an audit of its research activities.

1. Circumstances Justifying Independent Research Audit. The following is a non-exhaustive list of examples that may justify an independent research audit:

a. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility is in violation of one or more of the requirements set forth in these rules or other applicable statutes or regulations;

b. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility's research activities present a danger to the public health and/or safety; or

c. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility has been or is engaged in research activities that have not received prior Division approval.

2. Selection of An Independent Consultant. The Division and the Marijuana Research and Development Facility may attempt to mutually agree upon the selection of an independent consultant to perform a research audit. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

3. Costs. The Marijuana Research and Development Facility subject to an independent research audit will be responsible for all costs associated with the independent research audit, including but not limited to the auditor's fees.

4. Compliance Required. A Marijuana Research and Development Facility must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent research audit in conformance with this Rule.

K. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to permit laboratory testing of Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Products used by Marijuana Research and Development Facilities. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Marijuana Research and Development Facilities. This Rule 5-725 was previously Rule M 1907, 1 CCR 212-1.

5-725 – Marijuana Research and Development Facility: Testing

A. Samples on Demand. Upon request of the Division, a Marijuana Research and Development Facility shall submit a sufficient quantity of Medical Marijuana to a Medical Marijuana Testing Facility for testing. The Division will notify the Marijuana Research and Development Facility of the results of the analysis. *See* Rule 3-805 – Medical Marijuana Business: Inventory Tracking System; Rule 3-905 – Business Records Required.

B. Samples Provided for Testing. A Marijuana Research and Development Facility may provide Samples of its Medical Marijuana to a Medical Marijuana Testing Facility for testing purposes.

The Marijuana Research and Development Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 5-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to establish a Marijuana Research and Development Facility may only possess an amount of Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product Medical Marijuana approved in conjunction with the Licensee's approved Research Projects. The purpose of this rule is also to establish additional Inventory Tracking and separation requirements for Medical Marijuana cultivated for Transfer by a Marijuana Research and Development Cultivation. This Rule 5-730 was previously Rule M 1908, 1 CCR 212-1.

5-730 – Marijuana Research and Development Facility: Production Management and Possession Limits

A. Marijuana Authorized for Transfer. A Marijuana Research and Development Facility that is authorized to cultivate Medical Marijuana for Transfer to other Marijuana Research and Development Facilities may not have more than 500 Medical Marijuana plants and 20 pounds of Medical Marijuana in its Limited Access Area at any given time, unless expressly approved by the Division as part of an approved Research Project.

1. A Marijuana Research and Development Facility shall indicate in the Inventory Tracking System whether Medical Marijuana is going to be used by the Licensee in an approved Research Project or Transferred to another Marijuana Research and Development Facility. A Marijuana Research and Development Facility may cultivate Medical Marijuana prior to approval of a Research Project, except the Marijuana Research and Development Facility may only designate such Medical Marijuana as Medical Marijuana to be Transferred to other Marijuana Research and Development Facilities unless ~~or until~~ the Marijuana Research and Development Facility has an approved Research Project. Upon approval of a Research Project, a Marijuana Research and Development Facility shall indicate in the Inventory Tracking System whether any such Medical Marijuana authorized for Transfer will be subject to the Marijuana Research and Development Facility's research pursuant to the approved Research Project.

B. Marijuana for Research. A Marijuana Research and Development Facility shall only possess for research the amount of Medical Marijuana approved by the Division pursuant to each of the Licensee's approved Research Projects.

C. Separation of Marijuana Used in Research. A Marijuana Research and Development Facility shall physically separate all Medical Marijuana used in the Licensee's own approved Research Project(s) from Medical Marijuana to be Transferred to other Marijuana Research and Development Facilities for approved Research Projects.

Part 6 – Retail Marijuana Business License Types

6-100 Series – Retail Marijuana Stores

Basis and Purpose – 6-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(dd), 44-10-401(2)(b)(I), 44-10-601, and 44-10-605, C.R.S. The purpose of this rule is to the license privileges of a Retail Marijuana Store licensee. This Rule 6-105 was previously Rule R 401.

6-105 – Retail Marijuana Store: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business– Shared Licensed Premises and Operational Separation, a Retail Marijuana Store may share, and operate at, the same Licensed Premises with a commonly-owned Medical Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Authorized Sources of Retail Marijuana. A Retail Marijuana Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.

C. Samples Provided for Testing. A Retail Marijuana Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

D. Authorized On-Premises Storage. A Retail Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

E. Authorized Marijuana Transport. A Retail Marijuana Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Store from transporting its own Retail Marijuana.

F. Performance-Based Incentives. A Retail Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

G. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Retail Marijuana Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

H. Retail Marijuana Store Delivery Permit.

1. Prior to January 2, 2021, all Retail Marijuana Stores are prohibited from delivering Regulated Marijuana to consumers.

2. After January 2, 2021, a Retail Marijuana Store with a valid delivery permit may accept delivery orders deliver Retail Marijuana to consumers pursuant to Rule 3-615.

3. A Retail Marijuana Store that does not possess a valid delivery permit cannot deliver Retail Marijuana.

I. Automated Dispensing Machines: A Retail Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to consumers.

J. Walk-up Window or Drive-up Window. A Retail Marijuana Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, a Retail Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

   a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.

   b. The Retail Marijuana Store may accept telephone orders or may accept orders from the customer at the walk-up window or drive-up window. Retail Marijuana Stores may not accept orders or payment for Retail Marijuana over the internet.

   c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Retail Marijuana Store may not display Retail Marijuana at the walk-up or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payments for Retail Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Retail Marijuana Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. A Retail Marijuana Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.

8. Vehicle Prohibited in the Licensed Premises. A Retail Marijuana Store shall not permit any portion of a vehicle to enter any portion of the Licensed Premises.

Basis and Purpose – 6-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(kj), 44-10-401(2)(b)(I), 44-10-701(1)(a), 44-10-701(3)(d) and (f), and 44-10-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Store.

Regarding quantity limitations on sales, equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower have been included in this rule pursuant to the mandate of House Bill 14-1361. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Retail Marijuana Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

This Rule 6-110 was previously Rule R 402, 1 CCR 212-2.

6-110 – Retail Marijuana Sales: General Limitations or Prohibited Acts

A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.

B. Age Verification. Licensees must verify on two separate occasions that a Person is 21 years of age or older. First, prior to permitting a Person to enter the Restricted Access Area, a Licensee must verify that the Person has a valid government-issued photo identification showing that the Person is 21 years of age or older. Second, pPrior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. A Retail Marijuana Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product ~~or more than six Retail Marijuana seeds~~ to a consumer in a single transaction ~~to a consumer~~. A Retail Marijuana Store may also Transfer up to six (6) seeds in addition to the one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A single transaction includes multiple Transfers to the same consumer during the same business day where the Retail Marijuana Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:

    a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

    b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, a Retail Marijuana Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.

E. Sales over the Internet. A Licensee is prohibited from selling Retail Marijuana over the internet. Any Transfer of Retail Marijuana must occur within the Retail Marijuana Store's Restricted Access Area. Only a Licensee holding a valid delivery permit may make sales over the internet or deliver to a private residence.

F. Delivery Outside Colorado Prohibited. A Retail Marijuana Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.

G. Prohibited Items. A Retail Marijuana Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an Industrial Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

H. Free Product Prohibited. A Retail Marijuana Store may not give away Retail Marijuana to a consumer for any reason.

I. Nicotine or Alcohol Prohibited. A Retail Marijuana Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 46 or 47 of Title 12, C.R.S.

J. Storage and Display Limitations.

1. A Retail Marijuana Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

2. Any Retail Marijuana Concentrate displayed in a Retail Marijuana Store must include the potency of the concentrate on a sign next to the name of the product.

    a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

    b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

K. Transfer of Expired Product Prohibited. A Retail Marijuana Store shall not Transfer any expired Retail Marijuana Product to a consumer.

L. Transfer Restriction.

1. Sampling Units. A Retail Marijuana Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. A Retail Marijuana Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer, or a Marijuana Research and Development Facility.

L.5. Standard Operating Procedures. A Retail Marijuana Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:

a. The distinct shape of a human, animal, or fruit; or

b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

N. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If a~~A~~ Retail Marijuana Store is notified of any Adverse Health Event related to Regulated Marijuana it~~that~~ Transfers, ~~Audited Product and/or Alternative Use Product~~ the Retail Marijuana Store must report ~~any~~ the Adverse Health Event ~~adverse event related to an Audited Product and/or Alternative Use Product directly~~ to both the originating ~~Retail~~ Regulated Marijuana ~~Products~~ Business ~~Manufacturer~~ that Transferred the ~~Audited Product or Alternative Use Product~~Regulated Marijuana to the Retail Marijuana Store and the Colorado Department of Public Health and Environment. The Retail Marijuana Store must submit the report ~~must be submitted~~ within forty-eight (48) hours ~~after learning~~from its receipt of notification of the Adverse Health Event ~~adverse event by the Retail Marijuana Store~~. ~~For purposes of this Rule,~~

~~adverse event means any~~ To the extent known after reasonable diligence to ascertain the information, the report to the Medical Marijuana Products Manufacturer or Medical Marijuana Cultivation Facility must contain the name and contact information of the complaint, and the name and Product Batch or Harvest Batch number of the Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product ~~untoward medical occurrence associated with the use of marijuana—this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom or disease temporally associated with the use of a marijuana product, and may include concerns or reports on the quality or possible adverse reactions to a specific Audited Product or Alternative Use Product. To the extent known after reasonable diligence to ascertain the information, the report to the Retail Marijuana Products Manufacturer must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch number of the Audited Product or Alternative Use Product~~.

2. General Complaints. [UNDER FURTHER REVIEW]

O. Corrective and Preventive Action. This paragraph O~~P~~ shall be effective January 1, 2021. A Retail Marijuana Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(z), and 44-10-202(3)(h), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that a Retail Marijuana Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age. This Rule 6-115 was previously Rule R 403, 1 CCR 212-2.

6-115 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Retail Marijuana are sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area – No One Under 21 Years of Age Allowed."

B. Consumers in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owner Licensees and Employee Licensees shall make reasonable efforts to limit the number of consumers in relation to the number of Owners Licensees and Employee Licensees in the Restricted Access Area at any time.

C. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

D. Pregnancy Warning. Retail Marijuana Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

6-200 Series – Retail Marijuana Cultivation Facilities

Basis and Purpose – 6-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-203(2)(r), 44-10-203(3)(c), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to a Retail Marijuana Cultivation Facility. This Rule 6-205 was previously Rule R 501, 1 CCR 212-2.

6-205 – Retail Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Cultivation Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

B. Cultivation of Retail Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate Authorized. A Retail Marijuana Cultivation Facility may p~~P~~ropagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate~~, whether in concentrated form or otherwise~~. A Retail Marijuana Cultivation Facility may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate.

C. Authorized Transfers. A Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana and ~~Water~~Physical Separation-Based Retail Marijuana Concentrate to another Retail Marijuana Business. A Retail Marijuana Cultivation Facility and an Accelerator Cultivator may also Transfer to a Medical Marijuana Cultivation Facility in compliance with Rules 6-230 and 6-730.

1. A Retail Marijuana Cultivation Facility shall not Transfer Flowering plants. A Retail Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Retail Marijuana Cultivation Facility may Transfer Sampling Units of Retail Marijuana or Retail Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-602(6), C.R.S., and Rule 6-225.

3. A Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

   a. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of decontamination and only after all other steps outlined in the Retail Marijuana Cultivation Facility's standard operating procedures have been completed, including but not limited to drying, curing, and trimming; or

   b. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the Retail Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

      i. The Retail Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Retail Marijuana Cultivation Facility;

ii. An originating Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana to one receiving Retail Marijuana Cultivation Facility that will be serving as a centralized processing hub;

iii. The Retail Marijuana or Retail Marijuana Concentrate is weighed prior to leaving the originating Retail Marijuana Cultivation Facility and immediately upon receipt at the receiving Retail Marijuana Cultivation Facility and in accordance with Rule 3-605;

iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

v. The receiving Retail Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Retail Marijuana Cultivation Facility is pursuing ~~process validation status~~a Reduced Testing Allowance, ~~process validation~~a Reduced Testing Allowance must be obtained separately for marijuana received from each originating Retail Marijuana Cultivation Facility. A Retail Marijuana Cultivation Facility that has achieved a Reduced Testing Allowance ~~is process validated~~ must maintain and produce complete testing records that can verify that facility's compliance with testing and ~~process validation~~Reduced Testing Allowance requirements; and

vi. The standard operating procedures for the originating Retail Marijuana Cultivation Facility and receiving Retail Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

4. A Retail Marijuana Cultivation Facility may transfer Retail Marijuana to a Pesticide Manufacturer.

D. Authorized On-Premises Storage. A Retail Marijuana Cultivation Facility is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

E. Samples Provided for Testing. A Retail Marijuana Cultivation Facility may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Retail Marijuana Cultivation Facility is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Cultivation Facility from transporting its own Retail Marijuana.

G. Performance-Based Incentives. A Retail Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Retail Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-225 – Sampling Unit Protocols.

H. Authorized Sources of Retail Marijuana Seeds and Immature Plants. A Retail Marijuana Cultivation Facility shall only obtain Retail Marijuana seeds or Immature Plants from its own Retail Marijuana, properly Transferred Medical Marijuana cultivated at a Medical Marijuana Cultivation

Facility with at least one identical Controlling Beneficial Owner, or properly Tt~~t~~ransferred from another Retail Marijuana Business pursuant to the inventory tracking requirements in the 3-800 Series Rules. A Retail Marijuana Cultivation facility may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

I. Centralized Distribution Permit. A Retail Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Retail Marijuana Stores.

1. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person has a minimum of five percent ownership in both the Retail Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Retail Marijuana Store to which the Retail Marijuana Concentrate and Retail Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, a Retail Marijuana Cultivation Facility may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Retail Marijuana Cultivation Facility shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. A Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product from a Retail Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Retail Marijuana Stores.

   a. A Retail Marijuana Cultivation Facility may only accept Retail Marijuana Concentrate and Retail Marijuana Product that is packaged and labeled for sale to a consumer pursuant to the 3-1000 Series Rules.

   b. A Retail Marijuana Cultivation Facility storing Retail Marijuana Concentrate and Retail Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Retail Marijuana Concentrate or Retail Marijuana Product on the Retail Marijuana Cultivation Facility's Licensed Premises for more than 90 days from the date of receipt.

   c. All Transfers of Retail Marijuana Concentrate and Retail Marijuana Product by a Retail Marijuana Cultivation Facility shall be without consideration.

4. All security and surveillance requirements that apply to a Retail Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

J. Transition Permit. A Retail Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 6-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k~~j~~), 44-10-203(2)(f), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-701(2)(a), 44-10-602, C.R.S.

Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Cultivation Facility. This Rule 6-210 was previously Rule R 502, 1 CCR 212-2.

6-210 – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Retail Marijuana Cultivation Facility is prohibited from Transferring Retail Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Consumer Prohibited. A Retail Marijuana Cultivation Facility is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-602(6), C.R.S., and Rule 6-225.

C. Excise Tax Paid. A Retail Marijuana Cultivation Facility shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. A Retail Marijuana Cultivation Facility shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If a Retail Marijuana Cultivation Facility is notified of any possible Adverse Health Event associated with Regulated Marijuana, it must report the Adverse Health Event to the Colorado Department of Public Health and Environment. To

the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch or Harvest Batch number of the Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

Basis and Purpose – 6-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(r), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Cultivation Facility and standards for the production of Retail Marijuana Concentrate. This Rule 6-215 was previously Rule R 505, 1 CCR 212-2.

6-215 – Retail Marijuana Cultivation Facilities: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility may only produce ~~Water~~Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-905- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of a Retail Marijuana Cultivation Facility unless the Controlling Beneficial Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturer license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Retail Marijuana Cultivation Facility produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate are produced and all Controlling Beneficial Owners and Employee Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon a Retail Marijuana Products Manufacturer that produces Retail Marijuana Concentrate, including all general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 6-315 – Retail Marijuana Products Manufacturer: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate.

1. It shall be considered a violation of this Rule if a Retail Marijuana Cultivation Facility possesses a Retail Marijuana Concentrate other than a ~~Water~~Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturer license; or the Retail Marijuana Cultivation Facility has been issued a Centralized Distribution Permit and is in possession of the Retail Marijuana Concentrate in compliance with Rule 6-205(I).

2. Notwithstanding subparagraph (C)(1) of this Rule 6-215, a Retail Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only when the possession is due to the Transfer of Retail Marijuana flower or trim that failed microbial testing to a Retail Marijuana Products Manufacturing Facility for processing into a Solvent-Based Retail Marijuana Concentrate, and the Retail Marijuana Products Manufacturer Transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Retail Marijuana Cultivation Facility.

a. The Retail Marijuana Cultivation Facility shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Retail Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Regulated Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or the Marijuana Code.

c. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Cultivation Facility that Transfers the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to Rule 6-210(C).

D. Production of Alternative Use Product or Audited Product Prohibited. A Retail Marijuana Cultivation Facility shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. A Retail Marijuana Cultivation Facility is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Retail Marijuana Cultivation Facility received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from a Retail Marijuana Products Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 6-325.

Basis and Purpose – 6-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(6), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The rule establishes a means by which to manage the overall production of Retail Marijuana in the state of Colorado. The intent of this rule is to encourage responsible production to meet demand for retail marijuana consumers, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the continuation of the sale of illegal marijuana.

Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule. Additionally, throughout the rulemaking process stakeholders expressed concern over ensuring an adequate amount of licensed Retail Marijuana Stores exist to sell the amount of Retail Marijuana being produced at licensed Retail Marijuana Cultivation Facilities. Scaling the number of interests a Person may hold in Retail Marijuana Cultivation Facility licenses relative to the number of controlling interests the Person has in Retail Marijuana Store(s) has been incorporated in the production management rules as a means to address this production management concern.

The Rule 6-220 was previously Rule R 506, 1 CCR 212-2.

6-220 – Retail Marijuana Cultivation Facility: Production Management

A. One Retail Cultivation License per Licensed Premises.

1. One Retail Marijuana Cultivation License per Licensed Premises. Except as permitted by subparagraph (AB)(2) only one Retail Marijuana Cultivation Facility License shall be permitted at each Licensed Premises and each Licensed Premises must be located at a distinct address recognized by the Local Jurisdiction.

2. Collapse after January 1, 2019. After January 1, 2019, collapse of more than one Retail Marijuana Cultivation Facility license at a single Licensed Premises through an approved change of location application shall be permitted if all Retail Marijuana Cultivation Facility licenses for which the collapse is sought meet the following requirements:

    a. All Retail Marijuana Cultivation Facility licenses sought to be collapsed have been continuously operating for at least 180 days prior to the proposed collapse;

    b. All Retail Marijuana Cultivation Facility licenses sought to be collapsed have identical Controlling Beneficial Owners holding identical ownership percentages;

    c. There is no pending administrative action regarding any of the Retail Marijuana Cultivation Facility licenses sought to be collapsed;

    d. The tier for the surviving Retail Marijuana Cultivation Facility license has not been decreased in the 180 days prior to the change of location application.

    e. All Retail Marijuana Cultivation Facility Licensees identify the desired surviving license and agree that all other Retail Marijuana Cultivation Facility licenses will be surrendered at the time of collapse; and

    f. Determining Tier for Surviving License.

        i. Surviving License Tier Will Not Decrease. The tier for the surviving license will not be decreased as a result of any approved change of location application.

        ii. Surrendered License is Tier 1 or Tier 2. For the surviving license to increase one tier or one increment of 3,600 plants if already tier 5 or higher, during the 180 days prior to the change of location application, the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Ttransferred at least 85% of the inventory it produced during that time.

        iii. Surrendered License is Tier 3 or Higher. For the surviving license to increase by the maximum authorized plant count of the surrendered license, during the 180 days prior to the change of location application the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Ttransferred at least 85% of the inventory it produced during that time. If during the 180 days prior to the change of location application, the surrendering license did not cultivate at least 50% of the maximum authorized plant count and Ttransfer at least 85% of the inventory it produced, the surviving license will only increase one tier or one increment of 3,600 plants if already a tier 5 or higher.

        iv. Division Determination of Tier. If a collapse results in a maximum authorized plant count in the middle of a tier, the surviving license's maximum authorized plant count will be rounded up to the top of that tier.

B. Production Management.

1. Production Management Tiers.

    a. Tier 1: 1 - 1,800 plants

b. Tier 2: 1,801 – 3,600 plants

c. Tier 3: 3,601 – 6,000 plants

d. Tier 4: 6,001 – 10,200 plants

e. Tier 5: 10,201 – 13,800+ plants

i. Tier 5 shall not have a cap on the maximum authorized plant count.

ii. The maximum authorized plant count above 10,200 plants shall increase in one or two increments of 3,600 plants. A Retail Marijuana Cultivation Facility Licensee shall be allowed to increase its maximum authorized plant count one or two increments of 3,600 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 6-220.

2. All Retail Marijuana Cultivation Facility licenses granted on or after November 30, 2015 will be issued as a Tier 1 License.

3. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded, but must be fully accounted for in the Inventory Tracking System.

4. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

5. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Retail Cultivation Facilities that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, a Retail Marijuana Cultivation Facility that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 720 days.

2. Inventory Management for Retail Cultivation Facilities That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, a Retail Marijuana Cultivation Facility that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 180 days.

D. Tier Decrease. For Retail Marijuana Cultivation Facilities that are authorized to cultivate more than 1,800 plants, the Division may review the purchases, Transfers, and cultivated plant count of the Retail Marijuana Cultivation Facility Licensee in connection with the license renewal process or after an investigation. Based on the Division's review, the Division may reduce the Licensee's maximum allowed plant count to a lower production management tier pursuant to subparagraph

(C)(1) of this Rule. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Licensee sold less than 70% of what the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days the Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management tier;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Excise tax payment history;

5. Existing inventory and inventory history;

6. Sales contracts; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Retail Marijuana Cultivation Facilities That Have One or Two Harvest Seasons Per Year.

a. After accruing at least one harvest season of Transfers, a Retail Marijuana Cultivation Facility Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That during the previous harvest season prior to the tier increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Retail Marijuana Business;

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management tier increase application.

b. If the Division approves the production management tier increase application, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. *See* Rule 2-205 –Fees.

c. For a Licensee with an authorized plant count in tiers 2-5 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Retail

Marijuana Cultivation Facility license fee and the applicable expanded production management tier fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing one harvest season during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a production management tier 5, two increments of 3,600 plants (7,200 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two tiers or increments of 3,600 plants (7,200 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

C. If the Retail Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Retail Marijuana Cultivation Facility or related Retail Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Retail Marijuana Cultivation currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two 3,600 plant increments;

B. The Retail Marijuana Cultivation Facility cultivated at least 90% of its maximum authorized plant count and during the preceding 360 days the Retail Marijuana Cultivation Facility and/or any commonly owned Retail Marijuana Store Transferred in Retail Marijuana from one or more unrelated Retail Marijuana Cultivation Facility(ies);

C. The Retail Marijuana Cultivation has contracts for the sale of Retail Marijuana in the next 360 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Retail Marijuana Cultivation;

E. Any history of noncompliance with the Retail Code, Marijuana Code, and/or Rules by the Retail Marijuana Cultivation Facility, or any commonly owned Retail Marijuana Business, and/or any investigation of, or administrative action(s) against, the Retail

Marijuana Cultivation Facility, or any commonly owned Retail Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Retail Marijuana Cultivation Facilities that have more than two harvest seasons per year.

a. After a 180-day period during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That for 180 days prior to the tier increase application, the Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the tier increase application.

b. If the Division approves the production management tier increase application, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in tier 2-5 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Retail Marijuana Cultivation Facility license fee and the applicable expanded production management tier fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing 180 days during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a tier 5, two increments of 3,600 plants (7,200 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two tier or two increments of 3,600 plants (7,200 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business;

C. If the Retail Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking system during that time period and/or Transfers into the Retail Marijuana Cultivation Facility or related Retail Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Retail Marijuana Cultivation currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two increments of 3,600 plants;

B. The Retail Marijuana Cultivation Facility cultivated at least 90% of its maximum authorized plant count and during the preceding 180 days the Retail Marijuana Cultivation Facility and/or any commonly owned Retail Marijuana Store Transferred in Retail Marijuana from one or more unrelated Retail Marijuana Cultivation Facility(ies);

C. The Retail Marijuana Cultivation has entered into a written agreement(s) or contract(s) for the sale of Retail Marijuana in the next 180 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Retail Marijuana Cultivation;

E. Any history of noncompliance with the Retail Code, Marijuana Code, and/or Rules by the Retail Marijuana Cultivation Facility or any commonly owned Retail Marijuana Business(es), and/or any investigation of, or administrative action(s) against, the Retail Marijuana Cultivation Facility or any commonly owned Retail Marijuana Business;

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

e. A Retail Marijuana Cultivation Facility that does not have 180 days of cultivating history may apply to increase its plant count to tier 2 or tier 3 pursuant only to this subparagraph (E)(2)(e). A Retail Marijuana Cultivation Facility applying for a tier increase request under this subparagraph (E)(2)(e) must demonstrate all of the following at the time of application:

i. The Retail Marijuana Cultivation Facility making the tier increase request also owns at least three Retail Marijuana Stores with identical Controlling Beneficial Owners;

ii. The Controlling Beneficial Owners of the Retail Marijuana Cultivation Facility and three Retail Marijuana Stores used to support the tier increase request have owned the aforementioned Retail Marijuana Store licenses for at least the preceding 180 days;

iii. The three Retail Marijuana Stores used to support the tier increase request have consistently Transferred Regulated Marijuana to consumers in the preceding 180 days and have a history of wholesale purchases that justify the need for a tier increase above a tier 1;

iv. In the 180 days preceding the Licensee's tier increase request pursuant to this subparagraph (e), the Retail Marijuana Cultivation Facility, three Retail Marijuana Stores, and identical Controlling Beneficial Owners have not been subject to an administrative action issued by the State Licensing Authority;

v. The Retail Marijuana Cultivation Facility making the tier increase request has an established history of responsible cultivation and Transfers of its Regulated Marijuana inventory; and

vi. The Retail Marijuana Cultivation Facility subject to the tier increase request has not previously requested a tier increase pursuant to this subparagraph (e).

3. Application for Tier Increase. Applications for a tier increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

F. Maximum Allowed Retail Marijuana Cultivation Facility Licenses.

1. A Person that is a Controlling Beneficial Owner in Three or More Retail Marijuana Cultivation Facility Licenses. For every multiple of three Retail Marijuana Cultivation Facility licenses in which a Person is a Controlling Beneficial Owner, the Person must also be a Controlling Beneficial Owner in at least one Retail Marijuana Store. For example: (1) a Person that is a Controlling Beneficial Owner in three, four, or five Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least one Retail Marijuana Store; (2) a Person that is a Controlling Beneficial Owner in six, seven, or eight Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least two Retail Marijuana Stores; (3) a Person that is a Controlling Beneficial Owner in nine, ten, or eleven Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least three Retail Marijuana Stores; etc.

2. A Person that is a Controlling Beneficial Owner in Less than Three Retail Marijuana Cultivation Facility Licenses. A Person that is a Controlling Beneficial Owner in less than three Retail Marijuana Cultivation Facility licenses shall not be required to be a Controlling Beneficial Owner in a Retail Marijuana Store.

G. The State Licensing Authority, at its sole discretion, may adjust any of the plant limits described in this Rule on an industry-wide aggregate basis for all Retail Marijuana Cultivation Facility Licensees subject to that limitation.

Basis and Purpose – 6-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-401(2)(b)(II), and 44-10-602(6), C.R.S. The purpose of this rule is to establish the circumstances under which a Retail Marijuana Cultivation Facility may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's Regulated Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Retail Marijuana Cultivation Facility that Transfer Sampling Units. This Rule 6-225 was previously Rule R 507, 1 CCR 212-2.

6-225 – Retail Marijuana Cultivation Facility: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Retail Marijuana Cultivation Facility may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Retail Marijuana Cultivation Facility who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. A person may be designated as a Sampling Manager by more than one Medical Marijuana Business or Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. A Retail Marijuana Cultivation Facility that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-602(6), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-225. *See also* Rule 3-905 – Business Records Required. A Retail Marijuana Cultivation Facility shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Excise Tax Requirements. A Retail Marijuana Cultivation Facility must pay excise tax on Sampling Units of Retail Marijuana flower or trim, based on the average market rate of the unprocessed Retail Marijuana.

D. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Retail Marijuana Cultivation Facility as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Retail Marijuana or eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (D)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (D)(3). Before Transferring any Sampling Units, a Retail Marijuana Cultivation Facility shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (D)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

E. Compensation Prohibited. A Retail Marijuana Cultivation Facility may not use Sampling Units to compensate a Sampling Manager.

F. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

G. Acceptable Purposes. Sampling Units shall only be designated and Transferred for the purposes of quality control and product development in accordance with section 44-10-602(6), C.R.S.

H. Record keeping requirements. A Retail Marijuana Cultivation Facility shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Retail Marijuana Cultivation Facility shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of quality control or product development. A Retail Marijuana Cultivation Facility shall also maintain copies of the Retail Marijuana Cultivation Facility's standard operating procedures provided to Sampling Managers

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), 44-10-602(13)(a)-(c) and 38-28.8-302(2)(b), C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

6-230 – Retail Marijuana Cultivation Facility: Ability to Change Designation from Retail Marijuana to Medical Marijuana

A. Changing Designation: Beginning July 1, 2022, a Retail Marijuana Cultivation Facility may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility are co-located;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Cultivation Facility must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana to Medical Marijuana occurs;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The Inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility must remain at, or under, its respective inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

Basis and Purpose – 6-235

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-502(10)(a)-(c) The purpose of this rule is to allow a Retail Marijuana Cultivation Facility licensees that plan to cultivate Retail Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

6-235 Retail Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Retail Marijuana Cultivation Facility licensees that plan to cultivate Retail Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Retail Marijuana Cultivation Facility shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. A Retail Marijuana Cultivation Facility may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission of a contingency plan, a contingency plan must be submitted with the Retail Marijuana Cultivation Facility's license renewal application. Any significant change to a contingency plan prior to a renewal application must be submitted for review

and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary contact. A primary contact for the Retail Marijuana Cultivation Facility must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Retail Marijuana Cultivation Facility shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Retail Marijuana, a Retail Marijuana Cultivation Facility shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

a. Retail Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

b. If Retail Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Retail Marijuana Cultivation Facility.

d. A Retail Marijuana Cultivation Facility that cultivates outdoors may identify and Transfer Retail Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of modifications or security and surveillance exemptions. Proposed modifications of the Licenses Premises and any anticipated exemptions to security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

   a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. A Retail Marijuana Cultivation Facility that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

   b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan, the Licensee shall contact the Division and explain why it cannot return to normal business operations.

   c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Retail Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to a Retail Marijuana Cultivation Facility apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Retail Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If a Retail Marijuana Cultivation Facility harvests, Transfers, or packages Retail Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

   a. Harvest Requirements. If Retail Marijuana is harvested, the weight of Retail Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

b. Transport Manifest. The Retail Marijuana Cultivation Facility acting pursuant to the contingency plan must report all Retail Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

ii. The Licensee shall manually fill out the dates, times, and individual transporting Retail Marijuana on a copy of the standing transport manifest.

iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan during any transport of Retail Marijuana when it is not possible to use a Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Retail Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Retail Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Retail Marijuana to another Licensed Premises, a Retail Marijuana Cultivation Facility may finish that harvest at the receiving Licensed Premises if all Retail Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance.

b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

6-300 Series – Retail Marijuana Products Manufacturing Facilities

Basis and Purpose – 6-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-307(1)(j), 44-10-401(2)(b)(III), 44-10-603, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to a Retail Marijuana Products Manufacturer. This Rule 6-305 was previously Rule R 601, 1 CCR 212-2.

6-305 – Retail Marijuana Products Manufacturer: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Retail Marijuana Products Manufacturer comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Retail Marijuana Products Manufacturer comply with all applicable rules. *See* 5-700 Series Rules.

B. Authorized Transfers. A Retail Marijuana Products Manufacturer is authorized to Transfer Retail Marijuana as follows:

1. Retail Marijuana Concentrate and Retail Marijuana Product.

a. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Concentrate or Retail Marijuana Product to Retail Marijuana Stores, other Retail Marijuana Products Manufacturers, Retail Marijuana Testing Facilities, Retail Marijuana Hospitality and Sales Businesses, and Pesticide Manufacturers.

b. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Product and Retail Marijuana Concentrate to a Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 6-305(B)(1)(b), a Retail Marijuana Products Manufacturer shall verify the Retail Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 6-205 – Retail Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 6-305(B)(1)(b), a Retail Marijuana Products Manufacturer shall only Transfer Retail Marijuana Product and Retail Marijuana Concentrate that is packaged and labeled for Transfer to a consumer. *See* 3-1000 Series Rules.

c. A Retail Marijuana Products Manufacturer and Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in compliance with Rules 6-335 and 6-830.

2. Retail Marijuana. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana to other Retail Marijuana Products Manufacturer, Retail Marijuana Testing Facilities, and Retail Marijuana Stores.

3. Sampling Units. A Retail Marijuana Products Manufacturer may also Transfer Sampling Units of its own Retail Marijuana Concentrate or Retail Marijuana Product to a designated

Sampling Manager in accordance with the restrictions set forth in section 44-10-603(10), C.R.S., and Rule 6-320.

C. Manufacture of Retail Marijuana Concentrate, ~~and~~ Retail Marijuana Product, and Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana Authorized. A Retail Marijuana Products Manufacturer may manufacture, prepare, package, store, and label Retail Marijuana Concentrate and Retail Marijuana Product~~, whether in concentrated form or that are~~ comprised of Retail Marijuana and other Ingredients intended for use or consumption, such as Edible Retail Marijuana Products, ointments, or tinctures. A Retail Marijuana Products Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. This subparagraph (C)(1) is effective July 1, 2020. A Retail Marijuana Products Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Retail Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

   a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Retail Marijuana Product the Retail Marijuana Products Manufacturer shall verify the following:

      i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

      ii. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Products Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. A Retail Marijuana Products Manufacturer may not manufacture, prepare, package, store, or label Retail Marijuana Concentrate or Retail Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing. A Retail Marijuana Products Manufacturer may provide samples of its Retail Marijuana Concentrate or Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Retail Marijuana Products Manufacturer is authorized to utilize a Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken is a Retail Marijuana Business and the transportation order is delivered to a Retail Marijuana Business, or Pesticide Manufacturer. Nothing in this Rule prevents a Retail Marijuana Products Manufacturer from transporting its own Retail Marijuana.

G. Performance-Based Incentives. A Retail Marijuana Products Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Retail Marijuana Products Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-320 – Sampling Unit Protocols.

Basis and Purpose – 6-310

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(d), 44-10-401(2)(b)(III), 44-10-603, and 44-10-701(2)(a), C.R.S. Authority also

exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Products Manufacturer. This Rule 6-310 was previously Rule R 602, 1 CCR 212-2.

6-310 – Retail Marijuana Products Manufacturer: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Retail Marijuana Products Manufacturer is prohibited from Transferring Retail Marijuana Concentrate or Retail Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule 3-1010 – Packaging and Labeling – General Requirements Prior to Transfer to a Consumer.

1. Exception for Bulk Transfers to Retail Marijuana Hospitality and Sales Businesses. An individually packaged Edible Retail Marijuana Product compromised of multiple servings that is Transferred in bulk to a Retail Marijuana Hospitality and Sales Establishment may include more than a total of 100 milligrams of active THC.

i. A Retail Marijuana Products Manufacturer shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure that a Retail Marijuana Hospitality and Sales Business receiving bulk Transfers of Edible Retail Marijuana Product can measure accurately the Edible Retail Marijuana Product in single serving sizes equal to or less than 10 milligrams of active THC per serving.

C. Transfer to Consumer Prohibited. A Retail Marijuana Products Manufacturer is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-603(10), C.R.S., and Rule 6-320.

D. Adequate Care of Perishable Product. A Retail Marijuana Products Manufacturer must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Retail Marijuana Product is homogenous.

F. Use of Ingredients. A Retail Marijuana Products Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. A Retail Marijuana Products Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation.

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If a Medical Marijuana Products Manufacturer is notified of any possible Adverse Health Event associated with Regulated Marijuana, it must report the Adverse Health Event to the Colorado Department of Public Health and Environment. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch or Harvest Batch number of the Medical Marijuana, Medical Marijuana Concentrate or Medical Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

Basis and Purpose – 6-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-401(2)(b)(III), and 44-10-603, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Products Manufacturer and establish standards for the production of Retail Marijuana Concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S. This Rule 6-315 was previously Rule R 605, 1 CR 212-2.

6-315 – Retail Marijuana Products Manufacturer: Retail Marijuana Concentrate Production.

A. Permitted Categories of Retail Marijuana Concentrate Production.

1. A Retail Marijuana Products Manufacturer may produce ~~Water~~Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate.

2. A Retail Marijuana Products Manufacturer may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless ~~and until~~ it is approved by the Division.

3. A Retail Marijuana Products Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next formal rulemaking.

B. General Applicability. A Retail Marijuana Products Manufacturer that engages in the production of Retail Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Retail Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905- Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Retail Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

   a. Conduct all necessary safety checks prior to commencing production;

   b. Prepare Retail Marijuana for processing;

   c. Extract Cannabinoids and other essential components of Retail Marijuana;

   d. Purge any solvent or other unwanted components from a Retail Marijuana Concentrate,

   e. Clean all equipment, counters and surfaces thoroughly; and

   f. Dispose of any waste produced during the processing of Retail Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Retail Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

   a. All standard operating procedures for each method of concentrate production used;

   b. The Retail Marijuana Products Manufacturer's quality control procedures;

   c. The emergency procedures;

d. The appropriate use of any necessary safety or sanitary equipment;

e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Retail Marijuana Concentrate.

a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Retail Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Retail Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

C. ~~Water~~Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturer that engages in the production of a Retail Marijuana Concentrate must:

1. Ensure that all equipment, counters and surfaces used in the production of Retail Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Retail Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Retail Marijuana into a Retail Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Retail Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a ~~Water~~Physical Separation-Based Retail Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Retail Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Retail Marijuana Concentrate if a pressurized system is used in the production of a Retail Marijuana Concentrate.

D. Solvent-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturer that engages in the production of Solvent-Based Retail Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a Local Jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, each of which is available to the public;

   a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Retail Marijuana into a Retail Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

      i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules and regulations;

      ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights and junction boxes, must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules and regulations;

      iii. Determine whether a gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations; and

      iv. Determine whether fire suppression system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Retail Marijuana Concentrate is to be produced, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

d. Material Change. If a Retail Marijuana Products Manufacturer makes a Material Change to its ~~Licensed Premises,~~ equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its ~~Licensed Premises and~~ equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Retail Marijuana Products Manufacturer by the designer or manufacturer of any equipment used in the processing of Retail Marijuana into a Retail Marijuana Concentrate.

f. Records Retention. A Retail Marijuana Products Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Retail Marijuana Concentrate on the Licensed Premises.

2. Ensure that all equipment, counters and surfaces used in the production of a Solvent-Based Retail Marijuana Concentrate are food-grade and do not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Retail Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that only a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Retail Marijuana Concentrate;

a. UL or ETL Listing.

i. If the system is UL or ETL listed, then a Retail Marijuana Products Manufacturer may use the system in accordance with the manufacturer's instructions.

ii. If the system is UL or ETL listed but the Retail Marijuana Products Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Retail Marijuana Products Manufacturer must obtain written approval for use of the non-listed

solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

b. Ethanol or Isopropanol. A Retail Marijuana Products Manufacturer need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Retail Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

a. A Retail Marijuana Products Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. A Retail Marijuana Products Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

b. A Retail Marijuana Products Manufacturer is prohibited from using denatured alcohol to produce a Retail Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 6-315(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may a Retail Marijuana Products Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Retail Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Retail Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

9. Retail Marijuana Products Manufacturers Engaged in the Remediation of Retail Marijuana for elemental impurities. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for elemental impurities shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not subject to testing exemptions through process validation.

ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

d. Regardless of which type of analyte, if the Retail Marijuana flower, wet whole plant, or trim has failed elemental impurities, the Licensee must implement Standard Operating Procedures to ensure:

i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with the elemental impurities must be trained on.

g. The Licensee must establish and train employees on SOPs designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the Licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

E. Ethanol and Isopropanol. If a Retail Marijuana Products Manufacturer only produces Solvent-Based Retail Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Retail Marijuana Products Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(4).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-320

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(d), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-401(2)(b)(III), and 44-10-603(10), C.R.S. The purpose of this rule is to establish the circumstances under which a Retail Marijuana Products Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Retail Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Retail Marijuana Products Manufacturer that Transfer Sampling Units. This Rule 6-320 was previously Rule R 606, 1 CCR 212-2.

6-320 – Retail Marijuana Products Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Retail Marijuana Products Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Retail Marijuana Products Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual may be designated as a Sampling Manager by more than one Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. A Retail Marijuana Products Manufacturer who wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-320. *See also* Rule 3-905 – Business Records Required. A Retail Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana Product shall not exceed one Standardized Serving of Marijuana.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Retail Marijuana Products Manufacturer as a Sampling Manger for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

a. With respect to Retail Marijuana Product, fourteen Standardized Servings of Marijuana; and

b. Eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Retail Marijuana Products Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. A Retail Marijuana Products Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-603(10), C.R.S.

G. Record keeping requirements. A Retail Marijuana Products Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Retail Marijuana Products Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Retail Marijuana Products Manufacturer shall also maintain copies of the Retail Marijuana Products Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-325

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(b), 44-10-203(3)(e), 44-10-401(2)(b)(III), 44-10-603, and 44-10-701(3)(c), C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Retail Marijuana Products Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacture or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for Retail Marijuana Products Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Retail Marijuana Product that is not within an intended use identified in Rule 3-1015. This Rule 6-325 was previously Rule R 607, 1 CCR 212-2.

6-325 – Retail Marijuana Products Manufacturing Facility: Audited Product and Alternative Use Product

A. General Rule. A Retail Marijuana Products Manufacturer shall not Transfer Audited Product to a Retail Marijuana Store, another Retail Marijuana Products Manufacturer, or a Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 6-325. The requirements of this Rule 6-325 are in addition to all other Rules that apply to Retail Marijuana Products Manufacturers; except where the context otherwise clearly requires this Rule 6-325 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and, if applicable, to the Local Jurisdiction as required by this Rule, a Retail Marijuana Products Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration.

1. A written audit report from an independent third-party auditor that was completed within the last 24 months shall be submitted to the Division and, if applicable to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Retail Marijuana Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Retail Marijuana Products Manufacturer's renewal application if the Retail Marijuana Products Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Retail Marijuana Products Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

    a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

    b. Establish that the Retail Marijuana Products Manufacturer and the Audited Product meet all requirements of this Rule 6-325, including but not limited to the specific requirements of this Rule 6-325(C), 6-325(D), 6-325(E), 6-325(G), and 6-325(H);

    c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

    d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Retail Marijuana Products Manufacturer adheres to all applicable standard operating procedures;

    e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 6-325(E), including any Limited Access Area where the Audited Product is to be manufactured;

    f. Include the independent third-party auditor's findings;

    g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

h. Include the independent third-party auditor's assessment that the Retail Marijuana Products Manufacturer demonstrated compliance with all requirements of Rule 6-325 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Retail Marijuana Products Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Retail Marijuana Products Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Retail Marijuana Products Manufacturer, as demonstrated by testing at a Retail Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Retail Marijuana Testing Facility.

c. Identification of all non-cannabis derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Retail Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Retail Marijuana Testing Facility, except that no Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Retail Marijuana Products Manufacturer, a Retail Marijuana Products Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Retail Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. A Retail Marijuana Products Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. A Retail Marijuana Products Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. A Retail Marijuana Products Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

   a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product a Retail Marijuana Products Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Retail Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

    c. Date and time of preparation of the Audited Product;

    d. Production Batch number;

    e. Signature or initials of individuals involved in each manufacturing step;

    f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

    g. Weight or measurement of each Ingredient;

    h. Documentation of quality control procedures;

    i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

    j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Retail Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a consumer prior to any Transfer.

H. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If a Retail Marijuana Products Manufacturer is notified of any possible Adverse Health Event associated with Regulated Marijuana, it must report the Adverse Health Event to the Colorado Department of Public Health and Environment. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch or Harvest Batch number of the Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

~~H. Adverse Event Reporting. A Retail Marijuana Products Manufacturer that manufactures Audited Product must maintain a record of all complaints it receives, which may include concerns or reports on the quality or possible adverse reactions to a specific Audited Product. For purposes of this Rule, adverse event means any untoward medical occurrence associated with the use of marijuana – this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom or disease temporally associated with the use of a marijuana product. To the extent known after reasonable diligence to ascertain the information, the record must contain the name of the complainant, the date the complaint was received, the nature of the complaint, the steps taken to investigate the complaint, the response to the complaint, and the name and Production Batch number of the Audited Product. Adverse events must also be reported directly to the Colorado Department of Public Health and Environment and the Division within 48 hours of receipt by the Retail Marijuana Products Manufacturer.~~

I. Alternative Use Designation – Any Other Method of Consumption or Administration. A Retail Marijuana Products Manufacturer shall not Transfer to a Retail Marijuana Store, another Retail Marijuana Products Manufacturer, or Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit any Retail Marijuana Concentrate or Retail Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Retail Marijuana Products Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Retail Marijuana Products Manufacturer shall identify provisions of this Rule 6-325 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Retail Marijuana Products Manufacturer shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Retail Marijuana Products Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards, and tests are in place.

3. A Retail Marijuana Products Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and

Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Retail Marijuana Products Manufacturer does not meet the burden established in this Rule 6-325.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Retail Marijuana Products Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. A Retail Marijuana Products Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 6-325. *See* Rule 3-905 – Business Records Required.

6-330 – Recall of Retail Marijuana Concentrate and Retail Marijuana Product – Repealed effective January 1, 2021.

Basis and Purpose – 6-335

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(III), and 44-10-603, 44-10-603(15)(a)-(b), and 38-28.8-302(2)(b) C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from "Retail" to "Medical."

6-335 – Retail Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, a Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Retail Marijuana Products Manufacturer may only Transfer Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer are co-located;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Products Manufacturer must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate occurs;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change in designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change in designation.

6-400 Series – Retail Marijuana Testing Facilities

Basis and Purpose – 6-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-313(8)(a), 44-10-401(2)(b)(IV), 44-10-604, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Testing Facilities. This Rule 6-405 was previously Rule R 701.

6-405 – Retail Marijuana Testing Facilities: License Privileges

A. Licensed Premises. A separate License is required for each specific Retail Marijuana Testing Facility and only those privileges granted by the Marijuana Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises.

B. Testing of Retail Marijuana Authorized. A Retail Marijuana Testing Facility may accept Samples of Retail Marijuana from Retail Marijuana Businesses for testing and research purposes only. The Division may require a Retail Marijuana Business to submit a Sample of Retail Marijuana to a Retail Marijuana Testing Facility upon demand.

C. Product Development Authorized. A Retail Marijuana Testing Facility may develop Retail Marijuana Product, but is not authorized to engage in the manufacturing privileges described in section 44-10-603, C.R.S., and Rule 6-305 – Retail Marijuana Manufacturing Facilities: License Privileges.

D. Transferring Samples to Another Licensed and Certified Retail Marijuana Testing Facility. A Retail Marijuana Testing Facility may Transfer Samples to another Retail Marijuana Testing Facility for testing. All laboratory reports provided to or by a Retail Marijuana Business must identify the Retail Marijuana Testing Facility that actually conducted the test.

E. Testing of Registered and Tracked Industrial Hemp Authorized.

1. A Retail Marijuana Testing Facility may accept and test Industrial Hemp as regulated by Article 61 of Title 35, C.R.S.

2. Before a Retail Marijuana Testing Facility accepts a sample of Industrial Hemp, the Retail Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-104, C.R.S.

3. A Retail Marijuana Testing Facility may only accept samples that are tracked through the radio frequency identification-based inventory tracking system approved by the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-105.5, C.R.S.

4. A Retail Marijuana Testing Facility shall be permitted to test Industrial Hemp only in the category(ies) that the Retail Marijuana Testing Facility is certified to perform testing in pursuant to Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

5. In accordance with section 35-61-105.5, C.R.S., a Retail Marijuana Testing Facility shall provide the results of any testing performed on Industrial Hemp to the Person submitting the sample of Industrial Hemp and to the Colorado Department of Agriculture.

6. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test Samples of Industrial Hemp.

F. Testing of Industrial Hemp Product Authorized.

1. A Retail Marijuana Testing Facility may accept and test samples of Industrial Hemp Products.

2. Before a Retail Marijuana Testing Facility accepts a sample of Industrial Hemp Product, the Retail Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

3. A Retail Marijuana Testing Facility is responsible for entering and tracking samples of Industrial Hemp Product in the inventory tracking system pursuant to the 3-800 Series Rules.

4. A Retail Marijuana Testing Facility shall be permitted to test Industrial Hemp Product only in the category(ies) that the Retail Marijuana Testing Facility is certified to perform testing in pursuant to Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

5. A Retail Marijuana Testing Facility may provide the results of any testing performed on Industrial Hemp Product to the Person submitting the sample of Industrial Hemp Product.

6. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test samples of Industrial Hemp Product.

G. Authorized Retail Marijuana Transport. A Retail Marijuana Testing Facility is authorized to utilize a licensed Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing, in accordance with the Marijuana Code and Marijuana Rules, between the originating Retail Marijuana Business requesting testing services and the destination Retail Marijuana Testing Facility performing testing services. Nothing in this Rule requires a Retail Marijuana Business to utilize a Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing.

Basis and Purpose – 6-410

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-202(4), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(2)(d), 44-10-401(2)(b)(IV), 44-10-604, 44-10-701, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Testing Facility. This Rule 6-410 was previously Rule R 702, 1 CCR 212-2.

6-410 – Retail Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is Controlling Beneficial Owner or Passive Beneficial of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, Retail Marijuana Store, Medical Marijuana Store, Medical Marijuana Cultivation Facility, or a Medical Marijuana Products Manufacturer shall not be a Controlling Beneficial Owner or Passive Beneficial Owner of a Retail Marijuana Testing Facility.

B. Conflicts of Interest. The Retail Marijuana Testing Facility shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the Retail Marijuana Testing Facility's testing processes or results, or that may diminish public confidence in the competency, impartiality and integrity of the Retail Marijuana Testing Facility's testing processes or results. At a minimum, employees, owners or agents of a Retail Marijuana Testing Facility who participate in any aspect of the analysis and results of a Sample or Test Batch are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any on-going financial, employment, personal or business relationship with the Retail Marijuana Business that provided the Sample.

C. Transfer of Retail Marijuana Prohibited. A Retail Marijuana Testing Facility shall not Transfer Retail Marijuana to another Retail Marijuana Business or a consumer, except that a Retail Marijuana Testing Facility may Transfer a Sample to another Retail Marijuana Testing Facility.

D. Destruction of Received Samples. A Retail Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not Transferred to another Retail Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. *See* Rule 3-230 – Waste Disposal.

E. Sample Rejection. A Retail Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates ~~that~~ that the Sample may have been tampered with.

F. Retail Marijuana Business Requirements Applicable. A Retail Marijuana Testing Facility shall be considered a Licensed Premises. A Retail Marijuana Testing Facility shall be subject to all requirements applicable to Retail Marijuana Businesses.

G. Retail Marijuana Testing Facility – Inventory Tracking System Required. A Retail Marijuana Testing Facility must use the Inventory Tracking System to ensure all Test Batches or Samples containing Retail Marijuana are identified and tracked from the point they are Transferred from a Retail Marijuana Business through the point of Transfer or destruction or disposal. A Retail Marijuana Testing Facility that performs testing on Industrial Hemp must use the Inventory Tracking System to ensure all samples of Industrial Hemp are identified and tracked from the point they are Transferred from a cultivator registered with the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-104, C.R.S., to the point of Transfer or destruction or disposal. The Inventory Tracking System reporting shall include the results of any tests that are conducted on Retail Marijuana or Industrial Hemp. *See also* Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System and Rule 3-825 – Reporting and Inventory Tracking System. The Retail Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See also* Rule 3-905 – Business Records Required and Rule 3-825.

H. Testing of Unregistered or Untracked Industrial Hemp or Industrial Hemp Products Prohibited.

1. A Retail Marijuana Testing Facility is authorized to accept or test Industrial Hemp only if (1) the entity providing the Samples of Industrial Hemp is regulated by Article 61 of Title 35, C.R.S., (2) the Industrial Hemp is submitted by a registered cultivator, and (3) the Industrial Hemp is tracked through the radio frequency identification-based inventory tracking system approved by the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-105.5, C.R.S.

2. A Retail Marijuana Testing Facility is authorized to accept or test Industrial Hemp Product only if (1) the entity providing the Samples of Industrial Hemp Product is registered and regulated pursuant to Article 4 or Title 25, C.R.S., and (2) the Industrial Hemp Product being submitted for testing is tracked in the Inventory Tracking System.

Basis and Purpose – 6-415

The statutory authority for this rule includes but is not limited to section 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a frame work for certification for Retail Marijuana Testing Facilities. This Rule 6-415 was previously Rule R 703, 1 CCR 212-2.

6-415 – Retail Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Retail Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Residual solvents;

2. Microbials;

3. Mycotoxins;

4. Pesticides;

5. THC and other Cannabinoid potency; and

6. MetalsElemental Impurities;, and

7. Water Activity.

B. In order to obtain a certification for Pesticide testing, a Retail Marijuana Testing Facility must also obtain certification for mycotoxin testing.

C. Certification Procedures. The Retail Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in proficiency testing, and ongoing compliance with the applicable requirements in this Rule.

1. Certification Inspection. A Retail Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Retail Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, Proficiency Testing, quality control, quality assurance, security, chain of custody, Sample retention, space, records, and results reporting. In addition, a Retail Marijuana Testing Facility must be accredited under the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO/IEC 17025 standard. In order to obtain certification in a testing category from the Division, the Retail Marijuana Testing Facility's scope of accreditation must specify that particular testing category.

   a. Subsequent to initial approval of a Retail Marijuana Testing Facility License, the Division may grant provisional certification if the Applicant has not yet obtained ISO/IEC 17025:2005 accreditation, but meets all other requirements. Such provisional certification shall be for a period not to exceed twelve months.

3. Personnel Qualifications.

a. Laboratory Director. A Retail Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule 6-420 – Retail Marijuana Testing Facilities: Personnel.

b. Employee Competency. A Retail Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing Samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Retail Marijuana Testing Facility must have a written standard operating procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

   a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign, and date the revised version prior to use.

   b. A Retail Marijuana Testing Facility must maintain a copy of all standard operating procedures to include any revised copies for a minimum of three years. *See* Rule 6-450 – Retail Marijuana Testing Facilities: Records Retention, and Rule 3-905 – Business Records Required.

5. Analytical Processes. A Retail Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Retail Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Retail Marijuana Testing Facility must successfully participate in a Division approved Proficiency Testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Retail Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Retail Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Retail Marijuana Testing Facility must establish a system to document the complete chain of custody for samples from receipt through disposal.

10. Space. A Retail Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state, and local requirements.

11. Records. A Retail Marijuana Testing Facility must establish a system to retain and maintain records for a period not less than three years. *See* Rules 6-450 – Retail Marijuana Testing Facilities - Records Retention and Rule 3-905 – Business Records Required.

12. Results Reporting. A Retail Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner. *See* Rule 3-825 – Reporting and Inventory Tracking System. A Retail Marijuana Testing Facility's process may require that the Regulated Marijuana Business remit payment for any test conducted by the Testing Facility prior to entry of the results of that test into the Inventory Tracking System. A Retail Marijuana Testing Facility's process established under this subparagraph (12) must be maintained on the Licensed Premises of the Retail Marijuana Testing Facility.

13. Conduct While Seeking Certification. A Retail Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner.

D. Violation Affecting Public Safety. A violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose - 6-420

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-401(2)(b)(IV), 44-10-604, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-420 was previously Rule R 704, 1 CCR 212-2.

6-420 – Retail Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Retail Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this Rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Retail Marijuana Testing Facility.

2. The laboratory director for a Retail Marijuana Testing Facility must meet one of the following qualification requirements:

a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

d. The laboratory director must hold a bachelor's degree in one of the natural sciences and have at least seven years of full-time laboratory experience in a

regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this Rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. *See* Rule 3-905 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Retail Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in and successfully participates in a Division approved Proficiency Testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process Samples, perform test procedures and report test results promptly and proficiently, avoid actual and apparent conflicts of interests, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for Sample processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

D. Change in Laboratory Director. In the event that the laboratory director leaves employment at the Retail Marijuana Testing Facility, the Retail Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Division within seven days of the laboratory director's departure; and

2. Designate an interim laboratory director within seven days of the laboratory director's departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Retail Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director's departure.

4. Notwithstanding the requirement of subparagraph (D)(3), the Retail Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Retail Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

E. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the three years of full-time laboratory experience.

F. Laboratory Testing Analyst.

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing.

2. Responsibilities. In order to independently perform any test for a Retail Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

Basis and Purpose – 6-425

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-202(4), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish standard operating procedure manual standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-425 was previously Rule R 705, 1 CCR 212-2.

6-425 –Retail Marijuana Testing Facilities: Standard Operating Procedure Manual

A. A standard operating procedure manual must include, but need not be limited to, procedures for:

1. Sample receiving;

2. Sample accessioning;

3. Sample storage;

4. Identifying and rejecting unacceptable Samples;

5. Recording and reporting discrepancies;

6. Security of Samples, aliquots and extracts and records;

7. Validating a new or revised method prior to testing Samples to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;

8. Aliquoting Samples to avoid contamination and carry-over;

9. Sample retention to assure stability, as follows:

   a. For Samples that comprise Test Batches submitted for testing other than Pesticide contaminant testing, Sample retention for 14 days;

   b. For Samples that comprise Test Batches submitted for Pesticide contaminant testing, Sample retention for 90 days.

10. Disposal of Samples;

11. The theory and principles behind each assay;

12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology (“NIST”);

13. Special requirements and safety precautions involved in performing assays;

14. Frequency and number of control and calibration materials;

15. Recording and reporting assay results;

16. Protocol and criteria for accepting or rejecting analytical Procedure to verify the accuracy of the final report;

17. Pertinent literature references for each method;

18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;

19. Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;

20. A documented system for reviewing the results of testing calibrators, controls, standards, and subject tests results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results and are corrective actions implemented and documented, and does the laboratory contact the requesting entity; and

21. Policies and procedures to follow when Samples are requested for referral and testing by another certified Retail Marijuana Testing Facility or an approved local or state agency's laboratory.

22. Testing Industrial Hemp, if the Retail Marijuana Testing Facility tests Industrial Hemp.

Basis and Purpose – 6-430

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-202(4), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish analytical processes standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-430 was previously Rule R 706, 1 CCR 212-2.

6-430 –Retail Marijuana Testing Facilities: Analytical Processes

A. Gas Chromatography ("GC"). A Retail Marijuana Testing Facility using GC must:

1. Document the conditions of the gas chromatograph, including the detector response;

2. Perform and document preventive maintenance as required by the manufacturer;

3. Ensure that records are maintained and readily available to the staff operating the equipment;

4. Document the performance of new columns before use;

5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;

6. Establish criteria of acceptability for variances between different aliquots and different columns; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

B. Gas Chromatography Mass Spectrometry ("GC/MS"). A Retail Marijuana Testing Facility using GC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Document the changes of septa as specified in the standard operating procedure;

3. Document liners being cleaned or replaced as specified in the standard operating procedure;

4. Ensure that records are maintained and readily available to the staff operating the equipment;

5. Maintain records of mass spectrometric tuning;

6. Establish written criteria for an acceptable mass-spectrometric tune;

7. Document corrective actions if a mass-spectrometric tune is unacceptable;

8. Monitor analytic analyses to check for contamination and carry-over;

9. Use selected ion monitoring within each run to assure that the laboratory compares ion ratios and retention times between calibrators, controls and Samples for identification of an analyte;

10. Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;

12. Define the criteria for designating qualitative results as positive;

13. When a library is used to qualitatively identify an analyte, the identity of the analyte must be confirmed before reporting results by comparing the relative retention time and mass spectrum to that of a known standard or control run on the same system; and

14. Evaluate the performance of the instrument after routine and preventive maintenance (*e.g.* clipping or replacing the column or cleaning the source) prior to analyzing subject Samples.

C. Immunoassays. A Retail Marijuana Testing Facility using Immunoassays must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a Sample is not included within the types of Samples approved by the manufacturer; and

4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer's instructions.

D. Thin Layer Chromatography ("TLC"). A Retail Marijuana Testing Facility using TLC must:

1. Apply unextracted standards to each thin layer chromatographic plate;

2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;

3. Include in their written procedure the storage of unused thin layer chromatographic plates;

4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;

5. Verify that the spotting technique used precludes the possibility of contamination and carry-over;

6. Measure all appropriate RF values for qualitative identification purposes;

7. Use and record sequential color reactions, when applicable;

8. Maintain records of thin layer chromatographic plates; and

9. Analyze an appropriate matrix blank with each batch of Samples analyzed.

E. High Performance Liquid Chromatography ("HPLC"). A Retail Marijuana Testing Facility using HPLC must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Monitor and document the performance of the HPLC instrument each day of testing;

4. Evaluate the performance of new columns before use;

5. Create written standards for acceptability when eluting solvents are recycled;

6. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

F. Liquid Chromatography Mass Spectroscopy ("LC/MS"). A Retail Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Maintain records of mass spectrometric tuning;

4. Document corrective actions if a mass-spectrometric tune is unacceptable;

5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;

7. Compare two transitions and retention times between calibrators, controls and Samples within each run;

8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and

9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

G. Other Analytical Methodology. A Retail Marijuana Testing Facility using other methodology or new methodology must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:

   a. Verification of Accuracy

   b. Verification of Precision

   c. Verification of Analytical Sensitivity

   d. Verification of Analytical Specificity

   e. Verification of the LOD

   f. Verification of the LOQ

   g. Verification of the Reportable Range

   h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.

3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing Samples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing Samples.

Basis and Purpose - 6-435

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is

to establish a proficiency testing program for Retail Marijuana Testing Facilities. This Rule 6-435 was previously Rule R 707, 1 CCR 212-2.

6-435 – Retail Marijuana Testing Facilities: Proficiency Testing

A. Proficiency Testing Required. A Retail Marijuana Testing Facility must participate in a Proficiency Testing program for each approved category in which it seeks certification under Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

B. Participation in Designated Proficiency Testing Event. If required by the Division as part of certification, the Retail Marijuana Testing Facility must have successfully participated in Proficiency Testing in the category for which it seeks certification, within the preceding 12 months.

C. Continued Certification. To maintain continued certification, a Retail Marijuana Testing Facility must participate in the designated Proficiency Testing program with continued satisfactory performance as determined by the Division as part of certification. The Division may designate a local agency, state agency, or independent third-party to provide Proficiency Testing.

D. Analyzing Proficiency Testing Samples. A Retail Marijuana Testing Facility must analyze Proficiency Test Samples using the same procedures with the same number of replicate analyses, standards, testing analysts and equipment as used in its standard operating procedures.

E. Proficiency Testing Attestation. The laboratory director and all testing analysts who participated in Proficiency Testing must sign corresponding attestation statements.

F. Laboratory Director Must Review Results. The laboratory director must review and evaluate all Proficiency Testing results.

G. Remedial Action. A Retail Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved on any test during Proficiency Testing. Remedial action documentation must include a review of Samples tested and results reported since the last successful Proficiency Testing event. A requirement to take remedial action does not necessarily indicate unsatisfactory participation in a Proficiency Testing event.

H. Unsatisfactory Participation in a Proficiency Testing Event. Unless the Retail Marijuana Testing Facility positively identifies at least 80% of the target analytes tested, participation in the Proficiency Testing event will be considered unsatisfactory. A positive identification must include accurate quantitative and qualitative results as applicable. Any false positive result reported will be considered unsatisfactory participation in the Proficiency Testing event.

I. Consequence of Unsatisfactory Participation in Proficiency Testing Event. Unsatisfactory participation in a Proficiency Testing event may result in limitation, suspension or revocation of Rule 6-415 certification.

Basis and Purpose – 6-440

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Retail Marijuana Testing Facility. This Rule 6-440 was previously Rule R 708, 1 CCR 212-2.

6-440 – Retail Marijuana Testing Facilities: Quality Assurance and Quality Control

A. Quality Assurance Program Required. A Retail Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:

1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the laboratory director or designated supervisory analyst on an ongoing basis to ensure the effectiveness of actions taken over time;

2. Review by the laboratory director or designated supervisory analyst of all ongoing quality assurance; and

3. Review of the performance of validated methods used by the Retail Marijuana Testing Facility to include calibration standards, controls and the standard operating procedures used for analysis on an ongoing basis to ensure quality improvements are made when problems are identified or as needed.

B. Quality Control Measures Required. A Retail Marijuana Testing Facility must establish, monitor and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and accuracy of results reported. Such quality control measures must include, but shall not be limited to:

1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;

2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;

3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;

4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer;

5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;

6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;

7. Avoiding mixing different lots of reagents in the same analytical run;

8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;

9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of Samples analyzed;

10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;

11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;

12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;

13. Analyzing an appropriate matrix blank and control with each analytical run, when available;

14. Analyzing calibrators and controls in the same manner as unknowns;

15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the standard operating procedure is met;

16. Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the standard operating procedure;

17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and

18. Performing testing analysts that follow the current Standard Operating Procedures Manual for the test or tests to be performed.

Basis and Purpose – 6-445

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish chain of custody standards for a Retail Marijuana Testing Facility. In addition, it establishes the requirement that a Retail Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains. This Rule 6-445 was previously Rule R 709, 1 CCR 212-2.

6-445 –Retail Marijuana Testing Facilities: Chain of Custody

A. General Requirements. A Retail Marijuana Testing Facility must establish an adequate chain of custody and Sample requirement instructions that must include, but not limited to:

1. Issue instructions for the minimum Sample requirements and storage requirements;

2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Sample;

3. Document the condition and amount of Sample provided at the time of receipt;

4. Document all persons handling the original Samples, aliquots, and extracts;

5. Document all Transfers of Samples, aliquots, and extracts referred to another certified Retail Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;

6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;

7. Secure the Laboratory during non-working hours;

8. Secure short and long-term storage areas when not in use;

9. Utilize a secured area to log-in and aliquot Samples;

10. Ensure Samples are stored appropriately; and

11. Document the disposal of Samples, aliquots, and extracts.

Basis and Purpose – 6-450

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Testing Facility. This Rule 6-450 was previously Rule R 710, 1 CCR 212-2.

6-450 –Retail Marijuana Testing Facilities: Records Retention

A. General Requirement. A Retail Marijuana Testing Facility must maintain all required business records. *See* Rule 3-905 - Business Records Required.

B. Specific Business Records Required: Record Retention. A Retail Marijuana Testing Facility must establish processes to preserve records in accordance with Rule 3-905 that includes, but is not limited to;

1. Test Results, including final and amended reports, and identification of analyst and date of analysis;

2. Quality Control and Quality Assurance Records, including accession numbers, Sample type, and acceptable reference range parameters;

3. Standard Operating Procedures;

4. Personnel Records;

5. Chain of Custody Records;

6. Proficiency Testing Records; and

7. Analytical Data to include data generated by the instrumentation, raw data of calibration standards and curves.

Basis and Purpose – 6-455

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to clarify a Retail Marijuana Testing Facility's responsibility to notify the Retail Marijuana Business and accurately report in the inventory tracking system any failed contaminant test result. This Rule 6-455 was previously Rule R 712(D), 1 CCR 212-2.

6-455 – Notification of Retail Marijuana Business

If Retail Marijuana failed a contaminant test, then the Retail Marijuana Testing Facility must immediately (1) notify the Retail Marijuana Business that submitted the Test Batch or Sample for testing and any

Person as directed by an approved Research Project (2) report the failure in accordance with the Inventory Tracking System reporting requirements in Rule 3-825(B).

6-500 Series – Retail Marijuana Transporters

Basis and Purpose – 6-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(b)(V), and 44-10-605, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Transporters. This Rule 6-505 was previously Rule R 1601, 1 CCR 212-2.

6-505 – Retail Marijuana Transporter: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Retail Marijuana Transporter may share a location with an identically owned Medical Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Transportation of Retail Marijuana and Retail Marijuana Product Authorized. A Retail Marijuana Transporter may take transportation orders, receive, transport, temporarily store, and deliver Retail Marijuana to Retail Marijuana Businesses.

C. Authorized Sources of Retail Marijuana and Retail Marijuana Product. A Retail Marijuana Transporter may only transport and store Retail Marijuana that it received directly from the originating Retail Marijuana Business.

D. Authorized On-Premises Storage. A Retail Marijuana Transporter is authorized to store transported Retail Marijuana on its Licensed Premises or permitted off-premises storage facility. All transported Retail Marijuana must be secured in a Limited Access Area, and tracked consistently with the inventory tracking rules.

E. Delivery to Consumers Pursuant to Delivery Permit.

1. Prior to January 2, 2021, all Retail Marijuana Transporters are prohibited from delivering Regulated Marijuana to consumers.

2. After January 2, 2021, only Retail Marijuana Transporters that possess a valid delivery permit may delivery Retail Marijuana pursuant to contracts with Retail Marijuana Stores that also possess valid delivery permits. All deliveries of Retail Marijuana consumers must also comply with all requirements of Rule 3-615.

3. Violation affecting Public Safety. Any violation of paragraph E of this Rule is a license violation affecting public safety.

Basis and Purpose – 6-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(b)(V), and 44-10-605, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Transporter. This Rule 6-510 was previously Rule R 1602, 1 CCR 212-2.

6-510 – Retail Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Retail Marijuana Transporter is prohibited from buying, selling, or giving away Retail Marijuana or from receiving complimentary Retail Marijuana. A Retail Marijuana Transporter shall not place or hold a lien or secured interest on Retail Marijuana.

B. Licensed Premises Permitted. A Retail Marijuana Transporter shall maintain a Licensed Premises if it: (1) temporarily stores any Retail Marijuana or (2) modifies any information in the Inventory Tracking System generated transport manifest. The Licensed Premises shall be in a Local Jurisdiction that authorizes the operation of Retail Marijuana Stores. If a Retail Marijuana Transporter Licensed Premises is co-located with a Medical Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a Local Jurisdiction that authorizes the operation of both Retail Marijuana Stores and Medical Marijuana Stores.

C. Off-Premises Storage Permit. A Retail Marijuana Transporter may maintain one or more permitted off-premises storage facilities. *See* Rule 3-610 – Off-Premises Storage of Regulated Marijuana: All Regulated Marijuana Businesses.

D. Storage Duration. A Retail Marijuana Transporter shall not store Retail Marijuana for longer than seven days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable seven day storage duration begins and applies regardless of which of the Retail Marijuana Transporter's premises receives the Retail Marijuana first, i.e. the Retail Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities. A Retail Marijuana Transporter with a valid delivery permit may store Retail Marijuana for delivery to consumers pursuant to the delivery permit for no longer than seven days from receipt at its Licensed Premises or off-premises storage facility.

E. Control of Retail Marijuana. A Retail Marijuana Transporter is responsible for the Retail Marijuana once it takes control of the Retail Marijuana and until the Retail Marijuana Transporter delivers it to the receiving Retail Marijuana Business, Pesticide Manufacturer, or to a consumer pursuant to a valid delivery permit. For purposes of this Rule, taking control of the Retail Marijuana means removing it from the originating Retail Marijuana Business's Licensed Premises and placing the Retail Marijuana in the transport vehicle or the Delivery Motor Vehicle.

F. Location of Orders Taken and Delivered. A Retail Marijuana Transporter is permitted to take orders on the Licensed Premises of any Retail Marijuana Business to transport Retail Marijuana between Retail Marijuana Businesses. The Retail Marijuana Transporter shall deliver the Retail Marijuana to the Licensed Premises of a licensed Retail Marijuana Business, or a Pesticide Manufacturer. A Retail Marijuana Transporter may also delivery Retail Marijuana to consumers pursuant to a contract with a Retail Marijuana Store if it possesses a valid delivery permit.

G. A Retail Marijuana Transporter shall receive Retail Marijuana from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee or Pesticide Manufacturer. The Retail Marijuana Transporter shall deliver the Retail Marijuana in the same, unaltered packaging to the final destination Licensee.

H. A Retail Marijuana Transporter with a valid delivery permit shall receive Retail Marijuana that has been weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Retail Marijuana Store or at the Retail Marijuana Store's off-premises storage facility after receipt of a delivery order. Retail Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Retail Marijuana has been packaged and labeled for delivery to the consumer as required by the 3-1000 Series Rules.

I. A Retail Marijuana Transporter must not deliver Retail Marijuana to consumers while also transporting Regulated Marijuana between Licensed Premises in the Delivery Motor Vehicle.

J. Opening of Bulk Packages or Containers and Re-Packaging Prohibited. A Retail Marijuana Transporter shall not open Containers of Retail Marijuana. Retail Marijuana Transporters are prohibited from re-packaging Retail Marijuana.

K. Temperature-Controlled Transport Vehicles. A Retail Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Retail Marijuana.

L. Damaged, Refused, or Undeliverable Retail Marijuana. Any damaged Retail Marijuana that is undeliverable to the final destination Retail Marijuana Business, or any Retail Marijuana that is refused by the final destination Retail Marijuana Business shall be transported back to the originating Retail Marijuana Business. Any Retail Marijuana that cannot be delivered to a consumer pursuant to a valid delivery permit shall be returned to the originating Retail Marijuana Store or the Retail Marijuana Store's off-premises storage facility within the same business day or pursuant to paragraph D of this Rule.

M. Transport of Retail Marijuana Vegetative Plants Authorized. Retail Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed.

6-600 Series – Retail Marijuana Business Operators

Basis and Purpose – 6-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(o), 44-10-401(2)(b)(VI), and 44-10-606, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Business Operators. This Rule 6-605 was previously Rule R 1701, 1 CCR 212-2.

6-605 – Retail Marijuana Business Operator: License Privileges

A. Privileges Granted. A Retail Marijuana Business Operator shall only exercise those privileges granted to it by the Marijuana Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Retail Marijuana Business Operator may exercise those privileges only on behalf of the Retail Marijuana Business(es) it operates. A Retail Marijuana Business shall not contract to have more than one Retail Marijuana Business Operator providing services to the Retail Marijuana Business at any given time.

B. Licensed Premises of the Retail Marijuana Business(es) Operated. A separate License is required for each specific Retail Marijuana Business Operator, and each such licensed Retail Marijuana Business Operator may operate one or more other Retail Marijuana Business(es). A Retail Marijuana Business Operator will not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Retail Marijuana Business Operator at the Licensed Premises of the Retail Marijuana Business(es) it operates.

C. Entities Eligible to Hold Retail Marijuana Business Operator License. A Retail Marijuana Business Operator License may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership, or sole proprietorship.

D. Separate Place of Business. A Retail Marijuana Business Operator shall designate and maintain a place of business separate from the Licensed Premises of any Retail Marijuana Business(es) it

operates. A Retail Marijuana Business Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Retail Marijuana Businesses, except as set forth in Rules 6-610 and 6-620. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Retail Marijuana is prohibited at a Retail Marijuana Business Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Retail Marijuana Business Operator and each of its Controlling Beneficial Owners required to hold an Owner License, as well as the agents and employees of the Retail Marijuana Business Operator, shall be agents of the Retail Marijuana Business(es) the Retail Marijuana Business Operator is contracted to operate, when engaged in activities related, directly, or indirectly, to the operation of such Retail Marijuana Business(es), including for purposes of taking administrative action against the Retail Marijuana Business being operated. *See* § 44-10-901(1), C.R.S. Similarly, a Retail Marijuana Business Operator and its Controlling Beneficial Owners required to hold an Owner License, as well as the officers, agents and employees of the Retail Marijuana Business Operator, may be disciplined for violations committed by the Controlling Beneficial Owners, agents or employees of the Retail Marijuana Business acting under their direction or control. A Retail Marijuana Business Operator may also be disciplined for violations not directly related to a Retail Marijuana Business it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules, and Regulations. A Retail Marijuana Business Operator, and each of its Controlling Beneficial Owners, agents and employees engaged, directly or indirectly in the operation of the Retail Marijuana Business it operates, shall comply with all state and local laws, ordinances, rules and regulations applicable to the Retail Marijuana Business(es) being operated.

Basis and Purpose – 6-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(o), 44-10-401(2)(b)(VI), and 44-10-606, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Business Operator. This Rule 6-610 was previously Rule R 1702, 1 CCR 212-2.

6-610 – Retail Marijuana Business Operators: General Limitations or Prohibited Acts

A. Financial Interest. A Person who holds an Owner's Interest in a Retail Marijuana Business Operator may hold an Owner's Interest in another Retail Marijuana Business. A Retail Marijuana Business may be operated by a Retail Marijuana Business Operator where each has one or more Controlling Beneficial Owners or Passive Beneficial Owners in common. A Person may receive compensation for services provided by a Retail Marijuana Business Operator in accordance with these rules.

B. Sale of Marijuana Prohibited. A Retail Marijuana Business Operator is prohibited from selling, distributing, or Ttransferring Retail Marijuana to another Retail Marijuana Business or a consumer, except when acting as an agent of a Retail Marijuana Business (s) operated by the Retail Marijuana Business Operator.

C. Consumption Prohibited. A Retail Marijuana Business Operator, and its Controlling Beneficial Owners, Passive Beneficial Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Retail Marijuana Business Operator, and any of its Controlling Beneficial Owners, agents or employees engaged in the operation of the Retail Marijuana Business(es) it operates, must use the Inventory Tracking System account of the Retail Marijuana

Business(es) it operates, in accordance with all requirements, limitations and prohibitions applicable to the Retail Marijuana Business(es) it operates.

E. Compliance with Requirements and Limitations Applicable to the Retail Marijuana Business(es) Operated. In operating any other Retail Marijuana Business, a Retail Marijuana Business Operator, and its Controlling Beneficial Owners who are required to hold Owner Licenses, as well as the agents and employees of the Retail Marijuana Business Operator, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Retail Marijuana Business(es) being operated, under state and local laws, ordinances, rules, and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Retail Marijuana Business may grant access to its Inventory Tracking System account to the Controlling Beneficial Owners, agents and employees of a Retail Marijuana Business Operator having duties related to Inventory Tracking System activities of the Retail Marijuana Business(es) being operated.

1. The Controlling Beneficial Owners, agents and employees of a Retail Marijuana Business Operator granted access to a Retail Marijuana Business's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Controlling Beneficial Owner of a Retail Marijuana Business being operated by a Retail Marijuana Business Operator must be an Inventory Tracking System Trained Administrator for the Retail Marijuana Business's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Retail Marijuana Business Operator's Controlling Beneficial Owners, agents and employees:

   a. When its contract with the Retail Marijuana Business Operator expires by its terms;

   b. When its contract with the Retail Marijuana Business Operator is terminated by any party; or

   c. When it is notified that the License of the Retail Marijuana Business Operator, or a specific Controlling Beneficial Owner, agent or employee of the Retail Marijuana Business Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Retail Marijuana Businesses. A Retail Marijuana Business Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Retail Marijuana Business(es) it operates, and shall not use or disseminate documents or information obtained from a Retail Marijuana Business it operates for any purpose not authorized by the Marijuana Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Retail Marijuana Business to promote the interests of the Retail Marijuana Business Operator or its Controlling Beneficial Owners, Passive Beneficial Owners, agents or employees, or any Person other than the Retail Marijuana Business it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Retail Marijuana Business and a Retail Marijuana Business Operator:

1. Must acknowledge that the Retail Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees who are engaged, directly or indirectly, in operating the Retail Marijuana Business, are agents of the Retail Marijuana Business being operated, and must not disclaim an agency relationship;

2. May provide for the Retail Marijuana Business Operator to receive direct remuneration from the Retail Marijuana Business, including a portion of the profits of the Retail Marijuana Business being operated, subject to the following limitations:

   a. The portion of the profits to be paid to the Retail Marijuana Business Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Retail Marijuana Business being operated;

   b. The Retail Marijuana Business Operator shall not be granted, and may not accept:

      i. A security interest in the Retail Marijuana Business being operated, or in any assets of the Retail Marijuana Business;

      ii. An ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Retail Marijuana Business being operated, or a future or contingent right to the same, including but not limited to options or warrants;

   c. The Retail Marijuana Business Operator shall not guarantee the Retail Marijuana Business's debts or production levels.

3. Shall permit the Retail Marijuana Business being operated to terminate the contract with the Retail Marijuana Business Operator at any time, with or without cause.

I. A Retail Marijuana Business Operator may engage in dual operation of a Retail Marijuana Business and a Medical Marijuana Business at a single location, to the extent the Retail Marijuana Business being operated is permitted to do so, the Retail Marijuana Business Operator shall comply with the rules promulgated pursuant to the Marijuana Code, including the requirement of obtaining a valid registration as a Medical Marijuana Business Operator.

J. Any Retail Marijuana Business Operators and the Retail Marijuana Business Operator's Owner Licensee(s) that are appointed by a court to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Retail Marijuana Business must comply with Rule 2-275(F).

Basis and Purpose – 6-615

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(o), 44-10-313(12), 44-10-401(2)(b)(VI), and 44-10-401(2)(c) C.R.S. The purpose of this rule is to establish employee license requirements for the Retail Marijuana Business Operator's Controlling Beneficial Owners, agents and employees, including those directly or indirectly engaged in the operation of other Retail Marijuana Business(es). This Rule 6-615 was previously Rule R 1703, 1 CCR 212-2.

6-615 – Retail Marijuana Business Operators: Employee Licenses for Personnel

A. Required Licenses.

1. Owner Licenses. All natural persons who are Controlling Beneficial Owners in a Retail Marijuana Business Operator must have a valid Owner License, associated with the Retail Marijuana Business Operator License. Such an Owner License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Business

Operator and for work performed on behalf of, or at the Licensed Premises of, the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator.

2. Employee Licenses. All other natural persons who are agents or employees of a Retail Marijuana Business Operator that are actively engaged, directly or indirectly, in the management, supervision, or operation of one or more other Retail Marijuana Businesses, including but not limited to all agents or employees who will come into contact with Retail Marijuana, who will have access to Limited Access Areas, or who will have access to the Inventory Tracking System account of the Retail Marijuana Business(es) being operated, must hold a valid Employee License. The Employee License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Business Operator and for work at the Licensed Premises of, or on behalf of, the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator.

B. Employee Licenses Not Required. Employee Licenses are not required for Passive Beneficial Owners of a Retail Marijuana Business Operator, or for natural persons who will not come into contact with Retail Marijuana, will not have access Limited Access Area(s) of the Retail Marijuana Business(es) being operated, and will not have access to the Inventory Tracking System account of the Retail Marijuana Business(es) being operated.

C. Designation of Management Personnel of a Retail Marijuana Business Operated by a Retail Marijuana Business Operator. If a Retail Marijuana Business Operator is contracted to manage the overall operations of a Retail Marijuana Business's Licensed Premises, the Retail Marijuana Business shall designate a separate and distinct management personnel on the Licensed Premises who is an officer, agent or employee of the Retail Marijuana Business Operator, which shall be a natural person with a valid Owner License or Employee License, as set forth in paragraph A of this Rule, and the Retail Marijuana Business shall comply with the reporting provisions of subsection 44-10-313(12), C.R.S.

Basis and Purpose – 6-620

The statutory authority for this rule includes but is not limited to 44-10-202(1)(c), 44-10-203(1)(c), and 44-10-203(1)(kj), C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Business Operators. This Rule 6-620 was previously Rule R 1704, 1 CCR 212-2.

6-620 – Retail Marijuana Business Operators: Business Records Required

A. General Requirement. A Retail Marijuana Business Operator must maintain all required business records as set forth in Rule 3-905 - Business Records Required, except that:

1. A Retail Marijuana Business Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Retail Marijuana Business Operator will not come into contact with Retail Marijuana at its separate place of business; and

2. A Retail Marijuana Business Operator is not required to maintain records related to inventory tracking, or transport, because a Retail Marijuana Business Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator shall be maintained at the Licensed Premises of such Retail Marijuana Business(es).

B. All records required to be maintained shall be maintained at the Retail Marijuana Business Operator's separate place of business, and not at the Licensed Premises of the Retail Marijuana Business(es) it operates.

6-700 Series – Accelerator Cultivator Licenses

Basis and Purpose – 6-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-203(2)(r), 44-10-203(2)(aa), 44-10-203(3)(c), 44-10-401(2)(b)(VII), 44-10-602, and 44-10-607 C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to an Accelerator Cultivator licensee.

6-705 – Accelerator Cultivator: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Cultivator may operate on the same Licensed Premises as a Retail Marijuana Cultivation Facility that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Cultivator may operate on a separate premises in the possession of a Retail Marijuana Cultivation Facility that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Cultivation Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. A Regulated Marijuana Business that is operating at the same premises as a commonly owned Medical Marijuana Business may become an Accelerator-Endorsed Licensee. An Accelerator Cultivator may operate at the premises where the Accelerator-Endorsed Licensee operates along with the commonly owned Medical Marijuana Cultivation Facility.

B. Cultivation of Retail Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate Authorized. An Accelerator Cultivator may p~~P~~ropagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate~~, whether in concentrated form or otherwise~~. An Accelerator Cultivator may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate.

C. Authorized Transfers. An Accelerator Cultivator may only Transfer Retail Marijuana and ~~Water~~Physical Separation-Based Retail Marijuana Concentrate to another Retail Marijuana Business and in compliance with Rule 6-230.

1. An Accelerator Cultivator shall not Transfer Flowering plants. An Accelerator Cultivator may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. An Accelerator Cultivator may Transfer Sampling Units of Retail Marijuana or Retail Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-602(6), C.R.S., and Rule 6-725.

3. An Accelerator Cultivator may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Accelerator Cultivator or Retail Marijuana Cultivation Facility prior to testing required by these rules for the purpose of decontamination only after all other steps outlined in the Accelerator Cultivator's standard operating procedures have been completed, including but not limited to drying, curing, and trimming.

D. Authorized On-Premises Storage. An Accelerator Cultivator is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

E. Samples Provided for Testing. An Accelerator Cultivator may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The Accelerator Cultivator shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. An Accelerator Cultivator is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents an Accelerator Cultivator from transporting its own Retail Marijuana.

G. Performance-Based Incentives. An Accelerator Cultivator may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, an Accelerator Cultivator may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-725 – Sampling Unit Protocols.

H. Authorized Sources of Retail Marijuana Seeds and Immature Plants. An Accelerator Cultivator shall only obtain Retail Marijuana seeds or Immature Plants from its own Retail Marijuana or properly transferred from another Retail Marijuana Business pursuant to the inventory tracking requirements in the 3-800 Series Rules. An Accelerator Cultivator may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

I. Centralized Distribution Permit. An Accelerator Cultivator may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Accelerator Stores.

1. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person has a minimum of five percent ownership in both the Accelerator Cultivator possessing a Centralized Distribution Permit and the Accelerator Store to which the Retail Marijuana Concentrate and Retail Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, an Accelerator Cultivator may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Accelerator Cultivator shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. An Accelerator Cultivator that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product

from a Retail Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Accelerator Stores.

a. An Accelerator Cultivator may only accept Retail Marijuana Concentrate and Retail Marijuana Product that is packaged and labeled for sale to a consumer pursuant to the 3-1000 Series Rules.

b. An Accelerator Cultivator storing Retail Marijuana Concentrate and Retail Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Retail Marijuana Concentrate or Retail Marijuana Product on the Accelerator Cultivator's Licensed Premises for more than 90 days from the date of receipt.

c. All Transfers of Retail Marijuana Concentrate and Retail Marijuana Product by an Accelerator Cultivator pursuant to a Centralized Distribution Permit shall be without consideration.

4. All security and surveillance requirements that apply to an Accelerator Cultivator apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

J. Transition Permit. An Accelerator Cultivator may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 6-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(f), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-602, 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by an Accelerator Cultivator.

6-710 - Accelerator Cultivator: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. An Accelerator Cultivator is prohibited from Transferring Retail Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Consumer Prohibited. An Accelerator Cultivator is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-602(6), C.R.S., and Rule 6-725.

C. Excise Tax Paid. An Accelerator Cultivator shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. An Accelerator Cultivator shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If an Accelerator Cultivator is notified of any possible Adverse Health Event associated with Regulated Marijuana, it must report the Adverse Health Event to the Colorado Department of Public Health and Environment. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch or Harvest Batch number of the Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

Basis and Purpose – 6-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(r), 44-10-401(2)(b)(VII), and 44-10-602, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at Accelerator Cultivator and standards for the production of Retail Marijuana Concentrate.

6-715 – Accelerator Cultivator: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. An Accelerator Cultivator may only produce ~~Water~~Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-905- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of An Accelerator Cultivator unless the Controlling Beneficial Owner(s) of the Accelerator Cultivator also has a valid Accelerator Manufacturer license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If An Accelerator Cultivator produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate

are produced and all Controlling Beneficial Owners and Employee Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon an Accelerator Manufacturer that produces Retail Marijuana Concentrate, including all general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 6-815 – Accelerator Manufacturer: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate.

1. It shall be considered a violation of this Rule if an Accelerator Cultivator possesses a Retail Marijuana Concentrate other than a ~~Water~~Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Accelerator Cultivator also has a valid Accelerator Manufacturer license; or the Accelerator Cultivator has been issued a Centralized Distribution Permit and is in possession of the Retail Marijuana Concentrate in compliance with Rule 6-705(I).

2. Notwithstanding subparagraph (C)(1) of this Rule 6-715, an Accelerator Cultivator shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only when the possession is due to the Transfer of Retail Marijuana flower or trim that failed microbial testing to an Accelerator Manufacturer for processing into a Solvent-Based Retail Marijuana Concentrate, and the Accelerator Manufacturer Transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Accelerator Cultivator.

a. The Accelerator Cultivator shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Accelerator Cultivator is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Regulated Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or the Marijuana Code.

c. Nothing in this Rule removes or alters the responsibility of the Accelerator Cultivator that Transfers the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to Rule 6-210(C).

D. Production of Alternative Use Product or Audited Product Prohibited. An Accelerator Cultivator shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. An Accelerator Cultivator is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Accelerator Cultivator received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from an Accelerator Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 6-325.

Basis and Purpose – 6-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k~~j~~), 44-10-203(6), 44-10-401(2)(b)(VII), 44-10-602 and 44-10-607 C.R.S. The rule establishes a means by which to manage the overall production of Retail Marijuana in the state of Colorado. The intent of this rule is to encourage responsible production to meet demand for Retail Marijuana consumers, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of

which will increase incentives to engage in diversion and facilitate the continuation of the sale of illegal marijuana. Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule.

6-720 - Accelerator Cultivator: Production Management

A. Number of Accelerator Cultivators per Licensed Premises

1. An Accelerator Cultivator may only own and operate a single Accelerator Cultivation per Licensed Premises.

2 A Retail Marijuana Cultivation Facility Licensee that is an Accelerator-Endorsed Licensee may host more than one Accelerator Cultivation owned by different Social Equity Licensees at a single Licensed Premises.

B. Production Management.

1. Production Management Tiers.

a. Tier 1: 1 - 1,800 plants

b. Tier 2: 1,801 – 3,600 plants

c. Tier 3: 3,601 – 6,000 plants

d. Tier 4: 6,001 – 10,200 plants

e. Tier 5: 10,201 – 13,800+ plants

i. Tier 5 shall not have a cap on the maximum authorized plant count.

ii. The maximum authorized plant count above 10,200 plants shall increase in one or two increments of 3,600 plants. An Accelerator Cultivator shall be allowed to increase its maximum authorized plant count one or two increments of 3,600 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 6-720.

2. All Accelerator Cultivator licenses granted on or after January 1, 2020, will be issued as a Tier 1 License.

3. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded.

4. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

5. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Accelerator Cultivators that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation

activities, an Accelerator Cultivator that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 720 days.

2. Inventory Management for Accelerator Cultivators That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, an Accelerator Cultivator that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 180 days.

D. Tier Decrease. For Accelerator Cultivators that are authorized to cultivate more than 1,800 plants, the Division may review the purchases, Transfers, and cultivated plant count of the Accelerator Cultivator in connection with the license renewal process or after an investigation. Based on the Division's review, the Division may reduce the Accelerator Cultivator's maximum allowed plant count to a lower production management tier pursuant to subparagraph (C)(1) of this Rule. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Accelerator Licensee sold less than 70% of what the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days the Accelerator Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management tier;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Excise tax payment history;

5. Existing inventory and inventory history;

6. Sales contracts; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Accelerator Cultivators That Have One or Two Harvest Seasons Per Year.

a. After accruing at least one harvest season of Transfers, an Accelerator Cultivator may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That during the previous harvest season prior to the tier increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Accelerator Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Retail Marijuana Business;

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management tier increase application.

b. If the Division approves the production management tier increase application, the Accelerator Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants.

c. For an Accelerator Licensee with an authorized plant count in tiers 2-5 to continue producing at its expanded authorized plant count, the Accelerator Licensee shall pay the requisite Accelerator Cultivator license fee and the expanded production management tier fee, if applicable, at license renewal.

d. After accruing one harvest season during which the Accelerator Cultivator Transferred and consistently cultivated the Accelerator Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a production management Tier 5, two increments of 3,600 plants (7,200 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two tiers or increments of 3,600 plants (7,200 plants total).

i. The Accelerator Licensee must demonstrate:

A. That the Accelerator Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Accelerator Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

C. If the Accelerator Cultivator cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Accelerator Cultivator or related Accelerator Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Accelerator Cultivator currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two 3,600 plant increments;

B. The Accelerator Cultivator cultivated at least 90% of its maximum authorized plant count and during the preceding 360 days the Accelerator Cultivator and/or any commonly owned Accelerator Store Transferred in Retail Marijuana from one or

more unrelated Accelerator Cultivator(s) or Retail Marijuana Cultivation Facility(ies);

C. The Accelerator Cultivator has contracts for the sale of Retail Marijuana in the next 360 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Accelerator Cultivator;

E. Any history of noncompliance with the Marijuana Code and/or Rules by the Accelerator Cultivator, or any commonly owned Retail Marijuana Business, and/or any investigation of, or administrative action(s) against, the Accelerator Cultivator, or any commonly owned Retail Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Accelerator Cultivators <u>that have more than two harvest seasons per year</u>.

a. After a 180-day period during which the Accelerator Cultivator Transferred and consistently cultivated, the Accelerator Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That for 180 days prior to the tier increase application, the Accelerator Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Accelerator Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the tier increase application.

b. If the Division approves the production management tier increase application, the Accelerator Licensee shall pay the applicable expanded production management tier fee, if applicable, prior to cultivating the additional authorized plants.

c. For an Accelerator Licensee with an authorized plant count in tier 2-5 to continue producing at its expanded authorized plant count, the Accelerator Licensee shall pay the requisite Accelerator Cultivator license fee and the applicable expanded production management tier fee, if applicable, at license renewal.

d. After accruing 180 days during which the Accelerator Cultivator Transferred and consistently cultivated the Accelerator Licensee may apply to increase its

authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a tier 5, two increments of 3,600 plants (7,200 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two tier or two increments of 3,600 plants (7,200 plants total).

i. The Accelerator Licensee must demonstrate:

A. That the Accelerator Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Accelerator Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business;

C. If the Accelerator Cultivator cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking system during that time period and/or Transfers into the Accelerator Cultivator or related Accelerator Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Accelerator Cultivator currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two increments of 3,600 plants;

B. The Accelerator Cultivator cultivated at least 90% of its maximum authorized plant count and during the preceding 180 days the Accelerator Cultivator and/or any commonly owned Accelerator Store Transferred in Retail Marijuana from one or more unrelated Accelerator Cultivator(s) or Retail Marijuana Cultivation Facility(ies);

C. The Accelerator Cultivator has entered into a written agreement(s) or contract(s) for the sale of Retail Marijuana in the next 180 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Accelerator Cultivator;

E. Any history of noncompliance with the Marijuana Code and/or Rules by the Accelerator Cultivator or any commonly owned Retail Marijuana Business(es), and/or any investigation of, or administrative action(s) against, the Accelerator Cultivator or any commonly owned Retail Marijuana Business;

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

3. Application for Tier Increase. Applications for a tier increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

Basis and Purpose – 6-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-401(2)(b)(VII), 44-10-602(6) and 44-10-607, C.R.S. The purpose of this rule is to establish the circumstances under which an Accelerator Cultivator may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's Regulated Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on an Accelerator Cultivator that Transfer Sampling Units.

6-725 – Accelerator Cultivator - Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, an Accelerator Cultivator may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Accelerator Cultivator who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. A person may be designated as a Sampling Manager by more than one Medical Marijuana Business or Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. An Accelerator Cultivator that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-602(6), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-225. *See also* Rule 3-905 – Business Records Required. An Accelerator Cultivator shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Excise Tax Requirements. An Accelerator Cultivator must pay excise tax on Sampling Units of Retail Marijuana flower or trim, based on the average market rate of the unprocessed Retail Marijuana.

D. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Accelerator Cultivator as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Retail Marijuana or eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (D)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (D)(3). Before Transferring any Sampling Units, an Accelerator Cultivator shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (D)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

E. Compensation Prohibited. An Accelerator Cultivator may not use Sampling Units to compensate a Sampling Manager.

F. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

G. Acceptable Purposes. Sampling Units shall only be designated and Transferred for the purposes of quality control and product development in accordance with section 44-10-602(6), C.R.S.

H. Record keeping requirements. An Accelerator Cultivator shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, an Accelerator Cultivator shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of quality control or product development. An Accelerator Cultivator shall also maintain copies of the Accelerator Cultivator standard operating procedures provided to Sampling Managers.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), 44-10-602(13)(a)-(c), 44-10-607, and 38-28.8-302(2)(b), C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

6-730 – Accelerator Cultivator: Ability to Change Designation from Retail Marijuana to Medical Marijuana

A. Changing Designation: Beginning July 1, 2022, an Accelerator Cultivator may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Accelerator Cultivator may only Transfer Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Accelerator Cultivator are co-located;

3. The Medical Marijuana Cultivation Facility and Accelerator Cultivator have at least one identical Controlling Beneficial Owner;

4. The Accelerator Cultivator must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana to Medical Marijuana occurs;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating Accelerator Cultivator or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The Inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Accelerator Cultivator and the Medical Marijuana Cultivation Facility must remain at, or under, its respective inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

Basis and Purpose – 6-735

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-502(10)(a)-(c) The purpose of this rule is to allow an Accelerator Cultivator licensees that plan to cultivate Retail Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

6-735 Accelerator Cultivation: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Accelerator Cultivator Licensees that plan to cultivate Retail Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Accelerator Cultivator shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. An Accelerator Cultivator may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission of a contingency plan, a contingency plan must be submitted with the Accelerator Cultivator's license renewal application. Any significant change to a

contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary contact. A primary contact for the Accelerator Cultivator must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Accelerator Cultivator shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Retail Marijuana, an Accelerator Cultivator shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

a. Retail Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

b. If Retail Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Retail Marijuana Cultivation Facility.

d. An Accelerator Cultivator that cultivates outdoors may identify and Transfer Retail Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of modifications or security and surveillance exemptions. Proposed modifications of the Licenses Premises and any anticipated exemptions to security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. An Accelerator Cultivator that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan, the Licensee shall contact the Division and explain why it cannot return to normal business operations.

c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Retail Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Accelerator Cultivator acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to an Accelerator Cultivator apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Retail Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If an Accelerator Cultivator harvests, Transfers, or packages Retail Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

a. Harvest Requirements. If Retail Marijuana is harvested, the weight of Retail Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

b. Transport Manifest. The Accelerator Cultivator acting pursuant to the contingency plan must report all Retail Marijuana that is Transferred to a receiving Licensed

Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

ii. The Licensee shall manually fill out the dates, times, and individual transporting Retail Marijuana on a copy of the standing transport manifest.

iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan during any transport of Retail Marijuana when it is not possible to use a Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Retail Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Retail Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Retail Marijuana to another Licensed Premises, an Accelerator Cultivator may finish that harvest at the receiving Licensed Premises if all Retail Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance.

b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

6-800 Series – Accelerator Manufacturer Licenses

Basis and Purpose – 6-805

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(2)(aa), 44-10-307(1)(j), 44-10-401(2)(b)(VIII), 44-10-603 and 44-10-608, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to an Accelerator Manufacturer.

6-805 – Accelerator Manufacturer: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Manufacturer may operate on the same Licensed Premises as a Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Manufacturer may operate on a separate premises in the possession of a Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. A Regulated Marijuana Business that is operating at the same premises as a commonly owned Medical Marijuana Business may become an Accelerator-Endorsed Licensee. An Accelerator Manufacturer may operate at the premises where the Accelerator-Endorsed Licensee operates along with the commonly owned Medical Marijuana Products Manufacturer.

B. Authorized Transfers. An Accelerator Manufacturer is authorized to Transfer Retail Marijuana as follows:

1. Retail Marijuana Concentrate and Retail Marijuana Product.

a. An Accelerator Manufacturer may Transfer Retail Marijuana Concentrate or Retail Marijuana Product to Retail Marijuana Stores, Accelerator Stores, other Accelerator Manufacturers, Retail Marijuana Products Manufacturers, Retail Marijuana Testing Facilities, Retail Marijuana Hospitality and Sales Businesses, and Pesticide Manufacturers.

b. An Accelerator Manufacturer may Transfer Retail Marijuana Product and Retail Marijuana Concentrate to a Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 6-805(B)(1)(b), an Accelerator Manufacturer shall verify the Retail Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 6-205 – Retail Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 6-805(B)(1)(b), an Accelerator Manufacturer shall only Transfer Retail Marijuana Product and Retail Marijuana Concentrate that is packaged and labeled for Transfer to a consumer. *See* 3-1000 Series Rules.

c. An Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in compliance with Rule 6-335.

2. Retail Marijuana. An Accelerator Manufacturer may Transfer Retail Marijuana to other Accelerator Manufacturers, Retail Marijuana Products Manufacturer, Retail Marijuana Testing Facilities, Accelerator Stores, and Retail Marijuana Stores.

3. Sampling Units. An Accelerator Manufacturer may also Transfer Sampling Units of its own Retail Marijuana Concentrate or Retail Marijuana Product to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-603(10), C.R.S., and Rule 6-820.

C. Manufacture of Retail Marijuana Concentrate and Retail Marijuana Product and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana Authorized. An Accelerator Manufacturer may manufacture, prepare, package, store, and label Retail Marijuana Concentrate and Retail Marijuana Product~~, whether in concentrated form or that are~~ comprised of Retail Marijuana and other Ingredients intended for use or consumption, such as Edible Retail Marijuana Products, ointments, or tinctures. An Accelerator Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. An Accelerator Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Retail Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Retail Marijuana Product the Accelerator Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Accelerator Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. An Accelerator Manufacturer may not manufacture, prepare, package, store, or label Retail Marijuana Concentrate or Retail Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing. An Accelerator Manufacturer may provide samples of its Retail Marijuana Concentrate or Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Accelerator Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. An Accelerator Manufacturer is authorized to utilize a Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken is a Retail Marijuana Business and the transportation order is delivered to a Retail Marijuana Business or Pesticide Manufacturer. Nothing in this Rule prevents an Accelerator Manufacturer from transporting its own Retail Marijuana.

G. Performance-Based Incentives An Accelerator Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, an Accelerator Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-820 – Sampling Unit Protocols.

Basis and Purpose – 6-810

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(~~k~~j), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(2)(aa), 44-10-203(3)(d), 44-10-401(2)(b)(VIII), 44-10-603, 44-10-608 and 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by an Accelerator Manufacturer.

6-810 – Accelerator Manufacturer: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. An Accelerator Manufacturer is prohibited from Transferring Retail Marijuana Concentrate or Retail Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule 3-1010 – Packaging and Labeling – General Requirements Prior to Transfer to a Consumer.

1. Exception for Bulk Transfers to Retail Marijuana Hospitality and Sales Businesses. An individually packaged Edible Retail Marijuana Product comprised of multiple servings that is Transferred in bulk to a Retail Marijuana Hospitality and Sales Establishment may include more than a total of 100 milligrams of active THC.

i. An Accelerator Manufacturer shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure that a Retail Marijuana Hospitality and Sales Business receiving bulk Transfers of Edible Retail Marijuana Product can measure accurately the Edible Retail Marijuana Product in single serving sizes equal to or less than 10 milligrams of active THC per serving.

C. Transfer to Consumer Prohibited. An Accelerator Manufacturer is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-603(10), C.R.S., and Rule 6-820.

D. Adequate Care of Perishable Product. An Accelerator Manufacturer must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Retail Marijuana Product. An Accelerator Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Retail Marijuana Product is homogenous.

F. Use of Ingredients. An Accelerator Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. An Accelerator Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation.

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If an Accelerator Manufacturer is notified of any possible Adverse Health Event associated with Regulated Marijuana, it must report the Adverse Health Event to the Colorado Department of Public Health and Environment. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch or Harvest Batch number of the Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

Basis and Purpose – 6-815

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-401(2)(b)(VIII), 44-10-203(2)(aa), 44-10-603, and 44-10-608, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at an Accelerator Manufacturer and establish standards for the production of Retail Marijuana Concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S.

6-815 – Accelerator Manufacturer: Retail Marijuana Concentrate Production

A. Permitted Categories of Retail Marijuana Concentrate Production.

1. An Accelerator Manufacturer may produce ~~Water~~Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate.

2. An Accelerator Manufacturer may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless ~~and until~~ it is approved by the Division.

3. An Accelerator Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next permanent rulemaking.

B. General Applicability. An Accelerator Manufacturer that engages in the production of Retail Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Retail Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905- Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Retail Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

    a. Conduct all necessary safety checks prior to commencing production;

    b. Prepare Retail Marijuana for processing;

    c. Extract Cannabinoids and other essential components of Retail Marijuana;

    d. Purge any solvent or other unwanted components from a Retail Marijuana Concentrate,

    e. Clean all equipment, counters and surfaces thoroughly; and

    f. Dispose of any waste produced during the processing of Retail Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Retail Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

    a. All standard operating procedures for each method of concentrate production used;

    b. The Accelerator Manufacturer’s quality control procedures;

    c. The emergency procedures;

    d. The appropriate use of any necessary safety or sanitary equipment;

    e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

    f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer’s instructions, where applicable; and

g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Retail Marijuana Concentrate.

   a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

   b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Retail Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

   c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Retail Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

9. Accelerator Manufacturers Engaged in the Remediation of Retail Marijuana for elemental impurities. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for elemental impurities shall:

   a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

      i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not subject to testing exemptions through process validation.

      ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

   b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

d. Regardless of which type of analyte, if the Retail Marijuana flower, wet whole plant, or trim has failed testing for elemental impurities, the Licensee must implement Standard Operating Procedures to ensure:

i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the licensee's respiratory protection program that all employees exposed to elemental impurities contaminated plant material and waste products must be trained on.

g. The Licensee must establish and train employees on SOPs designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational

Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

C. ~~Water~~Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate. An Accelerator Manufacturer that engages in the production of a Retail Marijuana Concentrate must:

1. Ensure that all equipment, counters and surfaces used in the production of Retail Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Retail Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Retail Marijuana into a Retail Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Retail Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a ~~Water~~Physical Separation-Based Retail Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Retail Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Retail Marijuana Concentrate if a pressurized system is used in the production of a Retail Marijuana Concentrate.

D. Solvent-Based Retail Marijuana Concentrate. An Accelerator Manufacturer that engages in the production of Solvent-Based Retail Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a Local Jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or

Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, each of which is available to the public;

a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Retail Marijuana into a Retail Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules and regulations;

ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights and junction boxes, must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules and regulations;

iii. Determine whether a gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations; and

iv. Determine whether fire suppression system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Retail Marijuana Concentrate is to be produced, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

d. Material Change. If an Accelerator Manufacturer makes a Material Change to its ~~Licensed Premises,~~ equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its ~~Licensed Premises and~~ equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Accelerator Manufacturer by the designer or manufacturer of any equipment used in the processing of Retail Marijuana into a Retail Marijuana Concentrate.

f. Records Retention. An Accelerator Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Retail Marijuana Concentrate on the Licensed Premises.

2. Ensure that all equipment, counters and surfaces used in the production of a Solvent-Based Retail Marijuana Concentrate are food-grade and do not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Retail Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that only a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Retail Marijuana Concentrate;

   a. UL or ETL Listing.

      i. If the system is UL or ETL listed, then an Accelerator Manufacturer may use the system in accordance with the manufacturer's instructions.

      ii. If the system is UL or ETL listed but the Accelerator Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Accelerator Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

      iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

   b. Ethanol or Isopropanol. An Accelerator Manufacturer need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Retail Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

   a. An Accelerator Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. An Accelerator Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

b. An Accelerator Manufacturer is prohibited from using denatured alcohol to produce a Retail Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 6-815(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may an Accelerator Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Retail Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Retail Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

E. Ethanol and Isopropanol. If an Accelerator Manufacturer only produces Solvent-Based Retail Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Accelerator Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(4).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-820

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(d), 44-10-203(1)(kj), 44-10-203(2)(h), 44-10-401(2)(b)(VIII), 44-10-603(10), and 44-10-608 C.R.S. The purpose of this rule is to establish the circumstances under which an Accelerator Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Retail Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on an Accelerator Manufacturer that Transfer Sampling Units.

6-820 – Accelerator Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, an Accelerator Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Accelerator Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual may be designated as a Sampling Manager by more than one Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and

makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. An Accelerator Manufacturer who wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-820. *See also* Rule 3-905 – Business Records Required. An Accelerator Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana Product shall not exceed one Standardized Serving of Marijuana.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Accelerator Manufacturer as a Sampling Manger for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

   a. With respect to Retail Marijuana Product, fourteen Standardized Servings of Marijuana; and

   b. Eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, an Accelerator Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. An Accelerator Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-603(10), C.R.S.

G. Record keeping requirements. An Accelerator Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, an Accelerator Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. An Accelerator Manufacturer shall also maintain copies of the Accelerator Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-825

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(b), 44-10-203(3)(e), 44-10-401(2)(b)(VIII), 44-10-603, 44-10-701(3)(c) and 44-10-608, C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Accelerator Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacture or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for an Accelerator Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Retail Marijuana Product that is not within an intended use identified in Rule 3-1015.

6-825 – Accelerator Manufacturer: Audited Product and Alternative Use Product

A. General Rule. An Accelerator Manufacturer shall not Transfer Audited Product to a Retail Marijuana Store, an Accelerator Store, a Retail Marijuana Products Manufacturer, another Accelerator Manufacturer, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 6-825. The requirements of this Rule 6-825 are in addition to all other Rules that apply to Accelerator Manufacturers; except where the context otherwise clearly requires this Rule 6-825 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and, if applicable, to the Local Jurisdiction as required by this Rule, an Accelerator Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration.

1. A written audit report from an independent third-party auditor that was completed within the last 24 months shall be submitted to the Division and, if applicable to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Retail Marijuana

Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Accelerator Manufacturer's renewal application if the Accelerator Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Accelerator Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

   a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

   b. Establish that the Accelerator Manufacturer and the Audited Product meet all requirements of this Rule 6-825, including but not limited to the specific requirements of this Rule 6-825(C), 6-825(D), 6-825(E), 6-825(G), and 6-825(H);

   c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

   d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Accelerator Manufacturer adheres to all applicable standard operating procedures;

   e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 6-825(E), including any Limited Access Area where the Audited Product is to be manufactured;

   f. Include the independent third-party auditor's findings;

   g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

   h. Include the independent third-party auditor's assessment that the Accelerator Manufacturer demonstrated compliance with all requirements of Rule 6-825 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Accelerator Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Accelerator Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Accelerator Manufacturer, as demonstrated by testing at an Retail Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Retail Marijuana Testing Facility.

c. Identification of all non-cannabis derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Retail Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Retail Marijuana Testing Facility, except that no Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Accelerator Manufacturer, an Accelerator Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo

annual refresher training, which shall be documented and maintained at the Accelerator Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. An Accelerator Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. An Accelerator Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. An Accelerator Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

    a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product an Accelerator Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

f. Any other information needed to describe the Retail Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

a. Name of the Audited Product;

b. Master formulation record reference for the Audited Product;

c. Date and time of preparation of the Audited Product;

d. Production Batch number;

e. Signature or initials of individuals involved in each manufacturing step;

f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

g. Weight or measurement of each Ingredient;

h. Documentation of quality control procedures;

i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Retail Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a consumer prior to any Transfer.

~~H. Adverse Event Reporting. An Accelerator Manufacturer that manufactures Audited Product must maintain a record of all complaints it receives, which may include concerns or reports on the quality or possible adverse reactions to a specific Audited Product. For purposes of this Rule, adverse event means any untoward medical occurrence associated with the use of marijuana – this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom or disease temporally associated with the use of a marijuana product. To the extent known after reasonable diligence to ascertain the information, the record must contain the name of the complainant, the date the complaint was received, the nature of the complaint, the steps taken to investigate the complaint, the response to the complaint, and the name and Production Batch number of the Audited Product. Adverse events must also be reported directly to the Colorado Department of Public Health and Environment and the Division within 48 hours of receipt by the Accelerator Manufacturer.~~

H. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If an Accelerator Manufacturer is notified of any possible Adverse Health Event associated with Regulated Marijuana, it must report the

Adverse Health Event to the Colorado Department of Public Health and Environment. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch or Harvest Batch number of the Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

I. Alternative Use Designation – Any Other Method of Consumption or Administration. An Accelerator Manufacturer shall not Transfer to a Retail Marijuana Store, an Accelerator Store, a Retail Marijuana Products Manufacturer, another Accelerator Manufacturer, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator that has obtained a Centralized Distribution Permit any Retail Marijuana Concentrate or Retail Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Accelerator Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Accelerator Manufacturer shall identify provisions of this Rule 6-825 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Accelerator Manufacturer shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Accelerator Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards, and tests are in place.

3. An Accelerator Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Accelerator Manufacturer does not meet the burden established in this Rule 6-825.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Accelerator Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. An Accelerator Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive

Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 6-825. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 6-830

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(III), and 44-10-603, 44-10-603(15)(a)-(b), 44-10-608, and 38-28.8-302(2)(b) C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from "Retail" to "Medical."

6-830 – Accelerator Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, an Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Accelerator Manufacturer may only Transfer Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Accelerator Manufacturer are co-located;

3. The Medical Marijuana Products Manufacturer and Accelerator Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Accelerator Manufacturer must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate occurs;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating Accelerator Manufacturer or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change in designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change in designation.

6-900 Series – Licensed Hospitality Businesses

Basis and Purpose – 6-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general provisions for Licensed Hospitality Businesses.

6-905 – Licensed Hospitality Businesses: General Provisions

A. Privileges Granted. A Licensed Hospitality Business shall only exercise those privileges granted pursuant to the Marijuana Code and these Rules.

B. Local Approval Required. No Licensed Hospitality Business may operate in a Local Jurisdiction that does not have an ordinance or resolution authorizing the operation of that type of Licensed

Hospitality Business within the Local Jurisdiction. A Licensed Hospitality Business must comply with any requirements or restrictions on its operations imposed by the Local Jurisdiction's ordinance or resolution.

C. Liability Insurance Required. Licensed Hospitality Businesses are required to carry general liability insurance. If a Licensed Hospitality Business has not obtained general liability insurance at the time of its initial license application, it must obtain general liability insurance prior to submitting the Licensee's first renewal application.

D. Responsible Vendor Training Required. All Controlling Beneficial Owners and employees of a Licensed Hospitality Business shall complete annual responsible vendor training that satisfies the requirements of the responsible vendor program established in the 3-500 Series Rules.

E. No Visible Consumption of Regulated Marijuana. A Licensed Hospitality Business shall ensure that the display and consumption of any marijuana is not visible from outside of its Licensed Premises. The requirement in this paragraph (E) also applies to Licensed Hospitality Businesses that operate in an isolated portion of a Retail Food Establishment. *See* Rule 6-915 – Licensed Hospitality Businesses: Operation Within A Retail Food Establishment.

1. Outdoor Consumption Areas Permitted. A Licensed Hospitality Business may have a Consumption Area outdoors under the following conditions:

   a. The Licensed Hospitality Business shall ensure that all marijuana is kept out of plain sight and is not visible from a public place without the use of optical aids, such as telescopes or binoculars, or aircraft; and

   b. The Licensed Hospitality Business shall ensure that the Consumption Area is surrounded by a sight-obscuring wall, fence, hedge, or other opaque or translucent barrier.

F. Required Signage.

1. Identification of Consumption Area. A Licensed Hospitality Business shall ensure all areas ingress and egress to the Consumption Area(s) be clearly identified by the posting of a sign which shall not be less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Consumption Area – No One Under 21 Years of Age Allowed."

2. Required Warning. Licensed Hospitality Businesses must post, at all times and in a prominent place inside the Consumption Area, a warning that is at minimum twelve inches high and twelve inches wide that reads as follows:

   "Must be 21 or older to enter

   Marijuana may only be consumed in designated areas out of public view

   No consumption of alcohol or tobacco products on site

   We reserve the right to refuse entry or service for reasons including visible intoxication

   It is against the law to drive while impaired by marijuana"

G. Entry By A Person Under 21 Years Prohibited. A Licensed Hospitality Business shall not allow any individual under 21 years of age to enter its Licensed Premises. A Licensed Hospitality Business shall verify that every individual entering the Licensed Premises has a valid

government-issued photo identification showing that the individual is 21 years of age or older. *See* Rule 3-405 – Acceptable Forms of Identification.

H. Customers in Consumption Area. The Consumption Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. A Licensed Hospitality Business shall reasonably monitor consumers in the Consumption Area to ensure compliance with these 6-900 Series Rules.

I. Conduct on the Licensed Premises.

1. Consumption By Intoxicated Patrons Prohibited. A Licensed Hospitality Business shall not permit the use or consumption of marijuana by any person displaying any visible signs of intoxication.

2. Alcohol Consumption Prohibited. No consumption of alcohol is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the consumption of alcohol within its Licensed Premises.

3. Tobacco Consumption Prohibited. No smoking of tobacco or tobacco products is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the smoking of tobacco and tobacco products within its Licensed Premises.

4. Employee Consumption Prohibited. No employee of a Licensed Hospitality Business who is on duty may use or consume marijuana. A Licensed Hospitality Business is responsible for preventing the use or consumption of marijuana by on-duty employees within its Licensed Premises.

5. Flammable Instrument Restrictions. A Licensed Hospitality Business shall not allow the use of the following devices in the Licensed Premises if prohibited by a local ordinance or resolution:

a. Any device using liquid petroleum gas;

b. A butane torch;

c. A butane lighter; or

d. Matches.

6. Orderliness. A Licensed Hospitality Business shall operate the business in a decent, orderly, and respectable manner. A Licensed Hospitality Business shall not knowingly permit any activity or acts of disorderly conduct as defined by and provided for in section 18-9-106, C.R.S., nor shall a Licensed Hospitality Business permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the Licensed Hospitality Business is located.

J. Free Marijuana Prohibited. A Licensed Hospitality Business may not give away marijuana to a consumer for any reason.

K. Food Products Permitted. A Licensed Hospitality Business is permitted to sell or give away consumable products that do not contain marijuana under the following circumstances:

1. The Licensed Hospitality Business operates in an isolated portion of a Retail Food Establishment;

2. A Licensed Hospitality Business that is not a Retail Food Establishment may prepare and serve hot coffee, hot tea, instant hot beverages, and nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling; or

3. A Licensed Hospitality Business that is not a Retail Food Establishment may sell or give away nonpotentially hazardous prepackaged food and commercially prepared, prepackaged foods requiring no preparation other than the heating of food within its original container or package.

L. Emergency Entry by Public Safety Personnel. If an emergency requires law enforcement, firefighters, emergency medical service providers, or other public safety personnel to enter the Licensed Premises of a Licensed Hospitality Business, the Licensed Hospitality Business is responsible for ensuring that all consumption and other activities, including sales, if applicable, cease until such personnel have completed their investigation or services and have left the Licensed Premises.

M. Criminal Activity Reporting Requirements. In addition to other reporting requirements set forth in these Rules, a Licensed Hospitality Business must report directly to the Division any criminal activity requiring an in-person response from law enforcement. Any report required under this Rule must be submitted within 48 hours after an Owner Licensee or Employee Licensee of the Licensed Hospitality Business learns of the event.

N. Removal of Persons from the Licensed Premises. A Licensed Hospitality Business may remove a person from the Licensed Premises for any reason, including but not limited to, any consumer showing any visible signs of intoxication.

O. Control and Disposal of Marijuana Left by a Consumer. A Licensed Hospitality Business is responsible for the collection and disposal of any marijuana left on the Licensed Premises by a consumer. When a consumer leaves any marijuana on the Licensed Premises, a Licensed Hospitality Business must promptly collect and remove the marijuana from the Restricted Access Area and either immediately destroy or store and secure the marijuana in a Limited Access Area or an area inaccessible to consumers in accordance with Rule 6-920(A).

1. Marijuana Consumer Waste. In conjunction with the collecting and securing of any remaining marijuana, a Licensed Hospitality Business may segregate any Marijuana Consumer Waste in order to Transfer the Marijuana Consumer Waste for purposes of recycling in accordance with Rule 3-240 – Collection of Marijuana Consumer Waste.

2. Destruction Required. At, or before, the end of each business day, a Licensed Hospitality Business shall destroy any marijuana left on its Licensed Premises by a consumer in conformance with Rule 3-230 – Waste Disposal. The Licensed Hospitality Business shall document any destruction of Regulated Marijuana in a waste log. *See* Rule 3-905 – Business Records Required.

P. Consumer Education Materials. A Licensed Hospitality Business must provide Consumer Education Materials regarding the safe consumption of marijuana. Consumer Education Materials may be made available in print or digital form, may never make claims regarding health or physical benefits of marijuana, and must be prominently displayed. Consumer Education Materials shall at a minimum include the following statement:

"WARNING: Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Create a transportation plan ahead of time. Don't operate a vehicle impaired.

Impairing effects of marijuana may be delayed."

Basis and Purpose – 6-910

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish additional health and safety regulations for Licensed Hospitality Businesses.

6-910 – Licensed Hospitality Businesses: Additional Health and Safety Regulations

A. Local Safety Requirements and Inspections. A Licensed Hospitality Business must comply with any safety requirements or required inspections imposed by the Local Jurisdiction's ordinance or resolution which authorizes the Licensed Hospitality Business's operation.

B. Sanitation of Consumption Equipment. If a Licensed Hospitality Business provides consumers with reusable equipment or devices to aid in the use or consumption of marijuana, the Licensed Hospitality Business shall ensure the equipment or device is sanitized properly. A Licensed Hospitality Business shall maintain standard operating procedures regarding reusable equipment and device sanitation practices. Failure to maintain records and/or sanitize reusable equipment may constitute a license violation affecting public safety.

Basis and Purpose – 6-915

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish requirements for Licensed Hospitality Businesses operating within a Retail Food Establishment or on the Licensed Premises of any establishment with a license issued pursuant to articles 3, 4, or 5 of Title 44.

6-915 – Licensed Hospitality Businesses: Operation Within a Retail Food Establishment

A. Alcohol Beverage License Prohibited. A Licensed Hospitality Business shall not operate within a Retail Food Establishment that holds a license or permit issued pursuant to article 3, 4, or 5 of title 44.

1. The Licensed Premises of a Licensed Hospitality Business must be completely separate from, and shall not overlap with, the licensed premises of any license issued pursuant to articles 3, 4, or 5 of Title 44. To be considered completely separate:

a. The Licensed Premises of a Licensed Hospitality Business shall not overlap with or share any physical space with, at any time, the licensed premises of a license issued pursuant to articles 3, 4, or 5 of Title 44. Alternating use of the same location at different times by a license issued pursuant to article 10 of Title 44 and a license or permit issued pursuant to article 3, 4, or 5 of Title 44 is prohibited.

b. The Licensed Premises of a Licensed Hospitality Business may be adjacent to the licensed premises of any license issued pursuant to article 3, 4, or 5 of Title 44, so long as all of the following conditions are met:

i. Each has a separate address, which may be separate units within a street address so long as each unit has separate entrances and exits from the other, and consumers may not pass through the licensed premises of one to reach the licensed premises of the other;

ii. There is no door, hallway, or passageway by or through which a consumer may pass between the Licensed Premises of a Licensed Hospitality Business and the adjacent licensed premises of any license issued pursuant to articles 3, 4, or 5 of Title 44; and

iii. Any window on a shared wall is covered, or rendered opaque or translucent, to ensure the display or consumption of marijuana within a Licensed Hospitality Business is not visible to any person outside the Licensed Premises, including by a person within the adjacent licensed premises of a license issued pursuant to articles 3, 4, or 5 of Title 44.

B. Isolation From Unlicensed Portions of the Retail Food Establishment. A Licensed Hospitality Business that operates within a Retail Food Establishment shall ensure that its Licensed Premises are isolated from the rest of the Retail Food Establishment.

1. Consumers may enter the Licensed Premises from the unlicensed portion of the Retail Food Establishment. However, in order to be isolated from the rest of the Retail Food Establishment, the Licensed Premises shall:

a. Not overlap with the operations of the Retail Food Establishment; and

b. Be separated by a sight-obscuring wall, or other opaque or translucent barrier, and a secure door to ensure only consumers 21 years of age or older are permitted into the Licensed Premises.

2. Segregation of Marijuana. A Licensed Hospitality Business shall not store marijuana—either for purposes of sale or destruction—in any location containing other inventory of the Retail Food Establishment.

C. Manufacturing of Regulated Marijuana Products Prohibited. A Licensed Hospitality Business shall ensure that the Retail Food Establishment is not used to manufacture Regulated Marijuana Products or to add marijuana to foods produced or provided at the Retail Food Establishment.

D. Food Service Permitted. Nothing in this Rule 6-915 prohibits employees of the Retail Food Establishment from taking orders for, or serving, foods, produced or provided at the Retail Food Establishment within the Licensed Premises of the Licensed Hospitality Business. Any employee of the Retail Food Establishment who has unescorted access to the Limited Access Area or Restricted Access Area of a Licensed Hospitality Business, or who may handle marijuana for destruction, or any other purpose, shall first obtain an Employee License and Identification Badge.

Basis and Purpose – 6-920

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), and 44-10-610, C.R.S. The purpose of this rule is to establish requirements for the display of Retail Marijuana on the Licensed Premises of a Retail Marijuana Hospitality and Sales Business, and to establish that a Retail Marijuana Hospitality and Sales Business must control and safeguard access to certain areas where Retail Marijuana will be sold.

6-920 – Retail Marijuana Hospitality and Sales Businesses Point of Sale: Restricted Access Area

A. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

Basis and Purpose – 6-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to clarify additional license privileges and restrictions for Retail Marijuana Hospitality and Sales Businesses that do not apply to Marijuana Hospitality Businesses.

6-925 – Retail Marijuana Hospitality and Sales Businesses: Additional License Privileges and Restrictions

A. Authorized Sources of Retail Marijuana. A Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana that it obtained from another Retail Marijuana Business.

B. Restriction on Transfers to Consumers. A Retail Marijuana Hospitality and Sales Business and its employees are prohibited from Transferring Retail Marijuana to a consumer if the Retail Marijuana Hospitality and Sales Business' employee knows or reasonably should know that the consumer does not intend to consume the Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business or previously during the same business day the consumer already received the relevant quantity limitation in this Rule. In determining the imposition of any penalty for violation of this Rule 6-925, the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235.

C. Inventory Tracking System Requirements. A Retail Marijuana Hospitality and Sales Business must use the Inventory Tracking System in accordance with the requirements of the 3-800 Series Rules.

D. Samples Provided for Testing. A Retail Marijuana Hospitality and Sales Business may provide Samples of Retail Marijuana for testing purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Hospitality and Sales Business shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

E. Authorized On-Premises Storage. A Retail Marijuana Hospitality and Sales Business may store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules. *See* Rule 3-800 Series Rules – Regulated Marijuana Business: Inventory Tracking System.

F. Authorized Marijuana Transport. A Retail Marijuana Hospitality and Sales Business is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where the transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Hospitality and Sales Business from transporting its own Retail Marijuana to the Licensed Premises of its Retail Marijuana Hospitality and Sales Business.

G. Quantity Limitations on Sales. All Transfers of Retail Marijuana by a Retail Marijuana Hospitality and Sales Business to a consumer shall not exceed the following sales limits:

1. More than two grams of Retail Marijuana flower;

2. More than one-half of one gram of Retail Marijuana Concentrate; or

3. A Retail Marijuana Product containing more than 20 milligrams of active THC. For any Transfer of Retail Marijuana Product containing more than 10 milligrams of active THC, the Retail Marijuana Product must be Transferred to a consumer in separate serving sizes containing no more than 10 milligrams of active THC per serving.

H. Measurement Procedures and Equipment.

1. A Retail Marijuana Hospitality and Sales Business shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure any Retail Marijuana Product Transferred to a consumer does not exceed the quantity limitation set forth in subparagraph G(3).

2. A Retail Marijuana Hospitality and Sales Business Transferring Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product to a consumer shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

I. Packaging and Labeling.

1. Packaging and Labeling Not Required at Time of Transfer. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and labeling so long as the Retail Marijuana Hospitality and Sales Business complies with the requirements of Rule 3-1020. *See* Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

2. Packaging and Labeling Required Before Retail Marijuana Removed from Licensed Premises. A Retail Marijuana Hospitality and Sales Business shall not permit a consumer to leave the Licensed Premises with any unconsumed marijuana unless the Retail Marijuana Hospitality and Sales Business has ensured ~~the,~~ unconsumed marijuana is packaged and labeled in accordance with the requirements of Rule 3-1020. *See* Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

J. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a consumer.

Basis and Purpose – 6-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general limitations and prohibited acts for Retail Marijuana Hospitality and Sales Businesses.

6-930 – Retail Marijuana Hospitality and Sales Businesses: General Limitations and Prohibited Acts

A. Age Verification. Prior to Initiating the Transfer of Retail Marijuana a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older. *See* Rule 3-405 – Acceptable Forms of Identification.

B. Purchases Only Within Restricted Access Area. A consumer must be physically present within the Restricted Access Area of the Retail Marijuana Hospitality and Sales Business's Licensed

Premises to purchase Retail Marijuana. The consumer must consume or use the Retail Marijuana purchased in the Retail Marijuana Hospitality and Sales Business in that Businesses' Restricted Access Area.

1. Application to Retail Marijuana Hospitality and Sales Businesses Operating in a Retail Food Establishment. The requirement of paragraph (B) also applies to all Retail Marijuana Hospitality and Sales Businesses operating in an isolated portion of the Retail Food Establishment. All Transfers of Retail Marijuana may occur only in the Retail Marijuana Hospitality and Sales Business' Restricted Access Area, and not in any other area of the Retail Food Establishment.

C. Prohibited Sales and Activity.

1. Sales to Persons Under 21 Years. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring, giving, or distributing Regulated Marijuana to persons under 21 years of age.

2. Alternative Use Products. A Retail Marijuana Hospitality and Sales Business shall not Transfer, or permit the use or consumption of, any Alternative Use Product.

3. Marijuana Not Transferred by the Retail Marijuana Hospitality and Sales Business. A Retail Marijuana Hospitality and Sales Business shall not permit the purchase, use or consumption of any marijuana other than the Retail Marijuana it Transfers pursuant to these rules.

4. Nicotine or Alcohol. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of alcohol would require a license pursuant to articles 3, 4, or 5 of Title 44, C.R.S.

5. Transfer of Expired Product. A Retail Marijuana Hospitality and Sales Business shall not Transfer any expired Retail Marijuana Product to a consumer.

6. Transporter Transfer Restrictions. A Retail Marijuana Hospitality and Sales Business shall not Transfer Retail Marijuana to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana from a Retail Marijuana Transporter.

7. Possession and Transfer of Sampling Units. A Retail Marijuana Hospitality and Sales Business may not possess or Transfer Sampling Units.

8. Research Transfers. A Retail Marijuana Hospitality and Sales Business shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

D. Storage and Display Limitations.

1. A Retail Marijuana Hospitality and Sales Business shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Area or Restricted Access Area.

2. Any product displays that are readily accessible to the customer must be supervised by the Owner Licensee or Employee Licensee at all times when consumers are present.

E. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

F. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If a Retail Hospitality and Sales Business is notified of any possible Adverse Health Event associated with Regulated Marijuana it Transferred, it must report the Adverse Health Event to both the originating Regulated Marijuana Business that Transferred the Regulated Marijuana to the Retail Hospitality and Sales Business and the Colorado Department of Public Health and Environment. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch or Harvest Batch number of the Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

Basis and Purpose – 6-935

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish Limited Access Area and security exemptions and requirements for Marijuana Hospitality Businesses.

6-935 – Marijuana Hospitality Business: Limited Access Areas and Security Standards

A. Limited Access Area Permitted But Not Required. A Marijuana Hospitality Business is not required to maintain a Limited Access Area as part of the Licensed Premises so long as the Marijuana Hospitality Business demonstrates the following:

1. It has established policies, procedures, and methods to ensure marijuana collected pursuant to Rule 6-905(O) will be secured in an area inaccessible to patrons of the Marijuana Hospitality Business prior to destruction; and

2. Its surveillance recording equipment is housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division, and the relevant Local Licensing Authority or Local Jurisdiction, state or local law enforcement agencies for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, and service personnel or contractors.

B. Security Standards. A Marijuana Hospitality Business shall comply with Rule 3-220 Security Alarm Systems and Lock Standards, except that its Licensed Premises need only be monitored when consumers are on the Licensed Premises or during periods when marijuana collected pursuant to Rule 6-905(O) remains on the Licensed Premises prior to destruction.

Basis and Purpose – 6-940

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), and 44-10-609, C.R.S. The purpose of this rule is to establish requirements for Marijuana Hospitality Businesses with a Mobile Premises.

6-940 – Marijuana Hospitality Business: Requirements for Mobile Premises

A. Separate License Required for Each Mobile Premises. Each Mobile Premises requires a separate Marijuana Hospitality Business License.

B. Consumption Area of the Mobile Premises. The Consumption Area of the Mobile Premises shall exclude the area designed to seat the driver and front seat passenger.

C. Requirements for Motor Vehicles Designated as Mobile Premises. A Marijuana Hospitality Business must ensure that the motor vehicle serving as the Mobile Premises of a Marijuana Hospitality Business complies with all state and local registration and permitting requirements. At each initial and renewal application, a Marijuana Hospitality Business must provide the Division with the following information regarding its Mobile Premises:

a. Documentation that the Mobile Premises is owned or leased by the Marijuana Hospitality Business;

b. The vehicle manufacturer/make, model, and model year associated with the Mobile Premises;

c. The vehicle identification number (VIN) associated with the Mobile Premises;

d. The Colorado license plate number and copy of the registration associated with the Mobile Premises;

e. If applicable, the automatic vehicle identification tag associated with the Mobile Premises; and

f. A copy of a valid permit issued by the Public Utilities Commission to the Marijuana Hospitality Business.

D. Local Approval Required. A Marijuana Hospitality Business with a Mobile Premises may only operate in Local Jurisdictions that have an ordinance or resolution authorizing the operation of Mobile Premises and for which it holds any required valid local license(s). A Mobile Premises' operation includes, but is not limited to, allowing passengers to consume marijuana and boarding or disembarking the Mobile Premises.

E. Additional Requirements for Mobile Premises. Before receiving a License for a Mobile Premises, a Marijuana Hospitality Business must establish that the Mobile Premises will be able to meet the following requirements:

1. Global position system tracking of the Mobile Premises;

2. Written standard operating procedures that address the logging of the route(s) of each Mobile Premises;

3. Video surveillance inside of the Mobile Premises, including the entry and exit points to the Mobile Premises and driver's area of the vehicle;

4. Proper ventilation within the vehicle, which includes, if marijuana is smoked or vaped in the Licensed Premises, that air is not circulated into the driver's area of the Licensed Premises;

5. Policies and procedures to ensure that no marijuana is possessed or consumed in the area designed to seat the driver and front seat passenger in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

6. Methods to ensure consumption activity is not visible outside the vehicle;

7. Policies, procedures or other measures to ensure that consumers are prohibited from entering the driver's area of the Mobile Premises; and

8. Display of the Marijuana Hospitality Business license on the dashboard of the Mobile Premises.

F. Separate Place of Business. A Marijuana Hospitality Business with a Mobile Premises shall designate and maintain a fixed place of business in Colorado that is separate from the Mobile Premises. The fixed place of business does not need to be a Licensed Premises. However, if the Marijuana Hospitality Business will transport any marijuana to the separate place of business for purposes of destruction, the separate place of business shall also be a Licensed Premises and is subject to any applicable state and local licensing requirements or restrictions.

1. Shared Places of Business. Multiple Marijuana Hospitality Business Licensees with Mobile Premises may share a single separate place of business so long as the Marijuana Hospitality Businesses are identically owned.

2. Shared Premises with Another Licensed Hospitality Business. A Marijuana Hospitality Business with a Mobile Premises may designate the location of another Marijuana Hospitality Business's Licensed Premises as its separate place of business subject to the following conditions:

a. The relevant Local Licensing Authority or Local Jurisdiction permit a Marijuana Hospitality Business with a Mobile Premises to designate the location of another Marijuana Hospitality Business's Licensed Premises as its separate place of business;

b. The Marijuana Hospitality Businesses are identically owned; and

c. Record-keeping shall enable the Division and the Local Licensing Authority or Local Jurisdiction to distinguish clearly the business transactions and operations of each Marijuana Hospitality Business.

G. Business Records. All records required to be maintained by these rules must be maintained at the Marijuana Hospitality Business's separate place of business, and not at the Mobile Premises, except that when the Mobile Premises is in operation it must maintain its current route log on the Mobile Premises.

1. A Marijuana Hospitality Business is not required to maintain records related to inventory tracking because a Marijuana Hospitality Business is prohibited from engaging in Transfers of marijuana.

H. Health and Safety Requirements. A Marijuana Hospitality Business' Mobile Premises shall comply with all relevant requirements in the 3-300 Series Rules. Hand-washing facilities, however, need not be in the Mobile Premises, but may be located in the Marijuana Hospitality Business's separate place of business.

I. Operating Restrictions. A Marijuana Hospitality Business shall ensure that its Mobile Premises does not operate outside of the state of Colorado.

6-1100 Series – Accelerator Store Licenses

Basis and Purpose – 6-1105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(aa), 44-10-203(2)(dd), 44-10-401(2)(b)(I), 44-10-601, 44-10-605, and 44-10-611, C.R.S. The purpose of this rule is to establish the license privileges of an Accelerator Store.

6-1105 – Accelerator Store: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Store may operate on the same Licensed Premises as a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Store may operate on a separate premises in the possession of a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Business– Shared Licensed Premises and Operational Separation, an Accelerator Store may share, and operate at, the same Licensed Premises as an Accelerator-Endorsed Licensee's Retail Marijuana Store that shares a Licensed Premises with a Medical Marijuana Store.

B. Authorized Sources of Retail Marijuana. An Accelerator Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.

C. Samples Provided for Testing. An Accelerator Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Accelerator Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

D. Authorized On-Premises Storage. An Accelerator Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

E. Authorized Marijuana Transport. An Accelerator Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents an Accelerator Store from transporting its own Retail Marijuana.

F. Performance-Based Incentives. An Accelerator Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

G. Authorized Transfers of Industrial Hemp Products. An Accelerator Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

H. Automated Vending Machine. An Accelerator Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to consumers.

I. Walk-up Window or Drive-up Window. An Accelerator Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, an Accelerator Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

   a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.

   b. The Accelerator Store may accept telephone orders or may accept orders from the customer at the walk-up window or drive-up window. Accelerator Stores may not accept orders or payment for Retail Marijuana over the internet.

   c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Accelerator Store may not display Retail Marijuana at the walk-up or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payments for Retail Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Accelerator Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. An Accelerator Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.

8. Vehicle Prohibited in the Licensed Premises. An Accelerator Store shall not permit any portion of a vehicle to enter any portion of the Licensed Premises.

Basis and Purpose – 6-1110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(kj), 44-10-203(2)(aa), 44-10-401(2)(b)(I), 44-10-601, 44-10-611, 44-10-701(1)(a), and 44-10-701(3)(d) and (f), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by an Accelerator Store. Such limitations include, but are not limited to, quantity limitations on sales and equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Accelerator Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

6-1110 – Accelerator Store: General Limitations or Prohibited Acts

A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.

B. Age Verification. Prior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. An Accelerator Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product or more than six Retail Marijuana seeds in a single transaction to a consumer. A single transaction includes multiple Transfers to the same consumer during the same business day where the Accelerator Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-1110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:

a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, an Accelerator Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.

E. Sales over the Internet. A Licensee is prohibited from selling Retail Marijuana over the internet. Any Transfer of Retail Marijuana must occur within the Accelerator Store's Restricted Access Area. Only a Licensee holding a valid delivery permit may make sales over the internet or deliver to a private residence.

F. Delivery Outside Colorado Prohibited. An Accelerator Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.

G. Prohibited Items. An Accelerator Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an Industrial Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

H. Free Product Prohibited. An Accelerator Store may not give away Retail Marijuana to a consumer for any reason.

I. Nicotine or Alcohol Prohibited. An Accelerator Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 46 or 47 of Title 12, C.R.S.

J. Storage and Display Limitations.

1. An Accelerator Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

2. Any Retail Marijuana Concentrate displayed in an Accelerator Store must include the potency of the concentrate on a sign next to the name of the product.

    a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

    b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

K. Transfer of Expired Product Prohibited. An Accelerator Store shall not Transfer any expired Retail Marijuana Product to a consumer.

L. Transfer Restriction.

1. Sampling Units. An Accelerator Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. An Accelerator Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

L.5. Standard Operating Procedures. An Accelerator Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:

   a. The distinct shape of a human, animal, or fruit; or

   b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

~~N. Adverse Event Reporting. An Accelerator Store that Transfers Audited Product and/or Alternative Use Product must report any adverse event related to an Audited Product and/or Alternative Use Product directly to the Accelerator Manufacturer or Retail Marijuana Products Manufacturer that Transferred the Audited Product or Alternative Use Product to the Accelerator Store. The report must be submitted within forty-eight (48) hours after learning of the adverse event by the Accelerator Store. For purposes of this Rule, adverse event means any untoward medical occurrence associated with the use of marijuana—this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom or disease temporally associated with the use of a marijuana product, and may include concerns or reports on the quality or possible adverse reactions to a specific Audited Product or Alternative Use Product. To the extent known after reasonable diligence to ascertain the information, the report to the Accelerator Manufacturer or Retail Marijuana Products Manufacturer must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, and the name and Production Batch number of the Audited Product or Alternative Use Product.~~

E. Adverse Health Event Reporting and General Complaints.

1. Adverse Health Event Reporting. If an Accelerator Store is notified of any possible Adverse Health Event associated with Regulated Marijuana it Transfers, it must report the Adverse Health Event to both the originating Regulated Marijuana Business that Transferred the Regulated Marijuana to the Accelerator Store and the Colorado Department of Public Health and Environment. The Accelerator Store must submit the report within forty-eight (48) hours from its receipt of notification of the Adverse Health Event. To the extent known after reasonable diligence to ascertain the information, the report to the Accelerator Manufacturer, Retail Marijuana Products Manufacturer, Accelerator Cultivator, or Retail Marijuana Cultivation Facility must contain the name and contact information of the complainant, the date the complaint was received, the nature of

the complaint, and the name and Production Batch or Harvest Batch number of the Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

2. General Complaints. [UNDER FURTHER REVIEW]

O. Corrective and Preventive Action. An Accelerator Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-1115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(kj), 44-10-203(2)(z), 44-10-203(2)(aa), 44-10-202(3)(h), 44-10-401(2)(b)(I), and 44-10-611, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that an Accelerator Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age.

6-1115 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Retail Marijuana are sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12

inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area – No One Under 21 Years of Age Allowed."

B. Consumers in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owner Licensees and Employee Licensees shall make reasonable efforts to limit the number of consumers in relation to the number of Owners Licensees and Employee Licensees in the Restricted Access Area at any time.

C. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

D. Pregnancy Warning. Accelerator Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Part 7 – Regulated Marijuana Transfers to Unlicensed Pesticide Manufacturers

7-105 – Medical Marijuana Transfers to Medical Research Facilities – **Repealed effective January 1, 2021.**

7-110 – Retail Marijuana Transfers to Medical Research Facilities – **Repealed effective January 1, 2021.**

Basis and Purpose – 7-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a)(II), 44-10-202(1)(c), 44-10-203(1)(c), and 44-10-203(1)(kj), C.R.S. The purpose of this rule is to establish requirements associated with the Transfer of Regulated Marijuana and Regulated Marijuana Product to Pesticide Manufacturers, including requirements for the possession and disposition of Regulated Marijuana and Regulated Marijuana Products by Pesticide Manufacturers. This Rule 7-115 was previously Rules M and R 1802, 1 CCR 212-1 and 1 CCR 212-2.

7-115 – Pesticide Manufacturers

A. Transfers to Pesticide Manufacturers. A Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, and Retail Marijuana Products Manufacturer may Transfer Regulated Marijuana to a Pesticide Manufacturer solely for the purpose of conducting research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana. *See* Rules 5-205, 5-305, 6-205, 6-305.

B. Written Documentation Required. A Licensee shall require, and shall not Transfer Regulated Marijuana prior to receiving, written proof under oath, as evidenced by an affidavit entered into by an authorized person on behalf of the Pesticide Manufacturer, affirming that the Pesticide Manufacturer meets the requirements set forth in subparagraph (C)(4) of this Rule. This documentation shall constitute a business record under Rule 3-905 – Business Records Required.

C. Agreement with Pesticide Manufacturer. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall enter into a written agreement with the Pesticide Manufacturer prior to Transferring any Regulated Marijuana to the Pesticide Manufacturer. The written agreement, which shall constitute a business record under Rule 3-905, shall include:

1. The identity of the Pesticide Manufacturer;

2. The quantity of Regulated Marijuana that will be Transferred to the Pesticide Manufacturer;

3. The date(s) upon which Transfer of the Regulated Marijuana will occur;

4. An affirmation by the Pesticide Manufacturer that it:

   i. Has an establishment number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*;

   ii. Is authorized to do business in Colorado;

   iii. Is in possession of a physical location in the State of Colorado where its research activities will occur;

   iv. Has applied for and received any necessary license, registration, certification, or permit from the Colorado Department of Agriculture pursuant to the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S. and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.;

   v. Remains authorized to receive the quantity of Regulated Marijuana that will be Transferred to the Pesticide Manufacturer; and

   vi. Will only use the Transferred Regulated Marijuana for the purpose of research to establish safe and effective protocols for the use of Pesticides on Regulated Marijuana, which protocols may include but not be limited to establishing efficacy and toxicity; and

5. An affirmation by the Licensee that it has received written proof the Pesticide Manufacturer meets the requirements set forth in subparagraph (C)(4) of this Rule.

D. Inventory Tracking Requirements. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, and Retail Marijuana Products Manufacturer shall track all Regulated Marijuana in the Inventory Tracking System until it is delivered to a Pesticide Manufacturer.

1. Transport Manifest. A Licensee shall not deliver or permit the delivery of Regulated Marijuana unless a manifest is generated from the Inventory Tracking System.

2. Complete Manifest. A Licensee shall not relinquish possession or control of Regulated Marijuana to a Pesticide Manufacturer until a natural person authorized by the Pesticide Manufacturer acknowledges receipt of the Regulated Marijuana by signing the transport manifest.

3. No Inventory Tracking Following Delivery. Once Regulated Marijuana has been Transferred by a Licensee to a Pesticide Manufacturer, no further inventory tracking is required.

4. Licensee Delivery Responsibility. The originating Licensee is responsible for confirming delivery of all Regulated Marijuana in the Inventory Tracking System.

E. Packaging, Labeling, and Testing. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall package, label, and test all Regulated Marijuana in conformance with these rules prior to Transferring the Regulated Marijuana. *See* – Labeling, Packaging, and Product Safety; – Regulated Marijuana Testing Program.

F. Business Records. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall keep all documents concerning the relationship and Transfer of any Regulated Marijuana in accordance with Rules 3-605 and 3-905.

G. Pesticide Manufacturer Authorized Activities. A Pesticide Manufacturer is only authorized to possess Transferred Regulated Marijuana in order to conduct research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana.

H. Quantity Limitations for Pesticide Manufacturer. In no event shall a Pesticide Manufacturer possess at any given time more than (i) 12 Medical Marijuana plants and (ii) four pounds of Medical Marijuana or its equivalency in Medical Marijuana Concentrate (512 grams) or Medical Marijuana Product (5,120 Medical Marijuana Products), and (i) 12 Retail Marijuana plants and (ii) four pounds of Retail Marijuana or its equivalency in Retail Marijuana Concentrate (512 grams) or Retail Marijuana Products (5,120 ten-milligram servings of Retail Marijuana Product).

I. Disposition of Transferred Regulated Marijuana. A Pesticide Manufacturer shall destroy all Transferred Regulated Marijuana received from a Licensee following completion of research activities.

1. A Pesticide Manufacturer shall destroy Transferred Regulated Marijuana in conformance with Rule 3-230 – Waste Disposal.

2. A Pesticide Manufacturer shall document the destruction of Transferred Regulated Marijuana, which documentation shall include:

   i. Whether the destroyed material was Transferred Regulated Marijuana;

   ii. The date of destruction;

   iii. The location of the destruction;

   iv. The manner in which the Transferred Regulated Marijuana was rendered unusable and Unrecognizable;

   v. The method of final disposition pursuant to Rule 3-230; and

   vi. The identity(ies) and contact information of all Person(s) involved in the destruction.

3. A Pesticide Manufacturer shall keep all documentation regarding destruction of Transferred Regulated Marijuana for the current year and three preceding calendar years.

J. No Pesticide on Licensed Premises. Under no circumstance may a Pesticide Manufacturer apply Pesticide(s) for research purposes on the Licensed Premises of a Regulated Marijuana Business.

1. Licensees Shall Not Permit Pesticide on Licensed Premises. Under no circumstance may a Licensee allow or permit the application of Pesticide(s) by a Pesticide Manufacturer for research purposes on the Licensed Premises of a Regulated Marijuana Business.

2. Violation Affecting Public Safety. A violation of this prohibition shall be considered a violation affecting public safety.

K. No Human or Animal Subjects. Under no circumstance shall a Pesticide Manufacturer receiving Regulated Marijuana from a Licensee engage in research involving human subjects. Additionally, under no circumstance shall a Pesticide Manufacturer receiving Regulated Marijuana from a Licensee engage in research involving animal subjects, as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g).

1. Licensees Shall Not Permit Human or Animal Subject Research. If a Licensee knows or reasonably should know that a Pesticide Manufacturer intends to engage in or has engaged in marijuana-related research involving human and/or animal subjects, the Licensee shall not Transfer any Regulated Marijuana to the Pesticide Manufacturer.

2. Violation Affecting Public Safety. A violation of this Rule shall be considered a violation affecting public safety.

L. No Transfer to Licensees. Under no circumstance may a Licensee receive or obtain for any purposes any Transferred Regulated Marijuana from a Pesticide Manufacturer.

Part 8 – Enforcement and Discipline

8-100 Series - Enforcement

Basis and Purpose – 8-105

The statutory authority for this rule includes but is not limited to sections 44-10-201(4), 44-10-202(1)(c), 44-10-203(1)(e), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(kj), 44-10-204, and 44-10-902, C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Regulated Marijuana. This Rule 8-105 was previously Rules M and R 1201, 1 CCR 212-1 and 1 CCR 212-2.

8-105 – Duties of Employees of the State Licensing Authority

A. Duties of Director.

1. The State Licensing Authority may delegate an act required to be performed by the State Licensing Authority related to the day-to-day operation of the Division to the Director.

2. The Director may authorize Division employees to perform tasks delegated from the State Licensing Authority.

3. The Director or his or her authorized Division employees may consult with any state or local agency for the purpose of the proper administration of these rules or the Marijuana Code.

B. Duties of Division Investigators. The State Licensing Authority, the Department's Senior Director of Enforcement, the Director, and Division investigators shall have all the powers of any peace officer to:

1. Investigate violations or suspected violations of the Marijuana Code and any rules promulgated pursuant to it. Make arrests, with or without warrant, for any violation of the Marijuana Code, any rules promulgated pursuant to it, Article 18 of Title 18, C.R.S., any other laws or regulations pertaining to Regulated Marijuana in this state, or any criminal law of this state, if, during an officer's exercise of powers or performance of duties pursuant to the Marijuana Code, probable cause exists that a crime related to such laws has been or is being committed;

2. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Regulated Marijuana;

3. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;

4. Inspect, examine, or investigate any premises where the Licensee's Regulated Marijuana is grown, stored, cultivated, manufactured, tested, distributed, or sold, and any books and records in any way connected with any licensed or unlicensed activity;

5. Require any Licensee, upon demand, to permit an inspection of Licensed Premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and, to permit the testing of or examination of Regulated Marijuana;

6. Require Applicants to submit complete and current applications and fees and other information the Division deems necessary to make licensing decisions and approve ~~material~~ significant changes made by the Applicant or Licensee;

7. Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all Applicants and Licensees for Regulated Marijuana licenses and such other Persons with a direct or indirect interest in an Applicant or Licensee, as the State Licensing Authority may require; and

8. Exercise any other power or duty authorized by law.

C. Duties of State Licensing Authority and Division Employees.

1. Employees shall maintain the confidentiality of State Licensing Authority and Division records and information. For confidentiality requirements of State Licensing Authority and Division employees who leave the employment of the State Licensing Authority, *see* Rule 8-240 - Confidential Information and Former State Licensing Authority Employees.

2. Pursuant to subsection 44-10-201(3), C.R.S., State Licensing Authority employees with regulatory oversight responsibilities for marijuana businesses licensed by the State Licensing Authority shall not work for, represent, or provide consulting services to or otherwise derive pecuniary gain from a marijuana business licensed by the State Licensing Authority or other business entity established for the primary purpose of

providing services to the marijuana industry for a period of six months following his or her last day of employment with the State Licensing Authority.

3. Pursuant to subsection 44-10-201(4), C.R.S., disclosure of confidential records or information in violation of the provisions of the Marijuana Code constitutes a class 1 misdemeanor.

Basis and Purpose – 8-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(f), 44-10-202(1)(g), 44-10-203(1)(kj), and 44-10-902, C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Regulated Marijuana. This Rule 8-110 was previously Rules M and R 1202, 1 CCR 212-1 and 1 CCR 212-2.

8-110 – Requirement for Inspections and Investigations, Searches, Administrative Holds, Voluntary Surrenders and Such Additional Activities as May Become Necessary from Time to Time

A. Applicants and Licensees Shall Cooperate with Division Employees.

1. Applicants and Licensees must cooperate with employees of the Division who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to the Marijuana Code.

2. No Applicant or Licensee shall by any means interfere with, obstruct, or impede the State Licensing Authority or any employee of the Division from exercising their duties pursuant to the provisions of the Marijuana Code and all rules promulgated pursuant to it. This would include, but is not limited to:

a. Threatening force or violence against an employee or investigator of the Division, or otherwise endeavoring to intimidate, obstruct, or impede employees or investigator of the Division, their supervisors, or any peace officers from exercising their duties. The term “threatening force” includes the threat of bodily harm to such individual or to a member of his or her family;

b. Denying investigators of the Division access to premises where the Licensee’s Regulated Marijuana are grown, stored, cultivated, manufactured, tested, distributed, or Transferred during business hours or times of apparent activity;

c. Providing false or misleading statements;

d. Providing false or misleading documents and records;

e. Failing to timely produce requested books and records required to be maintained by the Licensee; or

f. Failing to timely respond to any other request for information made by a Division employee or investigator in connection with an investigation of the qualifications, conduct or compliance of an Applicant or Licensee.

3. License Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

B. Administrative Hold.

1. To prevent destruction of evidence, diversion, or other threats to public safety, while permitting a Licensee to retain its inventory pending further investigation, a Division investigator may order an administrative hold of Regulated Marijuana pursuant to the following procedure:

a. If during an investigation or inspection of a Licensee, a Division investigator develops reasonable grounds to believe certain Regulated Marijuana constitute evidence of acts in violation of the Marijuana Code or rules promulgated pursuant to it, or constitute a threat to the public safety, the Division investigator may issue a notice of administrative hold of any such Regulated Marijuana. The notice of administrative hold shall provide a documented description of the Regulated Marijuana to be subject to the administrative hold and a concise statement that is promptly issued and approved by the Director, or his or her designee, regarding the reasons for issuing the administrative hold.

b. Following the issuance of a notice of administrative hold, the Division will identify the Regulated Marijuana subject to the administrative hold in the Inventory Tracking System. The Licensee shall continue to comply with all tracking requirements. *See* Rule 3-805 Regulated Marijuana Businesses: Inventory Tracking System.

c. The Licensee shall completely and physically segregate the Regulated Marijuana subject to the administrative hold in a Limited Access Area of the Licensed Premises under investigation, where it shall be safeguarded by the Licensee.

d. While the administrative hold is in effect, the Licensee is prohibited from, giving away, Transferring, transporting, or destroying the Regulated Marijuana subject to the administrative hold, except as otherwise authorized by these rules.

e. While the administrative hold is in effect, the Licensee must safeguard the Regulated Marijuana subject to the administrative hold, must maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements as set forth in the Marijuana Code and the rules of the State Licensing Authority.

f. Nothing herein shall prevent a Licensee from voluntarily surrendering Regulated Marijuana that is subject to an administrative hold, except that the Licensee must follow the procedures set forth in paragraph (C) for voluntary surrender of Regulated Marijuana.

g. Nothing herein shall prevent a Licensee from the continued possession, cultivation or harvesting of the Regulated Marijuana subject to the administrative hold. All Regulated Marijuana subject to an administrative hold must be put into separate Harvest Batches.

h. At any time after the initiation of the administrative hold, the Division may lift the administrative hold, order the continuation of the administrative hold pending the administrative process, or seek other appropriate relief.

C. Voluntary Surrender of Regulated Marijuana .

1. A Licensee, prior to a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.

    a. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.

    b. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

2. The voluntary surrender form may be utilized in connection with a stipulated agency order through which the Licensee waives the right to hearing and any associated rights.

3. The voluntary surrender form may be utilized even if the Licensee does not waive the right to hearing and any associated rights, with the understanding that the outcome of the hearing does not impact the validity of the voluntary surrender.

4. A Licensee, after a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.

    a. The Licensee must complete and return the Division's voluntary surrender form within 15 calendar days of the date of the Final Agency Order.

    b. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.

    c. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

Basis and Purpose – 8-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(kj), and 44-10-902. The purpose of this rule is to provide guidance following either an agency decision or under any circumstances where the Licensee is ordered to surrender and/or destroy unauthorized Regulated Marijuana. This rule also provides guidance as to the need to preserve evidence during agency investigations or subject to agency order. This Rule 8-115 was previously Rules M and R 1203, 1 CCR 212-1 and 1 CCR 212-2.

8-115 – Disposition of Unauthorized Regulated Marijuana

A. After a Final Agency Order Mandates the Destruction of Regulated Marijuana. If the State Licensing Authority issues a Final Agency Order pursuant to section 44-10-902, C.R.S., that orders the destruction of some or all of the Licensee's unauthorized Regulated, the Licensee may:

    1. Voluntarily Surrender. The Licensee may voluntarily surrender to the Division all of its unauthorized Regulated Marijuana that are described in the Final Agency Order in accordance with the provisions of Rule 8-110(C).

    2. Seek A Stay. The Licensee may file a petition for a stay of the Final Agency Order with the Denver district court within 15 days of the date of the Final Agency Order.

    3. Take No Action. If the Licensee does not either (1) voluntarily surrender its unauthorized Regulated Marijuana as set forth in subparagraph (A)(1) of this Rule; or (2) properly seek

a stay of the Final Agency Order as set forth in subparagraph (A)(2) of this Rule, the Division will enter upon the Licensed Premises and seize and destroy the unauthorized Regulated Marijuana that are the subject of the Final Agency Order.

B. General Requirements Applicable To All Licensees Following Final Agency Order To Destroy Unauthorized Regulated Marijuana. The following requirements apply regardless of whether the Licensee voluntarily surrenders its unauthorized Regulated Marijuana seeks a stay of agency action, or takes no action:

1. The 15 day period set forth in section 44-10-902(5), C.R.S., and this Rule shall include holidays and weekends.

2. During the period of time between the issuance of the Final Agency Order and the destruction of the unauthorized Regulated Marijuana the Licensee shall not sell, destroy, or otherwise let any unauthorized Regulated Marijuana that are subject to the Final Agency Order leave the Licensed Premises, unless specifically authorized by the State Licensing Authority or Court order.

3. During the period of time between the issuance of the Final Agency Order and the destruction of unauthorized Regulated Marijuana, the Licensee must safeguard any unauthorized Regulated Marijuana in its possession or control and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Marijuana Code and the rules of the State Licensing Authority.

4. Unless the State Licensing Authority otherwise orders, the Licensee may cultivate, water, or otherwise care for any unauthorized Regulated Marijuana that are subject to the Final Agency Order during the period of time between the issuance of the Final Agency order and the destruction of the unauthorized Regulated Marijuana.

5. If a district attorney notifies the Division that some or all of the unauthorized Regulated Marijuana is involved in an investigation, the Division shall not destroy the unauthorized Regulated Marijuana until approved by the district attorney.

Basis and Purpose – 8-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(kj), and 44-10-203(2)(w), C.R.S. This rule explains that Division investigators may exercise discretion in issuing written warning when, during the course of a compliance check or investigation, the Division investigator identifies a violation(s) of the Marijuana Code or the rules promulgated thereunder. This rule also explains that the Director of the Division may exercise discretion to accept an assurance of voluntary compliance. It also explains the evidentiary value of a written warning or an assurance of voluntary compliance. This Rule 8-120 was previously Rules M and R 1204, 1 CCR 212-1 and 1 CCR 212-2.

8-120 – Written Warnings and Assurances of Voluntary Compliance

A. Written Warnings. During an investigation, if a Division investigator identifies a violation(s) of the Marijuana Code or the rules promulgated thereunder, the Division investigator may issue a written warning in lieu of recommending immediate administrative action.

1. The written warning shall identify the alleged violation(s).

2. The written warning shall not constitute an admission of a violation(s) for any purpose or finding of a violation(s) by the State Licensing Authority, and shall not be evidence that Licensee violated the Marijuana Code, or the rules promulgated thereunder.

3. A written warning shall constitute evidence in any subsequent administrative proceeding, if relevant, that the Licensee was previously warned of the violation(s).

4. The Division may in its discretion initiate a subsequent administrative action and prove the violation(s) that was the subject of the written warning

B. Assurances of Voluntary Compliance. The Director of the Division may accept an assurance of voluntary compliance regarding any act or practice alleged to violate the Marijuana Code, or the rules thereunder.

1. The assurance must be in writing and may include a stipulation for the voluntary payment of the cost commensurate with the acts or practices and an amount necessary to restore money or property which may have been acquired by the alleged violator because of the acts or practices.

2. An assurance of voluntary compliance may not be considered an admission of a violation(s) for any purpose or a finding of a violation(s) by the State Licensing Authority; however, the assurance of voluntary compliance shall constitute evidence in any subsequent administrative proceeding that Licensee entered into an agreement to comply with the Marijuana Code, and/or the rules promulgated thereunder.

3. The State Licensing Authority may approve or review an assurance of voluntary compliance.

C. Not a Disciplinary Action. Neither a written warning nor an assurance of voluntary compliance constitutes a disciplinary action.

Basis and Purpose – 8-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(5), 44-10-203(1)(e), 44-10-203(1)(g), 44-10-203(1)(kj), 44-10-203(2)(l), C.R.S. The purpose of this rule is to establish the circumstances under which the State Licensing Authority may seek from a district court an investigative subpoena and what reasonable efforts the Division may take prior to seeking an investigative subpoena. The Division has encountered circumstances that would have justified such an investigative subpoena. Establishing the criteria under which the Division may seek an investigative subpoena will provide district courts guidelines under which to evaluate a petition for an investigative subpoena.

8-125 – Investigative Subpoenas

A. Criteria. The State Licensing Authority may petition a district court for an investigative subpoena applicable to a Person who is not licensed pursuant to the Marijuana Code to obtain documents or information necessary to enforce the Marijuana Code and these Rules after the Division has taken reasonable efforts to obtain requested documents or information.

B. Reasonable Efforts. For purposes of this Rule 8-125, “reasonable efforts” may include but shall not be limited to obtaining the documents or information through a request to the unlicensed Person and such unlicensed Person has either declined to provide the documents or information, or failed to respond to the Division within the applicable time frame.

C. Affidavit. When seeking an investigative subpoena, the Division will supply the district court with a sworn affidavit explaining the bases for seeking the subpoena.

Basis and Purpose – 8-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(e), 44-10-203(2)(l), 44-10-203(1)(e), 44-10-203(1)(g), and 44-10-203(2)(w), C.R.S. The purpose of this rule is to establish the circumstances under which the Division may seek from a district court an administrative warrant to search and/or seize marijuana and marijuana products, or other evidence indicating a violation of the Marijuana Code or rules. The Division has encountered circumstances that would have justified such a warrant. Establishing the criteria under which the Division may seek an administrative warrant will give fair notice to the regulated community regarding the types of violations that would lead to a request for an administrative warrant. This Rule 8-130 was previously Rules M and R 1309, 1 CCR 212-1 and 1 CCR 212-2.

8-130 – Administrative Warrants

A. Criteria. The Division may seek from a district court an administrative search warrant authorizing search and seizure in circumstances in which the Division makes a proper showing that:

1. A Licensee has refused entry of Division investigators during business hours or times of apparent activity;

2. A Licensee subject to an administrative hold or summary suspension has failed to comply with applicable rules; or

3. A Licensee otherwise has acted in a manner demonstrating disregard for the Marijuana Code and the State Licensing Authority's rules or that threatens the public health, safety, and welfare.

B. Affidavit. When seeking an administrative search warrant, the Division will supply the district court with a sworn affidavit explaining the bases for seeking the warrant.

C. Seized Property. If the Division seizes marijuana, neither the Division nor the State Licensing Authority shall cultivate or care for any seized marijuana or marijuana products. The Division may seek from the district court an order to destroy any such marijuana or marijuana products.

8-200 Series - Discipline

Basis and Purpose – 8-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(kj), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-701, 44-10-901, and 24-4-105 C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to clarify how the disciplinary process for non-summary license suspensions and license revocations is initiated. This Rule 8-205 was previously Rules M and R 1301, 1 CCR 212-1 and 1 CCR 212-2.

8-205 – Disciplinary Process: Non-Summary Suspensions

A. How a Disciplinary Action is Initiated.

1. If the State Licensing Authority, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Marijuana Code, any rule promulgated pursuant to it, or any of its orders, the State Licensing Authority shall issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why

its license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

2. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended, revoked, restricted, fined, or subject to other disciplinary sanction should the charges contained in the notice be sustained upon final hearing.

B. Disciplinary Hearings. Disciplinary hearings will be conducted in accordance with Rule 8-220 – Administrative Hearings.

C. Renewal. The issuance of an Order to Show Cause does not relieve the Licensee of the obligation to timely comply with all license renewal requirements.

Basis and Purpose – 8-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(kj), 44-10-203(2)(a), 44-10-203(2)(l), 24-4-104(4)(a), 44-10-701, 44-10-901, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately suspend a license prior to and pending a hearing and final agency order. Summary suspensions will be imposed when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and welfare imperatively require emergency action. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause. This Rule 8-210 was previously Rules M and R 1302, 1 CCR 212-1 and 1 CCR 212-2.

8-210 – Summary Suspensions

A. How a Summary Suspension Action is Initiated.

1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the license.

2. The Summary Suspension Order shall identify the nature of the State Licensing Authority's basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the License may be subject to further discipline or revocation following a hearing on an Order to Show Cause.

3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued in accordance with the following procedure:

a. After the Summary Suspension Order is issued, the State Licensing Authority shall promptly issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why the Licensee's license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

b. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The Order to Show Cause shall also provide an advisement that the license could be suspended, revoked, restricted, fined or subject to disciplinary sanction should the charges contained in the Order to Show Cause be sustained upon final hearing.

c. The Order to Show Cause shall be filed with the Department's Hearings Division. The hearing on the allegations set forth in the Order to Show Cause shall be expedited to the extent practicable and will be conducted in accordance with Rule 1304 – Administrative Hearings.

B. Duration of Summary Suspension. Unless lifted by the State Licensing Authority, the Summary Suspension Order shall remain in effect until issuance of a Final Agency Order.

Basis and Purpose – 8-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(kj), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-701, 44-10-901, 24-4-104(4)(a), and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The State Licensing Authority recognizes that if Licensees are not able to care for their products during a period of active suspension, then their plants could die, their edible products could deteriorate, and their on-hand inventory may not be properly maintained. Accordingly, this rule was written to clarify that Licensees whose licenses are summarily suspended may care for on-hand inventory, manufactured products, and plants during the suspension (unless the State Licensing Authority does not allow such activity), provided the Licensed Premises and all Regulated Marijuana is adequately secured. In addition, the rule clarifies what activity is always prohibited during such suspension. This Rule 8-215 was previously Rules M and R 1303, 1 CCR 212-1 and 1 CCR 212-2.

8-215 – Suspension Process: Regular and Summary Suspensions

A. Signs Required During Suspension. Every Licensee whose license has been suspended, whether summarily or after an administrative hearing, shall post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be at least 17 inches in length and 11 inches in width containing lettering not less than 1/2" in height.

1. For suspension following issuance of a Final Agency Order, the sign shall be in the following form:

   NOTICE OF SUSPENSION

   REGULATED MARIJUANA LICENSES ISSUED

   FOR THESE PREMISES HAVE BEEN

   SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

   FOR VIOLATION OF THE COLORADO MARIJUANA CODE

2. For a summary suspension pending issuance of a Final Agency Order, the sign shall be in the following form:

   NOTICE OF SUSPENSION

REGULATED MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR ALLEGED VIOLATION OF THE COLORADO MARIJUANA CODE

Any advertisement or posted signs that indicate that the premises have been closed or business suspended for any reason other than by the manner described in this Rule shall be deemed a violation of these rules.

B. Prohibited Activity During Active Suspension.

1. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not permit the serving, giving away, distribution, manufacture, sampling, acquisition, purchase, testing, Transfer, or transport of Regulated Marijuana on or from the Licensed Premises, nor allow patients or consumers to enter the Licensed Premises.

2. Unless otherwise ordered by the State Licensing Authority, during any period of suspension the Licensee may continue to possess, maintain, cultivate, or harvest Regulated Marijuana on the Licensed Premises. The Licensee must fully account for all such Regulated Marijuana in the Inventory Tracking System. The Licensee must safeguard any Regulated Marijuana in its possession or control. The Licensee must possess and maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Marijuana Code and the rules of the State Licensing Authority.

C. Removal and Destruction of Regulated Marijuana. Regulated Marijuana shall not be removed from the Licensed Premises or destroyed unless ~~and until~~:

1. The provisions described in section 44-10-902, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also* Rule 8-115 – Disposition of Unauthorized Regulated Marijuana;

2. The Licensee has voluntarily surrendered the Regulated Marijuana in accordance with Rule 8-110(C) – Voluntary Surrender;

3. The State Licensing Authority has seized the Regulated Marijuana pursuant to an Administrative Warrant. *See* Rule 8-130 – Administrative Warrant.

D. Renewal. The issuance of a suspension or an Order of Summary Suspension does not relieve the Licensee of the obligation to timely comply with all license renewal requirements.

Basis and Purpose – 8-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k~~j~~), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-204(1)(a), 44-10-701, 44-10-901, 24-4-104, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish what entity conducts the administrative hearings, the procedures governing administrative hearings, and other general hearings issues. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause, and to clarify that an answer is required only for two types of

administrative notices: an Order to Show Cause and a Notice of Grounds for Denial. This Rule 8-220 was previously Rules M and R 1304, 1 CCR 212-1 and 1 CCR 212-2.

8-220 – Administrative Hearings

A. General Procedures.

1. Hearing Location. Hearings will generally be conducted by the Department's Hearings Division. Hearings will be held virtually, unless otherwise ordered by the hearing officer for good cause. If the hearing officer orders an in-person hearing, the hearing will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer. "Good cause" for an in-person hearing means that there are unusual circumstances where justice, judicial economy, and convenience of the parties would be served by holding a hearing in person. ~~Unless the hearing officer orders a change of location based on good cause, as described in this Rule, hearings generally will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer. Under unusual circumstances where justice, judicial economy and convenience of the parties would be served, hearings may be held in other locations in the state of Colorado.~~

2. Scope of Hearing Rules. This Rule shall be construed to promote the just and efficient determination of all matters presented.

3. Right to Legal Counsel. Any Denied Applicant or Respondent has a right to legal counsel throughout all processes described in rules associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the Denied Applicant's or Respondent's expense. Unless a Denied Applicant that is an entity or Respondent that is an entity satisfies the exception in section 13-1-127(2), C.R.S., the Denied Applicant or Respondent must be represented by an attorney admitted to practice law in the state of Colorado.

B. Requesting a Hearing.

1. A Denied Applicant that has been served with a Notice of Denial may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request for hearing will not be considered.

2. A Denied Applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial, and shall be entitled to a hearing regarding the matters addressed therein.

3. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

C. When a Responsive Pleading is Required.

1. A Respondent shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Order to Show Cause. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Respondent fails to file a required answer, the Hearing Officer, upon motion, may enter

a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

2. A Denied Applicant shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Notice of Grounds for Denial. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Denied Applicant fails to file a required answer, the hearing officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

D. Hearing Notices.

1. Notice to Set. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by electronic mail or by first-class mail to the last mailing address of record if an electronic mail address is unknown.

2. Notice of Hearing. The Hearings Division shall notify the Division and Denied Applicant or Respondent of the date, place, time, and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.

   a. If an Order of Summary Suspension has issued, the hearing on the Order to Show Cause will be scheduled and held promptly.

   b. Continuances may be granted for good cause, as described in this Rule, shown. A motion for a continuance must be timely.

   c. "Good cause" for a continuance ~~For purposes of this Rule, good cause~~ may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. Prehearing Matters Generally.

1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the hearing officer upon request of any party, or upon the Hearing Officer's own motion. If a prehearing conference is held and a prehearing order is issued by the Hearing Officer, the prehearing order will control the course of the proceedings. Such prehearing conferences may occur by telephone.

2. Depositions. Depositions are generally not allowed; however, a hearing officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a hearing officer grants a motion for a deposition, C.R.C.P. 30 controls. Hearings will not be continued because a deposition is allowed unless (a) both parties stipulate to a continuance and the hearing officer grants the continuance, or (b) the hearing officer grants a continuance over the objection of any party in accordance with subsections (D)(2)(b) and (c) of this Rule.

3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the hearing officer, each party shall file with the hearing officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the Hearing Officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:

   a. Witnesses. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.

   b. Experts. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.

   c. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Denied Applicant or Respondent using letters.

   d. Stipulations. A list of all stipulations of fact or law reached, as well as a list of any additional stipulations requested or offered to facilitate disposition of the case.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.

5. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the hearing officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.

F. Conduct of Hearings.

1. The hearing officer shall cause all hearings to be electronically recorded.

2. The hearing officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to be offered into evidence at the hearing to the hearing officer when the prehearing statement is filed. Electronic filings will be accepted at: dor_regulatoryhearings@state.co.us.

3. The hearing officer shall administer oaths to all witnesses at hearing. The hearing officer may question any witness.

4. The hearing, including testimony and exhibits, shall be open to the public unless otherwise ordered by the hearing officer in accordance with a specific provision of law.

   a. Reports and other information that would otherwise be confidential pursuant to subsection 44-10-204(1)(a), C.R.S., may be introduced as exhibits at hearing.

   b. Any party may move the hearing officer to seal an exhibit or order other appropriate relief if necessary to safeguard the confidentiality of evidence.

5. Court Rules.

   a. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word "court," "judge," or "jury" appears in the Colorado Rules of Evidence, such word shall be construed to mean a Hearing Officer. A hearing officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.

   b. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word "court" appears in a rule of civil procedure, that word shall be construed to mean a Hearing Officer.

6. Exhibits.

   a. All documentary exhibits must be paginated by the party offering the exhibit into evidence.

   b. The Division shall use numbers to mark its exhibits.

   c. The Denied Applicant or Respondent shall use letters to mark its exhibits.

7. The hearing officer may proceed with the hearing or enter default judgment if any party fails to appear at hearing after proper notice.

G. Post Hearing. After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an Initial Decision subject to review by the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule 8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision.

H. No Ex Parte Communication. Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the State Licensing Authority, or with conflicts counsel representing the hearing officer or State Licensing Authority, pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the State Licensing Authority in connection with a hearing or with the exceptions process.

I. Marijuana Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.

Basis and Purpose – 8-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(kj), 44-10-203(2)(a), 24-4-105, and 44-10-901, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process. This Rule 8-225 was previously Rules M and R 1305, 1 CCR 212-1 and 1 CCR 212-2.

8-225 – Administrative Subpoenas

A. Informal Exchange of Documents Encouraged. Parties are encouraged to exchange documents relevant to the Notice of Denial or Order to Show Cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to secure the voluntary presence of witnesses necessary for the hearing prior to requesting subpoenas.

B. Hearing Officer May Issue Subpoenas.

1. A party or its counsel may request the hearing officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.

2. Requests for subpoenas to be issued by the hearing officer must be emailed to the Hearings Division at ~~delivered in person or by mail to the office of~~ the Department of Revenue at dor_regulatoryhearings@state.co.us ~~– Hearings Division, 1881 Pierce St. #106, Lakewood, CO 80214~~. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.

3. Requests for subpoenas to be issued by the hearing officer must be made on a "Request for Subpoena" form authorized and provided by the Hearings Division. A hearing officer shall not issue a subpoena unless the request contains the following information:

a. Name of Denied Applicant or Respondent;

b. License or application number;

c. Case number;

d. Date of hearing;

e. Location of hearing, or telephone number for telephone check-in;

f. Time of hearing;

g. Name of witness to be subpoenaed; and

h. Mailing address of witness (home or business).

4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.

5. Requests for subpoenas shall be signed by the requesting party or its counsel.

6. The hearing officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing hearing officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

C. Service of Subpoenas.

1. Service of any subpoena is the duty of the party requesting the subpoena.

2. All subpoenas must be served at least two business days prior to the hearing.

D. Subpoena Enforcement.

1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the Hearing Officer.

2. A hearing officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Basis and Purpose – 8-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(kj), 44-10-203(2)(a), 44-10-701, 44-10-901, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how parties may appeal a hearing officer's Initial Decision pursuant to the Administrative Procedure Act. This Rule 8-230 was previously Rules M and R 1306, 1 CCR 212-1 and 1 CCR 212-2.

8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision

A. Exception(s) Process. Any party may appeal an Initial Decision to the State Licensing Authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the Initial Decision to the Denied Applicant or Respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these rules shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties. The address of the State Licensing Authority is: State Licensing Authority, 1707 Cole Boulevard, Suite 350, Lakewood, CO 80401~~1375 Sherman Street, 4th Floor, Denver, CO 80203~~.

B. Designation of Record. Any party that seeks to reverse or modify the Initial Decision of the hearing officer shall file with the State Licensing Authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.

C. Deadline Modifications. The State Licensing Authority may modify deadlines and procedures related to the filing of exceptions to the Initial Decision upon motion by either party for good cause shown.

D. No Oral Argument Allowed. Requests for oral argument will not be considered.

Basis and Purpose – 8-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(kj), 44-10-203(2)(l), 44-10-701, and 44-10-901(3)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IX). The purpose of this rule is to establish guidelines for enforcement and penalties that will be imposed by the State Licensing Authority for non-compliance with Marijuana Code, section 18-18-406.3(7), or any other applicable rule. The State Licensing Authority may pursue a violation in any of the categories described in this Rule and is not required to prove harm from any of the alleged violation types. This Rule 8-235 was previously Rules M and R 1307, 1 CCR 212-1 and 1 CCR 212-2.

8-235 – Penalties

A. Penalty Schedule. The State Licensing Authority will make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:

1. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, Retail Marijuana sales to persons under the age of 21 years, Medical Marijuana sales to non-patients, consuming marijuana on the Licensed Premises, Regulated Marijuana sales in excess of the relevant sales limitations, permitting the diversion of Regulated Marijuana outside the regulated distribution system, possessing marijuana obtained from outside the regulated distribution system or from an unauthorized source, making misstatements or omissions in the Inventory Tracking System failure to report any transfer required by section 44-10-313(11), knowingly adulterating or altering or attempting to adulterate or alter any Samples of Regulated Marijuana, violations related to co-located Medical Marijuana Businesses and Retail Marijuana Businesses, violations related to R&D Co-Location Permits, failure to maintain books and records to fully account for all transactions of the business, failure to cooperate with Division investigators during the course of a Division investigation, failure to comply with any requirement related to the Transfer of Sampling Units, utilizing advertising material that is misleading, deceptive, or false, advertising violations directly targeting minors, or packaging or labeling violations that directly impact patient or consumer safety. Violations of this nature generally have an immediate or potential negative impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to $100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

2. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate or potential negative impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, advertising and/or marketing violations, packaging or labeling violations that do not directly impact patient or consumer safety, failing to continuously escort a visitor in a Limited Access Area, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and records, or minor or clerical errors in the Inventory Tracking System. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to $50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

3. License Infractions. This category of violation is the least severe and may include, but is not limited to, failure to display required Identification Badges, visitor badges, unauthorized modifications of the Licensed Premises of a minor nature, or failure to notify the State Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include license suspension, a fine per individual violation,

and/or a fine in lieu of suspension of up to $10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

B. Other Factors

1. The State Licensing Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.

2. The penalty structure is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis.

3. For all administrative offenses involving a proposed suspension, a Licensee may petition the State Licensing Authority for permission to pay a monetary fine, within the provisions of section 44-10-901, C.R.S., in lieu of having its license suspended for all or part of the suspension.

C. Mitigating and Aggravating Factors. The State Licensing Authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Any prior violations that the Licensee has admitted to or was found to have engaged in.

2. Good faith measures by the Licensee to prevent the violation, including the following:

   a. Proper supervision;

   b. Regularly-provided and documented employee training, provided the Licensee demonstrates all reasonable training measures were delivered prior to the Division's investigation;

   c. Standard operating procedures established prior to the Division's investigation, and which include procedures directly addressing the conduct for which imposition of a penalty is being considered; and

   d. Previously established and maintained responsible-vendor designation pursuant to the 3-500 Series Rules.

3. Licensee's past history of success or failure with compliance checks.

4. Corrective action(s) taken by the Licensee related to the current violation or prior violations.

5. Willfulness and deliberateness of the violation.

6. Likelihood of reoccurrence of the violation.

7. Circumstances surrounding the violation, which may include, but are not limited to:

   a. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.

   b. The dress or appearance of an underage operative used during an underage compliance check (*e.g.*, the operative was wearing a high school letter jacket).

c. Licensee self-reported violation(s) of the Marijuana Code or rules promulgated pursuant to the Marijuana Code.

8. Owner or management personnel is the violator or has directed an employee or other individual to violate the law.

Basis and Purpose – 8-240

The statutory authority for this rule includes but is not limited to sections 44-10-201(3), 44-10-201(4), 44-10-202(1)(c), 44-10-203(1)(~~k~~l), 44-10-203(2)(l), 44-10-203(2)(m), 44-10-203(1)(e), and 44-10-204(1)(a), C.R.S. The purpose of this rule is to assure Licensees do not use unauthorized confidential information at any time and do not engage the services of former State Licensing Authority or Division employees with regulatory oversight responsibilities for licensed marijuana businesses for the first 6 months following State Licensing Authority or Division employment. This Rule 8-240 was previously Rules M and R 1308, 1 CCR 212-1 and 1 CCR 212-2.

8-240 – Confidential Information and Former State Licensing Authority Employees

A. Misdemeanor if Disclosed. Disclosure of confidential records or information in violation of the Marijuana Code constitutes a class 1 misdemeanor pursuant to subsection 44-10-201(4), C.R.S.

1. Licensees, and employees or agents of Licensees, shall not obtain or utilize confidential information the Licensee, employee or agent is not lawfully entitled to possess and acquire through use or misuse of Division processes or Division-approved systems. For confidentiality requirements of State Licensing Authority and Division employees, *see* Rule 8-105 – Duties of Employees of the State Licensing Authority.

2. Any Licensee, and any employee or agent of a Licensee, who is authorized to access the Division's Inventory Tracking System and/or have access to confidential information derived from Division sources, shall utilize the confidential information only for a purpose authorized by the Division or these Rules.

3. All Licensees, and all employees and agents of Licensees, shall not use the Inventory Tracking System for any purpose other than tracking the Licensee's Regulated Marijuana and Regulated Marijuana Product.

B. Six-Month Prohibition from Working with Former State Licensing Authority Employees. State Licensing Authority or Division employees with regulatory oversight responsibilities for Regulated Marijuana Businesses are prohibited from working for, representing, or providing consulting services to or otherwise deriving pecuniary gain from a Licensee for a period of six months following his or her last day of employment with the State Licensing Authority or Division.

1. Any Licensee who utilizes, employs, consults, seeks advice from, or contracts with a former employee of the State Licensing Authority or the Division prior to the conclusion of the six-month period shall be in violation of the Marijuana Code.

2. Any Licensee who possesses, utilizes, or re-discloses confidential information obtained from a former State Licensing Authority or Division employee at any time shall be in violation of the Marijuana Code.

NOTICE OF RULEMAKING HEARING

The State Licensing Authority ("State Licensing Authority") of the Colorado Department of Revenue, Marijuana Enforcement Division ("Division"), will consider the promulgation of additions and amendments to the State Licensing Authority's Rules, as authorized by Article XVIII, Section 16 of the Colorado Constitution and the Colorado Marijuana Code, sections 44-10-101 *et seq.*, C.R.S. ("Marijuana Code"). For specific information regarding the proposed changes and new rules, please refer to the contents of this Notice and to the initial proposed rules which are also available on the Division's website.

STATUTORY AUTHORITY FOR RULEMAKING

The State Licensing Authority promulgates these rules pursuant to the authority granted in the Colorado Marijuana Code, 44-10-101, C.R.S., *et seq.*, Article XVIII, Section 16 of the Colorado Constitution, and section 24-4-103, C.R.S., of the Administrative Procedure Act.

SUBJECT OF RULEMAKING

Pursuant to subsection 24-4-103(2), C.R.S., the Division initiated seven (7) public meetings of representative groups of participants with an interest in the subject of the rulemaking ("stakeholder meetings"), which began **August 3, 2021** and concluded **September 15, 2021**. More information related to these meetings can be found on the Division's website. Each stakeholder meeting was noticed on the Division's website and the Division sent notification of each meeting to licensees and other stakeholders subscribed to receive updates from the Division. In each notice, stakeholders were given the opportunity to submit an application to participate on the work group panel for any of the stakeholder meetings. The stakeholder meetings may relate to any of the proposed rule changes. The written and recorded materials from each stakeholder meeting is available on the Division's website and will also be included in the rulemaking record. Initial proposed rules were prepared in conjunction with the stakeholder meetings and are, or will be, available on the Division's website.

The Division will retain a record of the initial proposed rules as part of the rulemaking record. The initial proposed rules available on the Division's website are intended to provide interested persons with the initial proposed drafts of the permanent rules. The Division anticipates the initial proposed rules will be amended during the stakeholder engagement process, based on written comments and any supporting documentation submitted by the public, and based on the Division's internal review. Additional or new rules may also be added.

The Division intends to recommend to the State Licensing Authority for his consideration the promulgation of new and amended rules on the subjects outlined below. This list includes implementing legislation passed during the 2021 legislative session (allowing changes in designation of Retail Marijuana to Medical Marijuana, establishing requirements and restrictions for regulated marijuana for purposes of safe consumption, allowing contingency plans for adverse

weather events, providing for conditional employee licenses, and making non-substantive edits to defined terms); stakeholder recommendations from the Science & Policy Work Group (a stakeholder forum established in 2018 by the Division in collaboration with the Colorado Department of Public Health and Environment); revising and clarifying prior rules; and addressing any other subject matter necessary to implement, interpret, and effectively administer and enforce the Colorado Marijuana Code. **This list is not exhaustive, and the State Licensing Authority may consider any additional rule or amendment to any rule.**

Please take note that in addition to the subject matters addressed in the initial proposed rules, the State Licensing Authority will consider additional rules consistent with any subject matter needed to implement and interpret the Colorado Marijuana Code, and Article XVIII, Sections 14 and 16 of the Colorado Constitution. The rulemaking hearing will include, but will not be limited to, presentations on proposed rules to implement legislative changes adopted during the 2021 legislative session.

The initial proposed rules will be published on the Division's website on September 30, 2021. Other relevant information regarding this rulemaking also will be posted on the Division's website.

RULES TO BE REPEALED

5-325 (H) – Medical Marijuana Products Manufacturer: Audited Product and Alternative Use Product

RULES TO BE CONSIDERED FOR ADOPTION PURSUANT TO THE MARIJUANA CODE

The Marijuana Rules at 1 CCR 212-3 will include new and amended rules to implement legislative changes resulting from 2021 legislation, including House Bill 21-1178, House Bill 21-1216, House Bill 21-1301, and House Bill 21-1317, and amendments related to existing rules. These rules will address the following subjects:

Part 1 – GENERAL APPLICABILITY

Rule 1-115 - Definitions

1-130 – Subpoena Fees

Part 2 – APPLICATIONS AND LICENSES

Rule 2-205 – Fees

2-210 – Duties of All Applicants and Licensees

2-220 – Initial Application Requirements for Regulated Marijuana Businesses

2-225 – Renewal Application Requirements for All Licensees

2-235 – Suitability

2-245 – Change of Controlling Beneficial Owner Application or Notification

2-255 – Change of Location of a Regulated Marijuana Business

2-260 – Changing, Altering, or Modifying Licensed Premises

2-265 – Owner and Employee License: License Requirements, Applications, Qualifications, and Privileges

Part 3 – REGULATED MARIJUANA BUSINESS OPERATIONS

3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation

3-220 - Security Alarm Systems and Lock Standards

3-230 – Waste Disposal

3-330 – Cultivation of Regulated Marijuana: Specific Health and Safety Requirements

3-335 – Production of Regulated Marijuana Concentrate and Regulated Marijuana Products: Specific Health and Safety Requirements

3-336 – Recall of Regulated Marijuana

3-405 – Identification

3-605 – Transport: All Regulated Marijuana Businesses

3-610 – Off Premises Storage of Regulated Marijuana: All Regulated Marijuana Businesses

3-615 – Regulated Marijuana Delivery Permits

3-705 – Advertising General Requirements

3-715 – Use of Branding

3-720 – Advertising: All Media

3-740 – Signage and Advertising: No Content That Targets Minors

3-805 – Regulated Marijuana Businesses: Inventory Tracking System

3-905 – Business Records Required

3-1005 - Packaging and Labeling: Minimum Requirements Prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility

3-1010 – Packaging and Labeling: General Requirements Prior to Transfer to a Patient or Consumer

3-1015 – Additional Labeling Requirements Prior to Transfer to a Patient or Consumer

3-1020 – Packaging and Labeling: Requirements for Transfers to a Consumer at a Retail Marijuana Hospitality and Sales Business

3-1025 – Packaging and Labeling: Minimum Requirements for Test Batch Transfers to a Regulated Marijuana Testing Facility

Part 4 – REGULATED MARIJUANA TESTING PROGRAM

4-105 – Regulated Marijuana Testing Program: Mandatory Testing

4-110 – Regulated Marijuana Testing Program: Sampling Procedures

4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program

4-120 – Regulated Marijuana Testing Program: Contaminant Testing

4-125 – Regulated Marijuana Testing Program: Potency Testing

4-135 – Regulated Marijuana Testing Program: Contaminated Product and Failed Test Results and Procedures

Part 5 – MEDICAL MARIJUANA BUSINESS LICENSE TYPES

5-110 – Registration of a Primary Medical Marijuana Store

5-115 – Medical Marijuana Sales: General Limitations or Prohibited Acts

5-125 – Patient Sale Requirements (new rule)

5-205 – Medical Marijuana Cultivation Facility: License Privileges

5-210 – Medical Marijuana Cultivation Facility: General Limitations or Prohibited Acts

5-220 – Medical Marijuana Cultivation Facility: Medical Marijuana Concentrate Production

5-225 – Medical Marijuana Cultivation Facility: Production Management

5-230 – Medical Marijuana Cultivation Facility: Sampling Unit Protocols

5-235 – Medical Marijuana Cultivation Facility: Ability to Change Designation from Retail Marijuana to Medical Marijuana (new rule)

5-240 – Medical Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation (new rule)

5-305 – Medical Marijuana Products Manufacturer: License Privileges

5-310 – Medical Marijuana Products Manufacturer: General Limitations or Prohibited Acts

5-315 – Medical Marijuana Products Manufacturer: Medical Marijuana Concentrate Production.

5-320 – Medical Marijuana Products Manufacturer: Sampling Unit Protocols

5-325 – Medical Marijuana Products Manufacturer: Audited Product and Alternative Use Product

5-335 – Medical Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate. (new rule)

5-415 – Medical Marijuana Testing Facilities: Certification Requirements

5-510 – Medical Marijuana Transporter: General Limitations or Prohibited Acts

5-705 – Marijuana Research and Development Facilities: License Privileges

5-715 – Marijuana Research and Development Facility: Project Approval

5-730 – Marijuana Research and Development Facility: Production Management and Possession Limits

Part 6 – RETAIL MARIJUANA BUSINESS LICENSE TYPES

6-105 – Retail Marijuana Store: License Privileges

6-110 – Retail Marijuana Sales: General Limitations or Prohibited Acts

6-205 – Retail Marijuana Cultivation Facility: License Privileges

6-210 – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

6-215 – Retail Marijuana Cultivation Facilities: Retail Marijuana Concentrate Production

6-220 – Retail Marijuana Cultivation Facility: Production Management

6-225 – Retail Marijuana Cultivation Facility: Sampling Unit Protocols

6-230 – Retail Marijuana Cultivation Facility: Ability to Change Designation from Retail Marijuana to Medical Marijuana (new rule)

6-235 Retail Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation (new rule)

6-305 – Retail Marijuana Products Manufacturer: License Privileges

6-310 – Retail Marijuana Products Manufacturer: General Limitations or Prohibited Acts

6-315 – Retail Marijuana Products Manufacturer: Retail Marijuana Concentrate Production.

6-320 – Retail Marijuana Products Manufacturer: Sampling Unit Protocols

6-325 – Retail Marijuana Products Manufacturing Facility: Audited Product and Alternative Use Product

6-335 – Retail Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate. (new rule)

6-410 – Retail Marijuana Testing Facilities: General Limitations or Prohibited Acts

6-415 – Retail Marijuana Testing Facilities: Certification Requirements

6-610 – Retail Marijuana Business Operators: General Limitations or Prohibited Acts

6-705 – Accelerator Cultivator: License Privileges

6-710 - Accelerator Cultivator: General Limitations or Prohibited Acts

6-715 – Accelerator Cultivator: Retail Marijuana Concentrate Production

6-725 – Accelerator Cultivator - Sampling Unit Protocols

6-730 – Accelerator Cultivator: Ability to Change Designation from Retail Marijuana to Medical Marijuana (new rule)

6-735 Accelerator Cultivation: Contingency Plan for Outdoor Cultivation (new rule)

6-805 – Accelerator Manufacturer: License Privileges

6-810 – Accelerator Manufacturer: General Limitations or Prohibited Acts

6-815 – Accelerator Manufacturer: Retail Marijuana Concentrate Production

6-820 – Accelerator Manufacturer: Sampling Unit Protocols

6-825 – Accelerator Manufacturer: Audited Product and Alternative Use Product

6-830 – Accelerator Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate. (new rule)

6-925 – Retail Marijuana Hospitality and Sales Businesses: Additional License Privileges and Restrictions

6-930 – Retail Marijuana Hospitality and Sales Businesses: General Limitations and Prohibited Acts

6-1105 – Accelerator Store: License Privileges

6-1110 – Accelerator Store: General Limitations or Prohibited Acts

Part 8 – ENFORCEMENT AND DISCIPLINE

8-105 – Duties of Employees of the State Licensing Authority

8-215 – Suspension Process: Regular and Summary Suspensions

8-220 – Administrative Hearings

8-225 – Administrative Subpoenas

8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision

STATEMENTS OF BASIS AND PURPOSE - For the Marijuana Rules at 1 CCR 212-3, including but not limited to the following:

Part 2 - 2-205, 2-210, 2-215, 2-220, 2-230, 2-245, 2-255, 2-260, 2-270, 2-275, 2-285;

Part 3 - 3-105, 3-110, 3-115, 3-205, 3-215, 3-220, 3-225, 3-230, 3-235, 3-240, 3-245, 3-305, 3-310, 3-315, 3-320, 3-325, 3-330, 3-335, 3-336, 3-340, 3-405, 3-505, 3-510, 3-515, 3-520, 3-605, 3-610, 3-615, 3-710, 3-715, 3-720, 3-725, 3-735, 3-740, 3-745, 3-750, 3-755, 3-805, 3-815, 3-905, 3-910, 3-915, 3-920, 3-925, 3-1005, 3-1010, 3-1025;

Part 4 - 4-105, 4-110, 4-115, 4-120, 4-125, 4-130, 4-135;

Part 5 - 5-105, 5-110, 5-115, 5-120, 5-125, 5-210, 5-215, 5-220, 5-225, 5-230, 5-235, 5-240, 5-305, 5-310, 5-315, 5-320, 5-325, 5-335, 5-405, 5-410, 5-415, 5-420, 5-455, 5-505, 5-510, 5-605, 5-610, 5-615, 5-620, 5-705, 5-710, 5-715, 5-720, 5-725, 5-730;

Part 6 - 6-105, 6-110, 6-115, 6-205, 6-210, 6-215, 6-220, 6-225, 6-230, 6-235, 6-310, 6-315, 6-320, 6-325, 6-335, 6-405, 6-410, 6-415, 6-420, 6-425, 6-430, 6-435, 6-440, 6-445, 6-450, 6-455, 6-505, 6-510, 6-605, 6-610, 6-615, 6-620, 6-705, 6-710, 6-715, 6-720, 6-725, 6-730, 6-735, 6-810, 6-815, 6-820, 6-825, 6-830, 6-1105, 6-1110, 6-1115;

Part 7 - 7-115;

Part 8 - 8-105, 8-110, 8-115, 8-120, 8-125, 8-205, 8-210, 8-215, 8-220, 8-225, 8-230, 8-235, 8-240.

Any other rules necessary to implement the Marijuana Code may be adopted.

RULEMAKING RECORD AND PUBLIC PARTICIPATION

1. Official Rulemaking Record. The official record for purposes of the rulemaking hearing to be held on **November 1, 2021** will include the written and recorded materials from the stakeholder meetings and any written comments or oral testimony submitted or presented.

2. Written Comments. The Division and State Licensing Authority encourage interested parties to submit written comments on the proposed rules, including alternate proposals, by **October 19, 2021,** which will allow the Division and State Licensing Authority to review comments prior to the rulemaking hearing. However, written comments will also be accepted after that date. **The deadline to submit written comments is 5:00 P.M. on November 1, 2021**.

   The State Licensing Authority will accept all written comments, but strongly encourages written comments to be submitted on the Marijuana Enforcement Division Suggested Revision to Rules Form. The State Licensing Authority strongly encourages that all rule comments be submitted electronically, however, completed written comments may also be submitted to:

   Marijuana Enforcement Division
   Re: Rules
   1697 Cole Boulevard, Ste. 200
   Lakewood, CO 80401

3. Oral Comments. The State Licensing Authority may afford interested parties an opportunity to make brief oral presentations at the rulemaking hearing. Oral presentations will likely be limited to three minutes or less per person.

HEARING SCHEDULE

Date: **Monday, November 1, 2021**

Time: **9:00 a.m. – 5:00 p.m.**
*Please note proceedings may conclude prior to 5 p.m.

Place: **Virtual Zoom Meeting**
https://us02web.zoom.us/j/89755102232?pwd=dGgrL3ZjbFFjcysvVGxlWlQybTFBQT09

Meeting ID: 897 5510 2232
Passcode: h6g6db

Additional information regarding the rule hearing will be published on the Division's website. The hearing may be continued at such place and time as the State Licensing Authority may announce. The State Licensing Authority will deliberate upon the rulemaking record including oral testimony and written submissions presented as well as applicable law. The State Licensing Authority will adopt such rules as in his judgment are justified by the rulemaking record and applicable law.

If you are an individual with a disability who needs a reasonable accommodation in order to participate in this rulemaking hearing, please contact Danielle Henry at Danielle.Henry@state.co.us or (303) 866-2779.

Dated this 30th day of September, 2021.

THE COLORADO DEPARTMENT OF REVENUE,
STATE LICENSING AUTHORITY,
MARIJUANA ENFORCEMENT DIVISION

Mark Ferrandino

Digitally signed by Mark Ferrandino
Date: 2021.09.30 19:46:48 -06'00'

Mark Ferrandino, Executive Director/CEO
State Licensing Authority
Colorado Department of Revenue

Notice of Proposed Rulemaking

Tracking number

2021-00611

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-37

Rule title

RULES FOR THE ADMINISTRATION OF THE EDUCATOR LICENSING ACT OF 1991

Rulemaking Hearing

Date

11/10/2021

Time

09:00 AM

Location

201 E. Colfax, State Board Room or Webinar

Subjects and issues involved

The educator licensing rules have been amended to include updates pursuant to statutory changes by the 2021 legislative session, and include amendments to behavioral health coursework, foundational reading skills, extension of professional licenses, addition of educator enforcement criteria in which a license can be denied, suspended or revoked due to convictions of other territories, lawful presence, and applicant identity, educator preparation approvals, and adjunct authorizations. This ruleset also establishes the alternative principal preparation program standards per legislation, and includes technical revisions.

Statutory authority

The statutory basis for these rules is found in section 22-60.5-101, et seq, C.R.S., the Colorado Educator Licensing Act of 1991, and section 22-2-109(1)

Contact information

Name

Angela Maramba

Title

Director of State Board Relations

Telephone

4148013777

Email

Maramba_A@cde.state.co.us

DEPARTMENT OF EDUCATION

Colorado State Board of Education

COLORADO EDUCATOR LICENSING ACT OF 1991

1 CCR 301-37

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

1.00 Statement of Basis and Purpose

The statutory basis for these rules is found in section 22-60.5-101, et seq, C.R.S., the Colorado Educator Licensing Act of 1991, and section 22-2-109(1), State board of education – additional duties. These rules establish the standards and criteria for the issuance of licenses and authorizations to teachers, special services providers, principals, and administrators. The Act calls for the State Board of Education to adopt rules for a three-tiered system of licensure for education personnel which includes an initial license for entry-level educators, a professional license for experienced educators, and a voluntary master certificate for outstanding educators.

These rules also provide for the issuance of special authorizations to educators as necessary to meet the needs of Colorado schools and students. Standards and processes for the approval of educator preparation programs through institutions of higher education and other designated agencies are provided. Criteria for the renewal of licenses and authorizations, which provide for significant involvement of practicing educators, are established. Standards for endorsement in subject areas or other areas of educational specialization are prescribed.

These rules provide a process for the recognition of educator preparation programs in other states to facilitate the movement of educators among states. The rules establish the requirements for induction programs to assist new educators through support, supervision, ongoing professional development and evaluation.

The rules establish the standards and processes by which licenses may be denied, suspended, annulled or revoked for conviction of certain criminal offenses, unethical behavior, professional incompetence, and other reasons enumerated by statute. Other miscellaneous provisions are included to meet the requirements of the Act.

2.00 General Licensing Regulations

The Colorado Department of Education has the sole authority to issue educator licenses and authorizations. Pursuant to sections 22-63-201 and 22-32-126, C.R.S., a Colorado license or authorization is required for employment as a teacher, special services provider, or principal in a Colorado school or school district. All licenses and authorizations must be endorsed to indicate the grade levels/developmental levels and specialization area(s) which are appropriate to the applicant's preparation, training, and experience.

2.01 Definitions

2.01(1) Accepted institution of higher education: An institution of higher education that offers at least the standard bachelor's degree and is recognized by one of the following regional associations: Western Association of Schools and Colleges; Northwest Commission on Colleges and Universities; Higher Learning Commission; New England Commission of Higher Education; Southern Association of Colleges and Schools; or Middle States Commission on Higher Education.

2.01(2) Administrator: Any person who may or may not be licensed, but who administers, directs or supervises an education instructional or education-related program, or a portion thereof, in any school or school district, or nonpublic school in the state and who is not the chief executive officer or an assistant chief executive officer of such school.

2.01(3) Alternative principal: Any person employed as the chief executive officer or an assistant chief executive officer of any school in the state to administer, direct or supervise the education instruction program in such school or nonpublic school under a principal authorization and is actively participating in an alternative principal program or an individualized alternative principal program.

2.01(4) Alternative principal program: a program of study provided by a designated agency, as described in section 22-60.5-305.5(6), C.R.S., for principal preparation designed to provide the information, experience, and training to enable participants to develop the skills and obtain experience and training comparable to that possessed by a person who qualifies for an initial principal license.

2.01(5) Alternative teacher contract: A one- or two-year contract, as described in section 22-60.5-207 C.R.S., entered into by a holder of an alternative teacher license pursuant to section 22-60.5-201(1)(a), C.R.S., and a school district, board of cooperative services, or charter school that provides or participates in, a one-year or two-year alternative teacher program.

2.01(6) Alternative teacher program: A one- or two-year program of study and training for teacher preparation for a person of demonstrated knowledge and ability who holds an alternative teacher license, which meets the standards of and has been approved by the State Board of Education, and that upon completion leads to a recommendation for initial licensure by the designated agency providing the program.

2.01(7) Alternative teacher support team: A team established by the designated agency for each holder of an alternative teacher license employed as an alternative teacher. At a minimum, each alternative teacher support team must be composed of the alternative teacher's mentor, the building principal and a representative of the approved designated agency.8) Alternative teacher: Any person employed to instruct students in any public or nonpublic school in the state under an alternative teacher license and actively participating in an alternative teacher program.

2.01(9) Approved content tests: assessments approved by the State Board of Education for the purpose of evaluating the required subject matter knowledge and skills for a license, authorization, and/or endorsement.

2.01(10) Approved induction program: A program of continuing professional development for initial license-holders that meets the requirements of and is approved by the State Board of Education, and that upon completion leads to a recommendation for a professional license by the school district or districts, charter school, nonpublic school, or the institute providing such induction program.

2.01(11) Approved program of preparation: A program of study for the preparation of educators that meets the requirements of the State Board of Education as outlined in 1 CCR 301-37 and 1 CCR 301-

101 for public and private institutions, is approved by Colorado Commission on Higher Education, and that, upon completion, leads to a recommendation for licensure by an accepted institution of higher education.

2.01(12) Board of Cooperative Services (BOCES): A regional educational service unit designed to provide supporting, instructional, administrative, facility, community or any other services contracted by participating members.

2.01(13) Board of education: The governing body authorized by law to administer the affairs of any school district in the state except junior and community college districts. “Board of education” also includes a BOCES organized pursuant to section 22-5-101, C.R.S.2.01(14) Charter school: A school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22 or a school authorized by the state charter school institute pursuant to Part 5 of Article 30.5 of Title 22.

2.01(15) Colorado Academic Standards: The state academic standards that identify the knowledge and skills that a student should acquire as the student progresses from preschool through elementary and secondary education, as adopted by the State Board of Education in 2020 pursuant to section 22-7-1005, C.R.S. The Colorado Academic Standards herein incorporated by reference in these rules were adopted by the State Board of Education and are available at www.cde.state.co.us. Later amendments to the Colorado Academic Standards are not incorporated. The Department maintains a copy of the standards readily available for public inspection at 201 East Colfax Avenue, Denver, Colorado, during regular business hours.

2.01(16) Colorado Teacher of the Year: The Colorado teacher selected as Teacher of the Year in the state program administered by the Department and coordinated through the national teacher of the year program.

2.01(17) Critical teacher shortage: A grade level or content area in which a local education provider (LEP) determines there is a severe need and impact on students and in which an LEP has been unable to place an appropriately licensed teacher in the vacant position(s) despite reasonable attempts to fill the position.

2.01(18) Department of Education or Department: The Colorado State Department of Education (CDE) as defined in section 24-1-115, C.R.S.

2.01(19) Designated agency: A school district or districts, a BOCES, an accepted institution of higher education, a nonprofit organization, a charter school, nonpublic school, the institute, or any combination thereof, that is responsible for the organization, management and operation of an alternative teacher program or an alternative principal program.

2.01(20) Diversity: The backgrounds of all students and school personnel.

2.01(21) Endorsement: The designation on a license or an authorization of grade level(s) or developmental level(s), subject matter, or service specialization in accordance with the preparation, training and experience of the holder of such license or authorization. Endorsements typically reflect major areas of specialization.

2.01(22) Field-based experiences: Experiences conducted at a school site, school administration center, school clinic, or community agency. These experiences may include classroom observations; tutoring; assisting school principals, administrators, teachers or special services providers; participation in school- and community-wide activities; student teaching or internships.

2.01(23) Individualized alternative principal program: Created in collaboration between a school district, charter school, the institute, or nonpublic school and an individual identified as requiring principal preparation, it is a plan of preparation that aligns to the Principal Quality Standards in section

6.00 of these rules and comprises coursework, practicums, and other educational requirements the individual will complete while serving as a principal or assistant principal under a principal authorization in the collaborating school district, charter school, the institute or nonpublic school.

2.01(24) Institute: The state charter school institute created pursuant to section 22-30.5-503, C.R.S.

2.01(25) Licensure: The official recognition by a state governmental agency that an individual has met state-mandated minimum requirements and is approved to practice as a duly certified/licensed educator in the state.

2.01(26) Local education provider (LEP): A school district, a charter school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22, C.R.S., a charter school authorized by the State Charter School Institute pursuant to Part 5 of Article 30.5 of Title 22, C.R.S., or a BOCES created and operating pursuant to Article 5 of Title 22, C.R.S. that operates a public school.

2.01(27) Mentor administrator: Any administrator who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial administrator license-holders, who has demonstrated outstanding administrative skills and school leadership and who can provide exemplary modeling and counseling to initial administrator license-holders participating in an approved induction program.

2.01(28) Mentor principal: Any principal who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial principal license-holders, who has demonstrated outstanding principal skills and school leadership and who can provide exemplary modeling and counseling to initial principal license-holders participating in an approved induction program.

2.01(29) Mentor special services provider: Any special services provider who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial special services license-holders, who has demonstrated outstanding special services provider skills and school leadership and who can provide exemplary modeling and counseling to initial special services license-holders participating in an approved induction program.

2.01(30) Mentor Teacher:

2.01(30)(a) A teacher who holds a professional license designated by a school district, charter school, or nonpublic school employing an alternative teacher, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to alternative teachers participating in an alternative teacher program; or

2.01(30)(b) Any teacher who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial teacher license-holders, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to initial teacher license-holders participating in an approved induction program.

2.01(31) Nonpublic School: Any independent or parochial school that provides a basic academic education. Neither the State Board of Education nor any local school board has jurisdiction over the internal affairs of any independent or parochial school in Colorado.

2.01(32) Practicum: An intensive experience in which candidates practice and demonstrate professional skills and knowledge. Student teaching and internships are examples of a practicum.

2.01(33) Principal: Any person who is employed as the chief executive officer or an assistant chief executive officer of any school in the state and who administers, directs or supervises the education instruction program in such school or nonpublic school.

2.01(34) Qualified, licensed teacher: An individual who holds a valid Colorado teaching license in the grade level and subject endorsement area(s) in which that individual teaches or will teach.

2.01(35) Rural school district: A school district in Colorado that the Department determines is rural, based on the district's geographic size and its distance from the nearest large, urbanized area, with a total student enrollment of 6,500 students or fewer students.

2.01(36) School: Any of the public schools of the state.

2.01(37) School district: Any school district organized and existing pursuant to law, but not including junior or community college districts. "School district" includes a BOCES organized pursuant to 22-5-101, C.R.S.

2.01(38) Special services provider: Any person other than a teacher, principal or administrator who is employed by any school district, charter school, nonpublic school or the institute to provide professional services to students in direct support of the education instructional program.

2.01(39) Specialization area: The sequence of courses and experiences in the academic or professional area that the candidate plans to teach, for the grade level(s) or developmental level(s) at which the candidate plans to teach, and/or for the services that the candidate plans to provide. Examples of specialty areas include science (grades 7-12), elementary education (grades K-6), school counselor (ages birth-21), reading specialist (grades K-12) and physical education (grades K-12).

2.01(40) State Board of Education: The Colorado State Board of Education established by section 1 of Article IX of the Constitution of the State of Colorado.

2.01(41) Student teaching: Part of the field or clinical experience required in a teacher preparation program as identified in section 23-1-121(2)(d), C.R.S., that is an in-depth, direct teaching experience conducted in a school and classroom setting. It is considered a culminating field-based experience for the basic teacher preparation program where candidates practice and demonstrate professional skills and knowledge.

2.01(42) Teacher: Any person employed to instruct students in any public or nonpublic school in the state.

2.01(43) Teacher of record: A person licensed pursuant to section 22-60.5-201(1)(a.5), C.R.S.

2.02 Validity of certificates/license.

2.02(1) Certificates and letters of authorization issued by the Department prior to July 1, 1994, must remain valid for the period for which they were issued.

2.02(2) Endorsements placed on teacher or special services certificates prior to July 1, 1994, which were based on major areas of specialization or experience and academic credit, may be issued on subsequent teacher or special services license renewals provided all renewal requirements specified in section 7.00 of these rules have been met.

2.02(3) Certificates, licenses, and authorizations which have expired are not valid unless the applicant has a complete and active application on file with the Department before the expiration date identified on the applicant's current and active educator license, certificate, or authorization.

2.03 General Requirements for Colorado Licenses

2.03(1) Degree. Each applicant for a Colorado license must hold the appropriate academic degree for the license and/or endorsement sought from an accepted institution of higher education.

2.03(1)(a) It will be determined that an applicant "holds" or "has been awarded" the bachelor's or higher degree when the registrar of the accepted institution of higher education certifies that the applicant has met all institutional requirements for graduation with the degree, whether or not the degree has been conferred upon the applicant in formal ceremonies or otherwise conveyed to the individual.

2.03(1)(b) The Department and accepted institutions of higher education may recognize credits and degrees earned in foreign institutions of higher education if, after appropriate evaluation by an established credentials evaluation service as selected by the Department, there is evidence that such credits and degrees are the equivalent of those approved as fulfilling the specific license requirements.

2.03(2) Approved program of preparation. An initial license may be issued upon satisfactory completion of an approved program of preparation, an alternative teacher program, an alternative principal program, an individualized alternative principal program, or an out-of-state educator preparation program approved or authorized by a state other than Colorado as defined in section 2.03(3)(b) of these rules, and upon demonstration of required competencies as specified in these rules and in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements. Applicants who completed an approved program in a state other than Colorado must meet the requirements in section 2.03(3) of these rules.

2.03(3) Out-of-state applicants. An initial license may be issued to an applicant from another state or country whose qualifications meet or exceed the requirements of the State Board of Education and who has met the following requirements:

2.03(3)(a) has completed the appropriate degree, experiences, and educational level for the license and endorsement(s) requested as specified in these rules;

2.03(3)(b) has successfully completed an educator preparation program approved or authorized by a state other than Colorado, including a program at an accepted institution of higher education in the endorsement area sought or another educator preparation program, including an alternative teacher preparation program;

2.03(3)(c) has successfully completed field-based experience that meets or exceeds Colorado's field-based experience requirement as provided by section 23-1-121(2)(d), C.R.S.;

2.03(3)(d) holds a standard license issued by the state education agency of another state or country, is eligible to hold a standard license issued by the state education agency of the preparing state, or meets the official requirements of the legally designated licensing agency of the preparing state; and

2.03(3)(e) has provided evidence of satisfactory completion of the approved content tests appropriate to the license and endorsement requested.

2.03(4) An out-of-state applicant must meet the subject matter knowledge requirements for every endorsement sought by passage of the required approved content test for each endorsement or by providing evidence of completion of three or more years of successful full-time, fully licensed, evaluated, post-preparation experience in the endorsement area(s) sought within the previous

seven years as a teacher, special services provider, principal, or administrator in an established elementary or secondary school in another state or country.

2.03(4)(a) Applicants who satisfy the requirements of sections 2.03(3)(a)-(d) but not 2.03(3)(e) may be eligible for an interim authorization as provided in section 4.09 of these rules.

2.034)(b) Applicants who satisfy the requirements in sections 2.03(3)(a)-(d) but not 2.03(3)(e) and who provide evidence of completion of three or more years of successful full-time, fully licensed, evaluated post-preparation experience within the previous seven years as a teacher, special services provider, principal, or administrator in an established elementary or secondary school in another state or country, may be eligible for a Colorado professional license.

2.03(5) The State Board of Education may enter into interstate reciprocal agreements whereby the Department agrees to issue initial licenses to persons licensed in other states and such states agree to issue licenses to Colorado license-holders. Such agreements must not be inconsistent with section 2.03(3) of these rules.

2.03(6) Pursuant to section 22-60.5-201(3)(c), C.R.S., the state board may annually designate teacher shortage areas and modify the requirements in sections 4.00 and 5.00 of 1 CCR 301-101 for licensure and endorsement in such shortage areas for the purpose of issuing initial teacher licenses or interim authorizations as outlined in these rules to applicants.

2.03(7) Pursuant to section 22-60.5-201(3.5), C.R.S. the Department may issue professional teacher licenses to applicants who have earned and present certificates issued by the National Board for Professional Teaching Standards.

2.04 Application Procedures

2.04(1) Prior to submitting to the Department an application for a license, authorization, or endorsement, or for the renewal of a license or authorization, the applicant must submit to the Colorado Bureau of Investigation (CBI) a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or BOCES using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the CBI for the purpose of obtaining a criminal history record check, and any fingerprint processing fee(s).

2.04(1)(a) The applicant must give his or her social security number, if any, to the CBI and must indicate to the CBI that the criminal history is to be forwarded to the Department.

2.04(1)(a)(i) If an individual submits an application or renewal application after the expiration of a credential, the individual must submit a new, complete set of fingerprints to the CBI.

2.04(1)(a)(ii) If an applicant previously submitted a complete set of fingerprints to the CBI pursuant to section 22-2-119.3, C.R.S., the individual need not submit a new set of fingerprints unless: (1) he or she has not continuously resided in Colorado for more than one full year; (2) he or she submits an application or renewal application after the expiration of a credential from the Department; or (3) the individual has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to the educator's licensure or authorization.

2.04(2) An applicant must submit a complete application to the Department via its online system, which includes all required information and documentation as set forth in these rules, the application

form, and any other application instructions published by the Department on its website. Required information and documentation includes that which the applicant is responsible for submitting and any other information and documentation that may be required from other sources to support the application, including but not limited to the following:

2.04(2)(a) The applicant must provide official transcripts showing conferral of the degree required for the license and endorsement sought:

2.04(2)(a)(i) Each transcript must be authentic, original or photocopy, bearing the printed or embossed seal of the institution and the signature of the registrar, and include descriptive titles, course numbers, credits, and grades for each course listed and degrees conferred, if any. For the purpose of these rules, credits must be in semester hours. Quarter, trimester, unit or term credits will be converted to semester hours at the time of evaluation. Submission of an incomplete, unofficial, or illegible transcript may render an application incomplete.

2.04(2)(a)(ii) Transcripts from institutions of higher education outside the United States must be evaluated by an established credential evaluation service, selected by the Department, for course equivalence.

2.04(2)(a)(iii) Copies of official transcripts submitted with an application become part of the applicant's record with the Department and are not returnable.

2.04(2)(b) The applicant must provide an institutional recommendation from the educator preparation program, appropriate to the license sought and on the Department's program verification form, which at a minimum confirms: the date of completion of an educator preparation program; endorsement area(s) and grade level(s); completion of student teaching, clinical experience, or practicum; that the applicant holds or is eligible to hold a license in the preparing state or territory; and any additional information requested on the Department form.

2.04(2)(b)(i) The recommendation must certify that the applicant completed the educator preparation program in a satisfactory manner and is in good standing; and

2.04(2)(b)(ii) The recommendation must indicate the subject and level or grades of student teaching, the number of hours of field-based experience performed, and the area of recommended endorsement as defined in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements.

2.04(2)(b)(iii) An individual applying for an initial license or professional license for the first time who holds a valid license or certificate in another state and demonstrates three or more years of successful full-time, evaluated, fully licensed teaching experience (post completion of an educator preparation program) within the previous seven years may be exempt from the institutional recommendation requirement.

2.04(2)(c) The applicant must provide a copy of the official test score report(s) verifying completion of the approved content test(s) when a test or tests are required for a license or endorsement. Submission of a score report for the wrong test or wrong version of a test will render the application incomplete.

2.04(2)(d) Out-of-state applicants must include a copy of any and all educator credentials held (valid or expired) in other states or territories.

2.04(2)(e) The applicant must submit the following to verify their identity:

2.04(2)(e)(i) the applicant's name and mailing address; and

2.04(2)(e)(ii) applicant's social security number, or if unavailable, the individual taxpayer identification number, one of the following documents verifying the applicant's identity: a clear copy of one of the following forms of government-issued photo identification: a valid passport or passport card; a valid driver's license from any state; an identification card or document from any state; a United States military card or a military dependent's identification card; a United States Coast Guard Merchant Mariner card; or a Native American tribal document.

2.04(2)(f) The applicant must submit a complete and accurate response, including but not limited to every required disclosure, form, and supporting document, to every applicable section of the online application and attest that all information submitted is true and complete to the best of the applicant's knowledge.

2.04(3) The fee for the evaluation and review of an application is established by the State Board of Education and shall be nonrefundable.

2.04(4) In any application for licensure, the applicant must indicate all endorsements sought and pay the established fees for the requested endorsement(s) at the time of submission of the application. If an applicant fails to indicate an endorsement(s) sought in a license application and subsequently seeks an endorsement, the Department will not consider the endorsement request until the applicant submits a complete added endorsement application and all required fees.

2.04(5) An application is deemed complete when all required information, documentation, and fees are received by the Department. An application that fails to include required information, documentation, or fees will be deemed incomplete. Within 45 days of submission of an application, applicants will be notified if their application is incomplete. An applicant whose application is deemed incomplete may cure the deficiency or submit to the Department a written request for reconsideration which states the basis for reconsideration. An applicant who fails to cure the deficiency or request reconsideration within 60 days of notification will be deemed to have withdrawn the application and such withdrawal shall not be subject to appeal or review. The Department will issue a written determination to an applicant in response to any request for reconsideration within 30 days of its receipt of the request.

2.04(6) Applications that are initiated in the Department's online system but not submitted will be closed and deemed withdrawn 14 days after initiation. Such closed and withdrawn applications shall not be subject to appeal or review.

2.04(7) The Department will promptly act upon complete applications. The Department may require additional information and documentation from an applicant to determine compliance with applicable laws and rules, or to verify any information and documentation submitted.

3.00 Types of Licenses

3.01 Initial Teacher License

An initial teacher license is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.01(1) An initial teacher license may be issued to an applicant who:

3.01(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.01(1)(b) has completed an approved program of preparation at an accepted institution of higher education, including the field-based experience required by section 23-1-121(2)(d), C.R.S.;

3.01(1)(c) has provided an institutional recommendation which meets the requirements outlined in 2.04(2)(b), and:

3.01(1)(c)(i) verifies satisfactory completion of the approved program;

3.01(1)(c)(ii) specifies the grade/developmental level(s), endorsement area(s), or specialization(s) completed by the applicant;

3.01(1)(c)(iii) verifies successful completion of student teaching, internship, or practicum as specified in 2.01(41) of these rules; the grade/developmental level(s) and endorsement/specialization areas of the experience; and

3.01(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the subject matter to be taught and has the competencies essential for educational service.

3.01(1)(d) has submitted a complete application for a license as defined in section 2.04 of these rules; and

3.01(1)(e) has demonstrated subject matter knowledge necessary for teaching in the endorsement area:

3.01(1)(e)(i) for elementary education teachers (grades K-6), special education generalist teachers (ages 5-21), early childhood educators (ages birth- 8) and early childhood special education teachers (ages birth-8) by passage of the approved content tests.

3.01(1)(e)(ii) for secondary teachers (grades 7-12) and all other endorsement areas not identified in Rule 3.01(1)(e)(i), by:

3.01(1)(e)(ii)(A) an earned bachelor's or higher degree from an accepted institution of higher education in the endorsement area; or

3.01(1)(e)(ii)(B) passage of the approved content test(s) relevant to the area of endorsement; or

3.01(1)(e)(ii)(C) 24 semester hours of specific college/university coursework as demonstrated through transcript evaluation in the endorsement area.

3.01(2) An initial teacher license may be issued to an applicant who has completed an alternative teacher program and who:

3.01(2)(a) holds an alternative teacher license as prescribed in section 3.12 of these rules;

3.01(2)(b) has completed an alternative teacher program as defined in section 2.01(6) of these rules;

3.01(2)(c) has submitted a complete application for an initial license, as defined in section 2.04 of these rules;

3.01(2)(d) has provided an institutional recommendation from the approved designated agency and which meets the requirements outlined in 2.04(2)(b), and:

3.01(2)(d)(i) verifies satisfactory completion of the alternative teacher program;

3.01(2)(d)(ii) verifies employment as an alternative teacher as provided in sections 22-60.5-201 and 22-60.5-205, C.R.S., in the endorsement area sought; and

3.01(2)(d)(iii) certifies that the applicant has demonstrated thorough knowledge of the subject matter to be taught and has demonstrated the competencies essential for educational service.

3.01(2)(e) has demonstrated subject matter knowledge necessary for teaching in the endorsement area:

3.01(2)(e)(i) for elementary education teachers (grades K-6), special education generalist teachers (ages 5-21), early childhood educators (ages birth-8) and early childhood special education teachers (ages birth-8) by passage of the approved content tests.

3.01(2)(e)(ii) for secondary teachers (grades 7-12) and all other endorsement areas not identified in Rule 3.01(2)(e)(i), by:

3.01(2)(e)(ii)(A) holding an earned bachelor's or higher degree from an accepted institution of higher education in the endorsement area; or

3.01(2)(e)(ii)(B) passage of the approved content test relevant to the person's endorsement area; or

3.01(2)(e)(ii)(C) 24 semester hours of specific coursework as demonstrated through transcript evaluation in the endorsement area.

3.02 Initial Special Services License

An initial special services license is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.02(1) An initial special services license may be issued to an applicant who:

3.02(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.02(1)(b) has completed an approved special services preparation program at an accepted institution of higher education;

3.02(1)(c) has supplied an institutional recommendation which meets the requirements outlined in 2.04(2)(b), and:

3.02(1)(c)(i) verifies satisfactory completion of the approved program;

3.02(1)(c)(ii) specifies the area(s) of endorsement/specialization completed by the applicant;

3.02(1)(c)(iii) verifies successful completion of student teaching, internship or practicum in a school setting or other appropriate setting in the endorsement/specialization area sought for licensure; and

3.02(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the special service area and has the competencies essential for educational service.

3.02(1)(d) has submitted a complete application for a license as defined in section 2.04 of these rules; and

3.02(1)(e) holds a valid license or certificate in the respective discipline, where applicable, and meets the requirements for the respective discipline as outlined in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements.

3.03 Initial Principal License

An initial principal license is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.03(1) An initial principal license may be issued to an applicant who:

3.03(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.03(1)(b) has completed an approved principal preparation program at an accepted institution of higher education, including the field-based experience required by section 23-1-121(2)(d), C.R.S., an individualized alternative principal program as defined in sections 22-60.5-305.5 and 22-60.5-111(14), C.R.S., an alternative principal program created by a designated agency and approved by the State Board of Education pursuant to section 22-60.5-305.5(6)(a), C.R.S., or has evidence of partial completion of an approved principal preparation program in each of two or more accepted institutions of higher education. Upon a finding by the Department of completion of the equivalent of any one program by combining work completed at different programs, the requested license may be issued, assuming all requirements set forth in these rules have been met;

3.03(1)(c) has provided an institutional recommendation from the principal preparation program, appropriate to the license sought and on the Department's program verification form, which at a minimum confirms:

3.03(1)(c)(i) the date of completion and verifies satisfactory completion of the approved program;

3.03(1)(c)(ii) specifies the area(s) of endorsement/specialization completed by the applicant;

3.03(1)(c)(iii) verifies successful completion of internship or practicum in a school setting or other appropriate setting in the endorsement/specialization area sought for licensure; and

3.03(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the Principal Quality Standards and has the competencies essential for educational service.

3.03(1)(d) provides documented evidence of three or more years of full-time, successful experience working with students as a licensed or certificated professional in a public or

nonpublic elementary or secondary school in this state or another state or has three or more years of experience working with students as a professional in a nonpublic school;

3.03(1)(e) has submitted a complete application for an initial license as defined in section 2.04 of these rules; and

3.03(1)(f) has demonstrated professional competencies as evidenced by a passing score on the approved content test.

3.03(2) An initial principal license must be valid in any school district, BOCES, nonpublic or charter school which provides, participates in, or has been granted a waiver from providing an approved induction program for principals as described in section 9.00 of these rules.

3.03(3) An initial principal license must be valid for occasional teaching, which must not constitute more than one-half of a typical teaching assignment.

3.04 Initial Administrator License

An initial administrator license is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.04(1) An initial administrator license may be issued to an applicant who:

3.04(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.04(1)(b) has completed an approved program for district-level administrators at an accepted institution of higher education or has evidence of partial completion of an approved administrator preparation program in each of two or more accepted institutions of higher education. Upon a finding of completion by the Department of completion of the equivalent of any one program by combining work completed at different programs, the requested license may be issued, assuming all requirements set forth in these rules have been met;

3.04(1)(c) has supplied an institutional recommendation from the preparing administrator preparation program, appropriate to the license sought and on the Department's program verification form, which at a minimum confirms:

3.04(1)(c)(i) the date of completion and verifies satisfactory completion of the approved program;

3.04(1)(c)(ii) specifies the area(s) of endorsement/specialization completed by the applicant;

3.04(1)(c)(iii) verifies successful completion of internship, or practicum in a school setting or other appropriate setting in the endorsement/specialization area sought for licensure; and

3.04(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the Principal Quality Standards and has the competencies essential for educational service.

3.04(1)(d) has submitted a complete application for an initial license as defined in section 2.04 of these rules; and

3.04(1)(e) has demonstrated professional competencies as evidenced by a passing score on the approved content test for administrators.

3.04(2) An initial administrator license must be valid in any school district, BOCES, nonpublic school or charter school, which provides, participates in, or has been granted a waiver from providing an approved induction program for administrators as described in section 9.00 of these rules.

3.04(3) A holder of an initial administrator license who has completed three or more years of full-time, continuous, successful experience working with students as a licensed professional in a public or nonpublic elementary or secondary school in this state or another state may function as an occasional teacher. For purposes of this section, occasional teaching is defined as no more than one-half of a typical teaching assignment.

3.04(4) The applicant for an initial administrator license with a director of gifted education endorsement must:

3.04(4)(a) hold a master's or higher degree in gifted education from an accepted institution of higher education or demonstrate knowledge and application of standards for the specialist, as determined upon evaluation by the Department;

3.04(4)(b) have a minimum of two years' full-time experience working with students with exceptional academic and talent aptitude;

3.04(4)(c) have completed an approved program for the preparation of directors of gifted education, which must include a supervised field-based experience, as confirmed on the institutional recommendation from the preparing program;

3.04(4)(d) have demonstrated professional competencies as evidenced by a passing score on the approved content test for administrators: and

3.04(4)(e) meet the professional competencies outlined in section 6.17.

3.04(5) The applicant for an initial administrator license with a director of special education endorsement must:

3.04(5)(a) hold a master's or higher degree in special education from an accepted institution of higher education or demonstrate knowledge and application of standards for the specialist, as determined upon evaluation by the Department;

3.04(5)(b) have a minimum of two years' full-time experience working with students with special needs;

3.04(5)(c) have completed an approved program for the preparation of directors of special education, which must include a supervised field-based experience, as confirmed on the institutional recommendation from the preparing program;

3.04(5)(d) have demonstrated professional competencies as evidenced by a passing score on the approved content test for administrators; and

3.04(5)(e) meet the professional competencies outlined in section 6.08.

3.05 Professional Teacher or Special Services License

A professional teacher or special services license is valid for a period of seven years from the date of issuance, and may be renewed as provided in section 7.02 of these rules.

3.05(1) A professional teacher or special services provider license may be issued to an applicant who:

3.05(1)(a) holds a Colorado initial teacher license or Colorado initial special services license;

3.05(1)(b) has successfully completed an approved teacher or special services provider induction program as prescribed in section 8.00 of these rules and/or has been recommended for the professional teacher or special services license by the district or BOCES providing such induction program; and

3.05(1)(c) has submitted a complete application for a professional teacher or special services license as defined in Rule 2.04.

3.05(2) Notwithstanding the provisions in 3.05(1)(b), the Department may issue a professional teacher license if the applicant meets the requirements for an initial teacher license and previously completed an induction program while teaching under an adjunct instructor authorization, an emergency authorization, an interim authorization, a temporary educator eligibility authorization or alternative teacher license. If the applicant is employed by a school district, charter school, the institute, nonpublic school, or BOCES that has obtained a waiver of the induction program requirement, the applicant must demonstrate completion of any requirements specified in the school district's, charter school's, the institute's, nonpublic school's or BOCES's plan for support, assistance, and training of an initially licensed educator.

3.05(3) Notwithstanding the provisions in 3.05(1)(b), the Department may issue a professional special services license if the applicant meets the requirements for an initial special services license and previously completed an induction program while serving under an emergency authorization or a temporary educator eligibility authorization. If the applicant is employed by a school district, charter school, the institute, nonpublic school, or BOCES that has obtained a waiver of the induction program requirement, the applicant must demonstrate completion of any requirements specified in the school district's, charter school's, the institute's, nonpublic school's, or BOCES's plan for support, assistance, and training of an initially licensed educator.

.3.06 Professional Principal License

A professional principal license is valid for a period of seven years from the date of issuance and may be renewed as provided in section 7.02 of these rules.

3.06(1) A professional principal license may be issued to an applicant who:

3.06(1)(a) holds:

3.06(1)(a)(i) an earned master's degree from an accepted institution of higher education and has successfully completed an approved principal preparation program at an accepted institution of higher education, an alternative principal program, or an individualized alternative principal program; and

3.06(1)(a)(ii) an initial principal license;

3.06(1)(b) has successfully completed an approved principal induction program as described in section 9.00 of these rules;

3.06(1)(c) has been recommended for a professional license by the school district(s), BOCES, nonpublic school, charter school, or the institute which provided the induction program.

3.06(1)(d) has submitted a complete application for a professional license as defined in Rule 2.04.

3.06(2) Notwithstanding the provisions in 3.06(1)(b), the Department may issue a professional principal license if the applicant meets the requirements for an initial principal license and completed an approved principal induction program while employed under an emergency authorization, interim authorization or principal authorization. The applicant need not complete an approved induction program as an initial principal license-holder if the applicant previously completed an induction program while employed under an emergency authorization, interim authorization, or a principal authorization or if the school district, BOCES, nonpublic school, charter school or the institute in which the applicant is employed has obtained waiver of the induction program requirement pursuant to section 22-60.5-114(2), C.R.S.

3.06(3) A professional principal license is valid for occasional teaching, which must not constitute more than one-half of a typical teaching assignment. A principal who has previously held a professional teacher license may be reissued that license upon application and completion of the renewal requirements as outlined in 7.02.

3.07 Professional Administrator License

A professional administrator license is valid for a period of seven years from the date of issuance and may be renewed as provided in section 7.02 of these rules.

3.07(1) A professional administrator license may be issued to an applicant who:

3.07(1)(a) holds:

3.07(1)(a)(i) an earned master's degree from an accepted institution of higher education and has completed an approved administrator program at an accepted institution of higher education; and

3.07(1)(a)(ii) a valid initial administrator license; and

3.07(1)(a)(ii)(A) completes an approved administrator induction program; and

3.07(1)(a)(ii)(B) has been recommended for professional licensure by the school district, charter school, the institute, nonpublic school, or BOCES that provided such induction program.

3.07(2) Notwithstanding the provisions of section 3.07(1)(a)(ii), the Department may issue a professional administrator license if an applicant meets the requirements for an initial administrator license and completed an approved administrator induction program while employed under an emergency authorization, interim authorization or a temporary educator eligibility authorization.. The applicant need not complete an approved induction program as an initial license-holder if the applicant previously completed an induction program while employed under an emergency authorization, interim authorization, or a temporary educator eligibility authorization or if the school district, BOCES, nonpublic school, charter school or the institute in which the applicant is employed has obtained waiver of the induction program requirement pursuant to section 22-60.5-306(1)(b)(C), C.R.S.

.

3.07(4) A holder of professional administrator licenses who has completed three or more years of full-time, continuous, successful, evaluated experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or

another state may function as an occasional teacher. For purposes of this section, occasional teaching is defined as no more than one-half of a typical teaching assignment.

3.08 Master Certificate - Teacher

A master certificate represents achievements and contributions over and above expectations in the Teacher Quality Standards outlined in section 5.0 of these rules. A master certificate is valid for the period of time for which the applicant's professional teacher license is valid and is renewable as provided in section 7.02(6) of these rules.

3.08(1) A master certificate may be issued to an applicant who holds a valid Colorado professional teacher license and who has demonstrated advanced teaching competencies or expertise through:

3.08(1)(a) the attainment of National Board for Professional Teaching Standards certification; or

3.08(1)(b) demonstrated excellence in the following standards:

3.08(1)(b)(i) Standard 1: The master teacher develops a personal leadership vision focused on the successful learning and development of each student.

3.08(1)(b)(i)(A) Element A: The master teacher develops a leadership mission that promotes whole-child success and the well-being of each student.

3.08(1)(b)(i)(B) Element B: The master teacher articulates, advocates for, and cultivates core values that promote student-centered education, high expectations, learner support, equity, inclusiveness, social justice, openness, caring, trust, and continuous improvement.

3.08(1)(b)(i)(C) Element C: The master teacher strategically develops, implements and evaluates actions to achieve one’s personal leadership mission and vision.

3.08(1)(b)(i)(D) Element D: The master teacher anticipates, identifies and addresses barriers to achieving one’s leadership vision and mission.

3.08(1)(b)(i)(E) Element E: The master teacher models one’s leadership mission, vision and core values in all interactions with students, colleagues, parents and community members.

3.08(1)(b)(ii) Standard 2: The master teacher understands the principles of adult learning and knows how to develop a collaborative culture of collective responsibility in the school. The master teacher uses this knowledge to promote an environment of collegiality, trust, and respect that focuses on continuous improvement in instruction and student learning.3.08(1)(b)(ii)(A) Element A: The master teacher utilizes group processes to help colleagues (for the purposes of this section, including all members of the school community involved in the education of children) work collaboratively to solve problems, make decisions, manage conflict, and promote meaningful change.

3.08(1)(b)(ii)(B) Element B: The master teacher models effective skills in listening, presenting ideas, leading discussions, clarifying, mediating, and identifying the needs of self and others to advance shared goals and professional learning.

3.08(1)(b)(ii)(C) Element C: The master teacher facilitates the creation of trust among colleagues, development of collective wisdom, building ownership, and action that supports collective efficacy and student learning.

3.08(1)(b)(ii)(D) Element D: The master teacher uses knowledge and understanding of different backgrounds, races, ethnicities, cultures, and languages to create an inclusive culture and promote effective interactions among colleagues.

3.08(1)(b)(iii) Standard 3: The master teacher understands how research creates new knowledge, informs policies and practices, and improves teaching and learning. The master teacher models and facilitates the use of systematic inquiry as a critical component of teachers' ongoing learning and development.

3.08(1)(b)(iii)(A): Element A: The master teacher assists colleagues in accessing and using research to select appropriate strategies to improve student learning.

3.08(1)(b)(iii)(B): Element B: The master teacher models and facilitates analysis of student learning data, collaborative interpretation of results, and application of findings to improve teaching and learning.

3.08(1)(b)(iii)(C): Element C: The master teacher supports colleagues in collaborating with higher education institutions and other organizations engaged in researching critical education issues.

3.08(1)(b)(iii)(D): Element D: The master teacher teaches and supports colleagues to collect, analyze, and communicate data from their classrooms to improve teaching and learning.

3.08(1)(b)(iii)(E): Element E: The master teacher collaborates with colleagues to identify promising, innovative practices and conduct action research to determine effectiveness and expansion possibilities.

3.08(1)(b)(iv) Standard 4: The master teacher understands the evolving nature of teaching and learning, established and emerging technologies, and the school community. The master teacher uses this knowledge to promote, design, and facilitate job-embedded professional learning aligned with school improvement goals.

3.08(1)(b)(iv)(A) Element A: The master teacher collaborates with colleagues and school administrators to plan professional learning that is team-based, job-embedded, sustained over time, aligned with content standards, and linked to school/district improvement goals.

3.08(1)(b)(iv)(B) Element B: The master teacher uses information about adult learning to respond to the diverse learning needs of colleagues by identifying, promoting, and facilitating varied and personalized professional learning.

3.08(1)(b)(iv)(C) Element C: The master teacher identifies and uses appropriate technologies to promote collaborative and personalized professional learning.

3.08(1)(b)(iv)(D) Element D: The master teacher works with colleagues to collect, analyze, and disseminate data related to the quality of professional learning and its effect on teaching and student learning.

3.08(1)(b)(iv)(E) Element E: The master teacher advocates for sufficient preparation, time, and support for colleagues to work in teams to engage in job-embedded professional learning.

3.08(1)(b)(iv)(F) Element F: The master teacher provides constructive feedback to colleagues to strengthen teaching practice and improve student learning.

3.08(1)(b)(iv)(G) Element G: The master teacher uses information about emerging education, economic, and social trends in planning and facilitating professional learning.

3.08(1)(b)(v) Standard 5: The master teacher demonstrates a deep understanding of the teaching and learning processes and uses this knowledge to advance the professional skills of colleagues by being a continuous learner and modeling reflective practice based on student results. The master teacher works collaboratively with colleagues to ensure instructional practices are aligned to a shared vision, mission, and goals.

3.08(1)(b)(v)(A) Element A: The master teacher models, facilitates, and enhances the process for collection, analysis, and use of classroom-and school-based data to identify opportunities to improve curriculum, instruction, assessment, school organization, and school culture.

3.08(1)(b)(v)(B) Element B: The master teacher engages in reflective dialogue with colleagues based on student learning and helps make connections to research-based effective practices.

3.08(1)(b)(v)(C) Element C: The master teacher serves as a team leader to harness the skills, expertise, and knowledge of colleagues to address curricular expectations and student learning needs.

3.08(1)(b)(v)(D) Element D: The master teacher uses knowledge of existing and emerging learning innovations to guide colleagues in helping students skillfully and appropriately navigate the universe of knowledge available on the Internet, use social media to promote collaborative learning, and connect with people and resources around the globe.

3.08(1)(b)(v)(E) Element E: The master teacher supports instructional strategies that respect issues of diversity and equity in the classroom and that promote equitable outcomes for all students.

3.08(1)(b)(vi) Standard 6: The master teacher is knowledgeable about current research on classroom- and school-based data and the design and selection of appropriate formative and summative assessment methods. The master teacher shares this knowledge and collaborates with colleagues to use assessment and other data to make informed decisions that improve learning for all students and to inform school and district improvement strategies.

3.08(1)(b)(vi)(A) Element A: The master teacher increases the capacity of colleagues to identify and use multiple assessment tools aligned to state and local standards.

3.08(1)(b)(vi)(B) Element B: The master teacher collaborates with colleagues in assessment design, implementation, scoring, and interpreting student data to improve educational practice and student learning.

3.08(1)(b)(vi)(C) Element C: The master teacher creates a climate of trust and critical reflection to engage colleagues in challenging conversations about student learning data that lead to solutions to identified issues.

3.08(1)(b)(vi)(D) Element D: The master teacher works with colleagues to use assessment and data findings at multiple levels to promote changes in instructional practices or organizational structures to improve student learning.

3.08(1)(b)(vi)(E) Element E: The master teacher collaborates with colleagues to design opportunities to collect, analyze, and use qualitative data to improve teaching and learning.

3.08(1)(b)(vi)(F) Element F: The master teacher collaborates with colleagues to lead students to evaluate their own data and set relevant goals.

3.08(1)(b)(vii) Standard 7: The master teacher understands that families, cultures, and communities have a significant impact on educational processes and student learning. The master teacher works with colleagues to promote ongoing systematic collaboration with families, community members, business and community leaders, and other stakeholders to improve the educational system and expand opportunities for student learning.

3.08(1)(b)(vii)(A) Element A: The master teacher uses knowledge and understanding of the different backgrounds, ethnicities, races, cultures and languages in the school community to promote effective interactions among colleagues, families and the larger community.

3.08(1)(b)(vii)(B) Element B: The master teacher models and teaches effective communication and collaboration skills with families and other stakeholders focused on attaining equitable achievement for students of all backgrounds and circumstances.

3.08(1)(b)(vii)(C) Element C: The master teacher facilitates colleagues' self-examination of their own biases and understandings of community culture and diversity and how they can develop an asset-oriented mindset along with culturally responsive strategies to enrich the educational experiences of students and achieve high levels of learning for all students.

3.08(1)(b)(vii)(D) Element D: The master teacher develops a shared understanding among colleagues of the diverse educational needs of families and the community.

3.08(1)(b)(vii)(E) Element E: The master teacher collaborates with families, communities, and colleagues to develop comprehensive

strategies to address the diverse educational needs of families and the community.

3.08(1)(b)(viii) Standard 8: The master teacher understands how educational policy is made at the local, state, and national level, as well as the roles school leaders, boards of education, legislators, and other stakeholders have in formulating those policies.

3.08(1)(b)(viii)(A) Element A: The master teacher shares information with colleagues within and/or beyond the district regarding how local, state, and national trends and policies can impact classroom practices and expectations for student learning.

3.08(1)(b)(viii)(B) Element B: The master teacher works with colleagues to identify and use research to advocate for teaching and learning processes that meet the needs of all students.

3.08(1)(b)(viii)(C) Element C: The master teacher collaborates with colleagues to select appropriate opportunities to advocate for the rights and/or needs of students, to secure additional resources within the building or district that support student learning, and to communicate effectively with targeted audiences, such as parents and community members.

3.08(1)(b)(viii)(D) Element D: The master teacher advocates for access to professional resources, including financial support and human and other material resources, that allow colleagues to spend significant time learning about effective practices and developing a professional learning community focused on school improvement goals and student success.

3.08(1)(b)(viii)(E) Element E: The master teacher represents and advocates for the profession in contexts inside and outside of the classroom.

3.09 Master Certificate - Special Services

A master certificate represents achievements and contributions over and above expectations in the Special Services Provider Quality Standards outlined in section 5.0 of these rules. A master certificate is valid for the period of time for which the applicant's professional special services license is valid and is renewable as provided in section 7.02 of these rules.

3.09(1) A master certificate may be issued to an applicant who:

3.09(1)(a) holds a valid Colorado professional special services license and is employed in a school in the area of specialization;

3.09(1)(b) has been involved in ongoing professional development and training;

3.09(1)(c) has demonstrated advanced competencies or expertise as identified by the educator evaluation system employed in the district;

3.09(1)(d) has been recognized for outstanding achievements in the field of specialization; and

3.09(1)(e) meets the following requirements for the area(s) of specialization:

3.09(1)(e)(i) School Audiologist:

3.09(1)(e)(i)(A) holds national certification in audiology;

3.09(1)(e)(i)(B) has completed at least five years of full-time, continuous, successful, evaluated experience as a school audiologist;

3.09(1)(e)(i)(C) has completed graduate-level university training in school audiology and related areas;

3.09(1)(e)(i)(D) has been involved in at least four of the following areas: local, state, or national professional organizations; mentoring or supervision of peers; publication; professional presentations; funded grants; professional leadership; community activities and organizations; and

3.09(1)(e)(i)(E) has been granted an exemplary performance evaluation by a team of peers.

3.09(1)(e)(ii) School Counselor:

3.09(1)(e)(ii)(A) has held a Colorado professional special services license in school counseling for a minimum of five years;

3.09(1)(e)(ii)(B) has demonstrated professional growth through continuing education, professional leadership experiences, and exceptional program development;

3.09(1)(e)(ii)(C) has demonstrated commitment to the school counseling profession through professional organization involvement, supervision and training of other school counselors, publication of professional materials, and presentations at professional conferences; and

3.09(1)(e)(ii)(D) has demonstrated active community involvement, development of effective parent partnership programs, and promotion of cooperation with other professional educators.

3.09(1)(e)(iii) School Occupational Therapist:

3.09(1)(e)(iii)(A) holds a master's degree in occupational therapy from an accepted institution of higher education;

3.09(1)(e)(iii)(B) holds an active occupational therapy license from the Colorado Department of Regulatory Agencies;3.09 (1)(e)(iii)(C)has demonstrated outstanding contribution or accomplishments to the profession through at least three of the following: achieved certification or accreditation in an area of specialization of occupational therapy; supervised and mentored occupational therapy students; completed graduate-level professional coursework; completed research and/or publication in the area of school occupational therapy; made presentations at professional meetings; wrote grants; held or holds office in national, state, or local professional organizations or boards;

3.09(1)(e)(iii)(D) has received recognition for outstanding achievements in occupational therapy; and

3.09(1)(e)(iii)(E) is involved in community programs.

3.09(1)(e)(iv) School Orientation and Mobility Specialist:

3.09(1)(e)(iv)(A) has demonstrated outstanding professional activities in at least three of the following areas: authored professional publications; juried articles, newsletters or books; made presentations at professional meetings or conferences; mentored other professionals and supervised student practicum experiences; taught at the university or school district in service levels; served as a model for demonstrations; provided active community leadership by promoting disability education and participation; or wrote grant proposals which were funded; and

3.09(1)(e)(iv)(B) has received recognition for demonstrated leadership in the field.

3.09(1)(e)(v) School Physical Therapist:

3.09(1)(e)(v)(A) holds a master's degree in physical therapy;

3.09(1)(e)(v)(B) holds an active professional physical therapy license from the Colorado Department of Regulatory Agencies;3.09(1)(e)(v)(C) has demonstrated outstanding contributions or accomplishments to the profession through at least three of the following: achieved certification or accreditation in an area of specialization of physical therapy; supervised and mentored physical therapy students; completed graduate-level professional coursework; completed research and/or publication in the area of school physical therapy; presented at professional meetings; wrote grants; held or holds office in national, state or local professional organizations or boards;

3.09(1)(e)(v)(D) has received recognition for outstanding achievements in physical therapy; and

3.09 (1)(e)(v)(E) has been involved in community programs.

3.09(1)(e)(vi) School Nurse:

3.09(1)(e)(vi)(A) has completed additional preparation in advanced practice in nursing or specialties in school health-related fields or has earned additional certification in nursing administration, vocational education, or other certifications applicable to school nursing;

3.09(1)(e)(vi)(B) has demonstrated professional leadership experiences and exceptional program development;

3.09(1)(e)(vi)(C) has mentored school nurses and supervised practicum students;

3.09(1)(e)(vi)(D) has had active participation in school nurse professional organizations; and

3.09(1)(e)(vi)(E) has participated in teaching, research and/or publishing to further the specialty of school nursing.

3.09(1)(e)(vii) School Psychologist:

3.09(1)(e)(vii)(A) has demonstrated commitment to the profession of school psychology through active involvement and leadership in local, state, or national school psychology organizations;

3.09(1)(e)(vii)(B) has mentored school psychologists with an initial license and supervised school psychology interns;

3.09(1)(e)(vii)(C) has contributed to school and district program development;

3.09(1)(e)(vii)(D) has produced professional publications and presentations; and

3.09(1)(e)(vii)(E) has received recognition by peers for outstanding performance.

3.09(1)(e)(viii) School Social Worker:

3.09(1)(e)(viii)(A) has demonstrated leadership in state school social work organizations;

3.09(1)(e)(viii)(B) has actively participated in leadership roles in national social work organizations pr other community and human service organizations;

3.09(1)(e)(viii)(C) holds advanced credentials in the field (e.g., doctorate in social work, school social work specialist credential, diplomate in clinical social work, etc.);

3.09(1)(e)(viii)(D) has demonstrated outstanding skill in service to schools and children, such as the creation of innovative and successful programs and services to meet the needs of students and mentoring and supervising school social workers and other school professionals; and

3.09(1)(e)(viii)(E) has received recognition by peers for outstanding performance.

3.09(1)(e)(ix) Speech/Language Pathologist:

3.09(1)(e)(ix)(A) has demonstrated professional growth through professional leadership experiences and exceptional program development;

3.09(1)(e)(ix)(B) has demonstrated commitment through involvement in local, state, or national professional organizations;

3.09(1)(e)(ix)(C) has accepted additional responsibilities at the school, district, state, or national levels;

3.09(1)(e)(ix)(D) has published appropriate materials at the district, state, or national levels;

3.09(1)(e)(ix)(E) has presented original research and materials at professional conferences;

3.09(1)(e)(ix)(F) has supervised practicum and internship students; and

3.09(1)(e)(ix)(G) has mentored and supervised other speech/language pathologists.

3.10 Master Certificate - Principal

A master certificate represents achievements and contributions over and above the expectations in the Principal Quality Standards outlined in section 6.0 of these rules. A master certificate is valid for the period of time for which the applicant's professional principal license is valid and is renewable as provided in section 7.02 of these rules..

3.10(1) A master certificate may be issued to an applicant who:

3.10(1)(a) holds a valid Colorado professional principal license;

3.10(1)(b) has displayed excellence and depth in all of the content and performance standards required for the professional principal license;

3.10(1)(c) displays depth in all content knowledge; has modeled sustained commitment to improved student performance, to ongoing systemic renewal, and to strengthening the profession; and has demonstrated superior performance through accomplishments having significant impact on the school's educational community;

3.10(1)(c)(i) The master principal must possess knowledge in the following areas:

3.10(1)(c)(i)(A) systemic renewal strategies;

3.10(1)(c)(i)(B) multiple models for school and district management;

3.10(1)(c)(i)(C) dynamic political and policy movements in the state;

3.10(1)(c)(i)(D) promising practices in the professional development of educational leaders; and

3.10(1)(c)(i)(E) leading research and writing on instructional strategies, student learning, assessment methodology and supervisory techniques.

3.10(1)(c)(ii) The master principal must demonstrate the ability to:

3.10(1)(c)(ii)(A) create a community of learners who focus on student performance;

3.10(1)(c)(ii)(B) translate vision into program excellence;

3.10(1)(c)(ii)(C) provide value-added leadership to create an organization that has purpose, direction, and energy;

3.10(1)(c)(ii)(D) implement programs in schools that result in sustained improvement in student performance;

3.10(1)(c)(ii)(E) integrate multiple instructional models to meet diverse learning needs of both students and adults to enhance student performance;

3.10(1)(c)(ii)(F) imagine alternatives based on knowledge of best practices and create those alternatives as a model for others;

3.10(1)(c)(ii)(G) engage a diverse school community in sustained efforts for school improvement;

3.10(1)(c)(ii)(H) influence and provide a model for larger systems (e.g., the district, BOCES, or state);

3.10(1)(c)(ii)(I) contribute to the development of the profession through mentoring, teaching, writing, and other modalities; and

3.10(1)(c)(ii)(J) capitalize on opportunities presented by diverse stakeholders.

3.10(1)(d) has demonstrated evidence of positive impacts on student performance at the building level; and

3.10(1)(e) has contributed to the education community through service as a mentor, teacher, writer, researcher, or other service-oriented activity.

3.11 Master Certificate - Administrator

A master certificate represents achievements and contributions over and above expectations in the Administrator Quality Standards outlined in section 6.0 of these rules. A master certificate is valid for the period of time for which time the applicant's professional administrator license is valid and is renewable as provided in section 7.02 of these rules..

3.11(1) A master certificate may be issued to an applicant who:

3.11(1)(a) holds a valid Colorado professional administrator license;

3.11(1)(b) has displayed excellence and depth in all of the content and performance standards required for the professional license;

3.11(1)(c) has demonstrated excellence on all performance standards and displays depth in all content knowledge; has modeled sustained commitment to improved student performance, to ongoing systemic renewal, and to strengthening of profession; and has demonstrated superior performance through accomplishments having significant impact on an educational community;

3.11(1)(c)(i) The master administrator must possess knowledge in the following areas:

3.11(1)(c)(i)(A) systemic renewal strategies;

3.11(1)(c)(i)(B) multiple models for school and district management;

3.11(1)(c)(i)(C) dynamic political and policy movements in the state;

3.11(1)(c)(i)(D) promising practices in the professional development of educational leaders;

3.11(1)(c)(i)(E) leading research and writing on instructional strategies, student learning, assessment methodology, and supervisory techniques; and

3.11(1)(c)(ii) The master administrator must demonstrate the ability to:

3.11(1)(c)(ii)(A) initiate and sustain significant change in the district directed toward predetermined goals, themes, and needs;

3.11(1)(c)(ii)(B) create a community of learners who focus on student performance;

3.11(1)(c)(ii)(C) translate vision into program excellence;

3.11(1)(c)(ii)(D) provide value added leadership to create an organization that has shared purpose, direction, and energy;

3.11(1)(c)(ii)(E) provide incentives, direction, and motivation for development of programs that enhance student performance;

3.11(1)(c)(ii)(F) imagine alternatives based on knowledge of best practices and create those alternatives as a model for others;

3.11(1)(c)(ii)(G) engage a diverse community in sustained efforts for school improvement in the entire district;

3.11(1)(c)(ii)(H) influence and provide a model for the larger system (e.g., the district, BOCES, or state); and

3.11(1)(c)(ii)(I) contribute to the development of the profession through mentoring, teaching, writing, and other modalities.

3.11(1)(c)(ii)(J) capitalize on opportunities presented by diverse stakeholders.

3.11(1)(d) has demonstrated evidence of positive impacts on student performance throughout the district; and

3.11(1)(e) has contributed to the education community through service as a mentor, teacher, writer, researcher, or other service-oriented activity.

3.12 Alternative Teacher License

An alternative teacher license is valid for either a one-, two- or three-year period, as outlined below. An alternative teacher license authorizes the holder to be employed only as an alternative teacher while participating in an alternative teacher program, pursuant to the terms of an alternative teacher contract, as provided by 22-60.5-201(1)(a), C.R.S.

3.12(1) An alternative teacher license may be issued to an applicant who meets the following criteria:

3.12(1)(a) holds a bachelor's degree from an accepted institution of higher education;

3.12(1)(b) has submitted a complete application as defined in section 2.04 of these rules;

3.12(1)(c) has demonstrated subject matter knowledge in the endorsement area:

3.12(1)(c)(i) for elementary education teachers (grades K-6), early childhood educators (ages birth-8), early childhood special education (ages birth-8) and special education generalist teachers (ages 5-21), by passage of the approved content tests.

3.12(1)(c)(ii) for secondary teachers (grades 7-12) and all other endorsement areas not identified in Rule 3.12(1)(c)(i), :

3.12(1)(c)(ii)(A) holding an earned bachelor's or higher degree in the content area; or

3.12(1)(c)(ii)(B) 24 semester hours of specific coursework as demonstrated through transcript evaluation in the endorsement area; or

3.12(1)(c)(ii)(C) passage of the approved content test(s) relevant to the person's area of endorsement(s); and

3.12(1)(d) provides a statement of assurance signed by the human resources officer or other representative of the designated agency and the applicant verifying that the applicant is enrolled in an approved alternative teacher program, employed as a teacher or participating in a clinical experience, and that the placement is in the endorsement area for which the teacher has demonstrated appropriate subject matter knowledge.

3.12(2) An alternative teacher license is valid as follows:

3.12(2)(a) The alternative teacher license for a one-year program is valid for one year from date of issuance and may be renewed for one additional year, but only upon written evidence of: (1) unforeseen circumstances; and (2) that the employing school district, BOCES, charter school, or nonpublic school anticipates extending the alternative teacher's contract for one additional year pursuant to section 22-60.5-207(2), C.R.S.

3.12(2)(b) The alternative teacher license for a two-year program is valid for two years from date of issuance.

3.12(2)(c) A person may be employed as an alternative teacher for a total of three years for the purpose of receiving a special education generalist endorsement.

3.12(3) An alternative teacher license is valid in any school district, BOCES, nonpublic school, or charter school.

3.13 Teacher of Record License and Program

3.13(1) **Teacher of Record License.** A teacher of record license is valid for two years from the date of issuance and may be renewed once, but only if the holder did not complete a bachelor's degree due to unforeseen circumstances or hardship.

3.13(1)(a) A teacher of record license may be issued to an applicant who:

3.13(1)(a)(i) is enrolled in an accepted institution of higher education and has no more than 36 credit hours remaining for completion of a bachelor's degree that leads to a teacher license, but has not yet completed field-based experience requirements;

3.13(1)(a)(ii) is enrolled in a one- or two-year Teacher of Record Program pursuant to section 22-60.5-208.7, C.R.S.; and

3.13(1)(a)(iii) is or will be employed by an LEP ., in a position for which no other qualified licensed teacher has applied, and for which the LEP has determined that there is a critical teacher shortage as defined in Rule 2.01(17).

3.13(1)(b) The standards and competencies for an individual working under a teacher of record license are those set forth in section 5.0 of these rules.

3.13(1)(b) A teacher of record license may not be issued with an endorsement in special education.

3.13(2) **Teacher of Record Program.** An LEP is authorized to implement a one- or two-year teacher of record program and may employ a teacher of record only when the individual will fill a vacant position in a critical teacher shortage area and when no other qualified, licensed applicants applied for the posted vacant position.

3.13(2)(a) A teacher candidate employed in a teacher of record program established pursuant to this section shall hold a teacher of record license issued pursuant to section 22-60.5-201(1)(a.5), C.R.S., and section 3.13 of these rules.

3.13(2)(b) To assist the teacher of record in meeting the Teacher Quality Standards, established pursuant to section 22-2-109(3), C.R.S., and section 5.0 of these rules, the teacher of record program must include, at a minimum:

3.13(2)(b)(i) Course requirements and provided supports:

3.13(2)(b)(i)(1) identification of the courses and number of credit hours that a teacher candidate must complete before and while a teacher of record,

3.13(2)(b)(i)(2) identification of the time and support (e.g., financial resources, class coverage) the LEP will provide for the teacher of record to complete the course work;

3.13(2)(b)(i)(3) identification of accepted institution of higher education supports, including a description of how supports will be delivered (e.g., mentoring, professional development, evaluation, and LEP-identified supports); and

3.13(2)(b)(ii) professional development, teacher mentorship, the LEP's induction program, and other supports for the teacher of record over the course of the program.

3.13(2)(c) If the teacher of record successfully completes an induction program, the teacher of record may apply completion of the induction program toward meeting the requirements for a professional teacher license.

3.13(2)(d) An LEP shall treat a teacher of record as a first-year teacher for purposes of compensation and placement on a teacher salary schedule.

3.13(2)(e) The teacher of record program must be approved by the Department prior to submission of an application for the teacher of record license. At a minimum, the approval process will include review of:

3.13(2)(e)(i) the demonstration of need;

3.13(2)(e)(ii) proposed program details as outlined in section 3.13(2) of these rules;

3.13(2)(e)(iii) the teacher candidate's education, experience and demonstration of content-area competency;; and

3.13(2)(e)(iv) assurances from the institution of higher education, LEP and teacher of record candidate.

4.00 Types of Authorizations

The Department is authorized to issue the following authorizations.

4.01 Adjunct Instructor Authorization (Grades K-12)

To address recruiting challenges and establish a diverse workforce, a school district, BOCES or charter school may employ as an adjunct instructor a specialist or content-area expert who is without formal educator training. The purpose of adjunct instruction is to provide students with highly specialized academic enrichment in support of required content areas.

4.01(1) An adjunct instructor authorization is issued for three years to an applicant who meets the following criteria:

4.01(1)(a) an applicant possesses outstanding talent or demonstrates specific abilities and knowledge in a particular area of specialization;

4.01(1)(b) a school district board of education or superintendent or the principal of a charter school or BOCES requests the applicant's services and provides evidence of the applicant's outstanding talent or specific abilities and particular knowledge for the assignment;

4.01(1)(c) the school district, BOCES, or charter school provides evidence that the applicant's services are required; and

4.01(1)(d) the applicant has been employed for at least five years in the area of specialization or holds an earned bachelor's or higher degree in the area of specialization.

4.01(2) An adjunct instructor authorization may be renewed for succeeding three-year periods at the employing school district's or charter school's request when the school district or charter school provides documented evidence of ongoing need for the adjunct instructor's services.

4.01(3) A person may be employed under an adjunct instructor authorization only by the school district or charter school that requested the person's services.

4.01(4) A person who holds an adjunct instructor authorization and is employed by a school district may teach only under the general supervision of a licensed professional teacher. For the purposes of this provision, "general supervision" means support, mentorship, and supervision of an adjunct instructor, and does not require more than one teacher in a classroom at a time.

4.01(4)(a) A school district or charter school shall not employ a person under an adjunct instructor authorization as a full-time teacher; except

4.01(4)(a)(i) a rural school district may employ an adjunct instructor authorization-holder as a full-time teacher if there are no qualified, licensed applicants for the position.

4.02 Special Services Intern Authorization (Birth-21)

A special services intern works under the supervision of a Colorado licensed professional special services provider from the same discipline.

4.02(1) The special services intern authorization may be issued for one academic year. It may only be renewed if the special services intern is employed by a district or BOCES and the intern has not completed the approved program of preparation due to unforeseen circumstances or hardship.

4.02(2) The applicant must hold a bachelor's or higher degree from an accepted institution of higher education and be enrolled in an approved program of preparation for special services providers. The program of preparation must require an internship and offered by an accepted institution of higher education.

4.02(3) For the period of time while the authorization-holder serves as an intern, the authorization-holder may receive pay from the school district.

4.03 Emergency Authorization (Grades K-12, Ages Birth-21)

The applicant for an emergency authorization has not yet met the requirements for a Colorado initial teacher, principal, administrator or special services provider license or a school speech/language pathology assistant authorization but provides evidence of holding an earned bachelor's degree or higher from an accepted institution of higher education and of enrollment in an approved program of preparation.

4.03(1) An applicant for a school speech-language pathology assistant emergency authorization must hold a bachelor's degree in speech, language, and hearing sciences; communications disorders-speech sciences; or any other field with completion of 24 semester hours in speech, language, hearing sciences from an accepted institution of higher education, as determined by the Department's transcript review.

4.03(2) The emergency authorization may be issued for up to one year and may be renewed for up to one additional year when:

4.03(2)(a) a school district or BOCES requests the emergency authorization in order to employ a non-licensed teacher, principal, administrator, or special services provider;

4.03(2)(b) the district provides evidence of a need for specific and essential educational services which can be provided by the applicant and which would otherwise be unavailable, due to a shortage of licensed educators with appropriate endorsements; and

4.03(2)(c) in the judgment of the State Board of Education,

4.03(2)(c)(i) the employment of the non-licensed applicant is essential to the preservation of the district's instructional program, and

4.03(2)(c)(ii) that the establishment of an alternative teacher program by the local board of education is not a practicable solution to resolve the demonstrated shortage.

4.03(3) The district may provide an induction program for an individual on an emergency authorization, as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding an emergency authorization may count toward fulfilling requirements for a professional license.

4.04 Career and Technical Education Authorization (Grades 7-12)

4.04(1) An initial career and technical education (CTE) authorization may be issued for three years and may not be renewed. The applicant must meet the minimum qualifications adopted by the State Board for Community Colleges and Occupational Education under section 23-60-304(3)(a), C.R.S.

4.04(2) A professional career and technical education authorization may be issued for five years to an applicant who holds an initial career and technical education authorization and who meets the necessary requirements for holding a professional-level CTE authorization. It may be renewed for succeeding five-year periods. The applicant must meet the minimum qualifications or renewal requirements that the State Board for Community Colleges and Occupational Education adopts pursuant to section 23-60-304(3)(a), C.R.S.

4.04(4) Postsecondary career and technical education credentials are issued by the Colorado Community College System and are governed by the rules for the Administration of the Colorado Vocational Act, 8 CCR 1504-2.

4.05 Substitute Authorization (Grades K-12)

A substitute authorization may be issued to an applicant to serve as a substitute educator.

4.05(1) A substitute authorization is valid for one, three, or five years, as specified below. It may be renewed indefinitely upon application.

4.05(1)(a) A five-year substitute authorization may be issued when an applicant has completed an approved teacher preparation program (as indicated by a signed approved program verification form and conferred transcript) or holds or has held a Colorado initial or professional license or an equivalent out-of-state-issued license.:

4.05(1)(b) A three-year substitute authorization may be issued to an applicant who holds an earned bachelor's or higher degree from an accepted institution of higher education.

4.05(1)(c) A one-year substitute authorization may be issued when:

4.05(1)(c)(i) the applicant holds a high school diploma or its equivalent, and

4.05(1)(c)(ii) the applicant attests to having worked successfully with children.

4.06-4.08 Reserved

4.09 Interim Authorization (Grades K-12, Ages Birth-21)

An interim authorization may be issued to an out-of-state applicant who has not completely fulfilled Colorado educator licensure requirements.

4.09(1) An interim authorization is issued for one year and may be renewed upon application for one additional year.:

An applicant for interim authorization must meet the following criteria:4.09(1)(a) the applicant is certified, licensed, or eligible for certification or licensure as a teacher, principal, or administrator in another state; and

4.09(2)(b) the applicant has not successfully passed the approved content test(s) required for obtaining a Colorado initial license but otherwise meets the requirements for a Colorado initial license.4.09(3) The employing school district may provide an induction program for holders of interim authorizations as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding interim authorizations may count toward fulfilling the requirements of a professional license.

4.10 Military Spouse Interim Authorization (Grades K-12, Ages Birth-21)

A military spouse interim authorization is valid for one year, and the Department of Education may renew the authorization for one additional year. A military spouse interim authorization may be issued to a military spouse when:

4.10(1) the applicant is a spouse of an active-duty member of the United States armed forces who has been transferred to Colorado, is scheduled to be transferred to Colorado, is domiciled in Colorado or has moved to Colorado on a permanent change-of-station basis;

4.10(2) the applicant is certified, licensed, or eligible for certification or licensure as a teacher special services provider, principal, or administrator in another state; and

4.10(3) the applicant has not successfully passed the approved content test(s) required for obtaining an initial license but otherwise meets the requirements for an initial license.

4.10(4) the employing school district may provide an induction program for holders of military spouse interim authorization as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding this authorization may count toward fulfilling the requirements of a professional license.

4.11 School Speech-Language Pathology Assistant Authorization (Ages Birth–21).

A school speech-language pathology assistant (SLPA) serves as a member of an educational team and is authorized to perform tasks prescribed, directed, and supervised by a licensed school speech-language pathologist (SLP) in implementing services for children/students with speech, language, cognitive, voice, and augmentative/alternative communication disorders and hearing impairments.

4.11(1) An SLPA authorization is valid for five years and may be renewed for succeeding five-year periods upon application and completion of content-related renewal requirements, including 50 contact hours of continuing education.

4.11(1(a) an applicant for SLPA authorization must: holds a bachelor's degree in speech communication, speech-language pathology, communication disorders-speech sciences or a bachelor's degree in any other field with completion of 24 semester hours in speech language hearing sciences from an accepted institution of higher education, as determined by the Department's transcript review;

4.11(1)(b) have successfully completed a speech-language pathology assistant program at a regionally or nationally accredited institution;

4.11(1)(c) have successfully completed a minimum 100 clock-hours of a school-based practicum under the supervision of an American Speech-Language-Hearing Association-certified and licensed school SLP, in accordance with the requirements of section 4.11(6) below; and

4.11(1)(d) have demonstrated through Department transcript review knowledge in the competencies specified in sections 4.11(3) and 4.11(4) below.

4.11(2) As determined by the Department of Higher Education, the SLPA applicant is knowledgeable about communication processes and basic human communication, and is able to articulate:

4.11(3)(a) the anatomical/physiological, psychological, developmental, linguistic, and cultural bases of communication processes;

4.11(3)(b) communication disorders, articulation, fluency, voice, and resonance, receptive and expressive language, and language-based learning disabilities;

4.11(3)(c) hearing disorders and their impact on speech and language;

4.11(3)(d) cognitive and social aspects of communication disorders;

4.11(3)(e) communication modalities including oral, written, manual, augmentative and alternative communication techniques, and assistive technologies;

4.11(3)(f) normal development of reading and writing in the context of the general education curriculum; and

4.11(3)(g) characteristics of exceptional students including categorical disabilities, learning differences, and developmental deficits.

4.11(4) The SLPA is knowledgeable about service delivery and must be able to:

4.11(4)(a) use appropriate verbal and written language in interactions with children/students, teachers, and related professionals;

4.11(4)(b) follow oral and written directions, including those in intervention plans;:

4.11(4)(c) assist in the selection, preparation and presentation of instructional and other related materials;

4.11(4)(d) maintain accurate and concise documentation in a timely manner;

4.11(4)(e) implement documented intervention plans developed by the supervising speech-language pathologist;

4.11(4)(f) assist with clerical duties assigned by the supervising speech-language pathologist including, but not limited to, scheduling, safety/maintenance of supplies and equipment, and record keeping;

4.11(4)(g) collect data for quality improvement including child/student performance data in classrooms or individual therapy settings;

4.11(4)(h vi) record children's/students' each student's status with regard to progress towards established objectives as stated in the intervention plans, and report information to the supervising SLP;

4.11(4)(i) use constructive feedback from the supervising SLP to adapt or modify interaction and/or intervention with children/students;

4.11(4)(j) provide consistent, discriminating, and meaningful feedback and reinforcement to the children/students; and

4.11(4)(k) implement designated intervention goals/objectives in specified sequence.

4.11(5) The SLPA is knowledgeable about screening and assessment, but may not perform standardized or non-standardized diagnostic tests, including, but not limited to, feeding evaluations or interpreting test results, or counseling parents; and is able to:

4.11(5)(a) assist the SLP with speech-language and hearing screenings or assessments, without interpretation, and report results directly to the supervising SLP;

4.11(5)(b) assist with informal documentation as directed by the SLP.

4.11(5)(c) provide directly to the supervising SLP descriptive behavioral observations that contribute to screening/assessment results; and.

4.11(5)(d) support the SLP in research projects, in service training and public relations programs, including Child Find activities.

4.11(6) The SLPA is knowledgeable about ethical practice and maintaining appropriate relationships with children/students, families, teachers, and related service professionals, and must be able to:

4.11(6)(a) demonstrate respect for and maintain the confidentiality of information pertaining to students and their families;

4.11(6)(b) behave in accordance with educational facility guidelines;

4.11(6)(c) articulate an awareness of student needs and respect for cultural values;

4.11(6)(d) direct student, family, and educational professionals to the supervising SLP for information regarding testing, intervention, and referral;

4.11(6)(e) request assistance from the supervising SLP, as needed;

4.11(6)(f) manage time effectively and productively; and

4.11(6)(g) recognize personal professional limitations and perform within boundaries of training and job responsibilities.

4.12 Exchange Educator Interim Authorization (Grades K-12, Ages Birth-21)

An exchange educator interim authorization may be issued to a participant in a district-recognized educator exchange program who has not completely fulfilled Colorado educator licensure requirements.

4.12(1) An exchange educator interim authorization is valid for one year and may be renewed upon application for one additional year.

4.12(2) Applicants must:

4.12(2)(a) be a participant in a district-recognized educator exchange program; and

4.12(2)(b) be certified, licensed, or eligible for certification or licensure as a teacher, special services provider, principal, or administrator in another country.

4.13 Temporary Educator Eligibility Authorization (Grades K-12, Ages Birth-21)

The Department may issue a temporary educator eligibility (TEE) authorization to a person who is enrolled in an approved program of preparation for a special education educator or who is working to attain a special services provider initial license but who has not yet met the requirements for the applicable initial educator license or endorsement sought.

4.13(1) A TEE authorization is valid for one year. Renewal is contingent upon the applicant maintaining continuous progress toward completion of requirements for the license or endorsement sought. A TEE authorization may be renewed twice, for a total of three years.

4.13(2) A TEE authorization may be issued to an applicant when:

4.13(2)(a) a school district requests the TEE authorization in order to employ as a special education teacher, special services provider or special education administrator an applicant who does not yet meet licensing requirements but who meets the eligibility requirements specified below; and

4.13(2)(b) the district provides evidence of a demonstrated need for specific and essential educational services that can be provided by the applicant but that would be otherwise unavailable to students due to a shortage of licensed educators with appropriate endorsement(s).

4.13(3) In addition to the circumstances and criteria specified in 4.13(2)(a) and (b), a special services provider who has met the minimum degree requirement necessary to practice in the chosen profession but who has not completed a national content exam or school practicum may qualify for a TEE authorization under the supervision of a professionally licensed person in the same discipline.

4.13(4) TEE applicants seeking a special education teacher endorsement must:

4.13(4)(a) hold a bachelor's degree from an accepted institution of higher education; and

4.13(4)(b)(be enrolled in an approved or alternative program of preparation or a special education director preparation program offered by an accepted institution of higher education. In the program, the teacher must:

4.13(4)(b)(i) receive high-quality professional development that is sustained, intensive, and classroom-focused;

4.13(4)(b)(ii) participate in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; and

4.13(4)(b)(iii) demonstrate satisfactory progress toward full licensure (e.g., transcripts demonstrating movement toward the completion of the educator preparation or degree program; attempting to pass the required content exam).

4.13(5) The employing school district may provide an induction program for an individual on a TEE authorization as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding this authorization may count toward fulfilling the requirements of a professional license.

4.14 Educational Interpreter Authorization (Ages Birth-21)

The educational interpreter authorization allows a school district to employ a person to provide teaching and interpreting services for students who are deaf or hard of hearing.

4.14(1) An educational interpreter authorization is valid for five years and may be renewed for succeeding five-year periods upon application and submittal of evidence of completion of four (4) semester hours of professional development or its equivalent of 60 contact/clock-hours in educational interpreter content.

4.14(2) The applicant must provide evidence of:

4.14(2)(a) an associate's or higher degree in educational interpreting or a related field;

4.14(2)(b) a certificate of completion for the Educational Interpreter Performance Assessment (EIPA) written exam;

4.14(2)(c) successful performance on one or more of the following professional skill assessments:

4.14(2)(c)(i) for sign language interpreters, a score of 3.5 or higher on the EIPA or current certification with the Registry of Interpreters for the Deaf (RID);

4.14(2)(c)(ii) for cued speech transliterators, a score of 4.0 or higher on the EIPA-Cued Speech exam or a passing score on the Cued Language Transliterator National Certification Exam; or

4.14(2)(c)(iii) for oral interpreters, a current Oral Transliteration Certificate from RID.

4.14(2)(d) demonstration of the following competencies:

4.14(2)(d)(i) effectively analyze communication for the speaker's style, affect, register, and overall prosodic and coherence markers;

4.14(2)(d)(ii) effectively manage the interpreting process in order to produce a linguistically appropriate representation of classroom communication, as based on student ability and the individualized education plan (IEP) goals;

4.14(2)(d)(iii) manage the process for effectively switching from one speaker and mode to another;

4.14(2)(d)(iv) utilize attending and interrupting techniques effectively, based on culturally appropriate methods and classroom protocol; and

4.14(2)(d)(v) effectively apply knowledge of:

4.14(2)(d)(v)(A) cognitive processes associated with consecutive and simultaneous interpreting, and the implication of each for interpreting classroom discourse;

4.14(2)(d)(v)(B) the differences between classroom discourse and conversational discourse, and the implication of those differences in the interpreting process;

4.14(2)(d)(v)(C) communication processes with inclusive students who are deaf or hard-of-hearing as related, but not limited to, issues of taking turns, avoiding overlap of speaking/signing processes, challenges associated with the use of multimedia and uncaptioned materials; and

4.14(2)(d)(v)(D) classroom subject matter concepts and associated vocabulary and terminology.

4.15 Junior Reserve Officer Training Corps (JROTC) Instructor Authorization (Grades 9-12)

A JROTC instructor authorization may be issued to allow a person to instruct a JROTC unit hosted by a school district.

4.15(1) The JROTC Instructor Authorization is valid for five years and may be renewed upon application and submittal of evidence of service-specific JROTC recertification.

4.15(2) Applicants must provide documented evidence of JROTC certification based upon successful acquisition of service-specific JROTC program director certification or completion of service-specific JROTC preparation program requirements.

4.16 Adult Basic Education Authorization

An adult basic education authorization allows a person to work as an adult basic education instructor in an adult education program operated by a school district before, during, or after regular school hours.

4.16(1) An adult basic education authorization is valid for five years and may be renewed for succeeding five-year periods upon application. To be eligible for renewal, the application must submit evidence of completion of 90 contact hours of adult education instructor professional development activities completed within the period of time for which the authorization was issued.

4.16(2) An adult basic education authorization may be issued to an applicant who:

4.16(2)(a) holds an associate's or higher degree from an accepted institution of higher education or accredited community, technical, or junior college; and

4.16(2)(b) has submitted an application for an adult basic education authorization, which includes:

4.16(2)(b)(i) a copy of an official degree-conferred transcript; and

4.16(2)(b)(ii) evidence of the completion of adult basic education coursework, including:

4.16(2)(b)(ii)(A) a copy of an official transcript from an accepted institution of higher education or accredited community, technical, or junior college showing the completion of adult basic education coursework within the seven years immediately preceding the date of application. Coursework must include: introduction to adult education; planning and delivering instruction to adult learners; teaching adult basic education/adult secondary education; and teaching English as a second language (ESL) to adults; or

4.16(2)(b)(ii)(B) evidence of completion of other adult basic education coursework in lieu of an official transcript showing completion of courses specified in section 4.16(1)(b)(ii)(A). The applicant must submit the Department's equivalency form and copies of official transcripts from an accepted institution of higher education or accredited community, technical, or junior college showing coursework completed within the seven years immediately preceding the date of application. The Department will determine whether the coursework is equivalent to that listed in section 4.16(1)(b)(ii)(A).

4.16(3)) Applicants who have not met the requirements as specified in section 4.16(2)(b)(ii)may submit evidence of experience, including:

4.16(3)(a) documentation illustrating 750 hours of performance of adult basic education instruction, adult secondary education instruction, or ESL instruction to adults; and

4.16(3)(b) the Department's observation form, which includes observations of the applicant's instruction and competencies in adult basic education.

The observation form must be completed by a qualified observer as determined by the Department.

4.17 Principal Authorization (Grades K-12)

A principal authorization may be issued to a person who does not hold or may not qualify for an initial principal license but who holds a bachelor's or higher degree from an accepted institution of higher education and who will be employed by a district, charter school, or nonpublic school under an individualized alternative principal program or who participates in an alternative principal program through a designated agency. A school district may employ a person who holds a principal authorization to perform principal or assistant principal duties only when the authorization-holder is supervised by a professional principal license-holder.

4.17(1) A principal authorization is valid for three years and may not be renewed.

4.17(2) To submit a principal authorization application for an individualized alternative principal program, an applicant, in collaboration with a school district, charter school, nonpublic school or the institute, must submit to the Department documentation pursuant to section 13.01 of these rules.

4.17(3) To submit a principal authorization application for a person participating in an alternative principal program through a designated agency, the applicant must provide documentation of employment as an alternative principal or assistant principal and enrollment in an alternative principal program approved by the Colorado Department of Education pursuant to section 13.02 of these rules.

4.17(4) Upon successful completion of an individualized alternative principal program or alternative principal program, if the principal authorization-holder has three or more years of licensed experience in a school, that person may apply for an initial principal license.

4.17(5) The employer may provide an induction program for an individual working under a principal authorization as specified in section 9.00 of these rules. Induction programs completed while holding this authorization may count toward fulfilling requirements for a professional license.

4.18 Native American Language & Culture Instructor Authorization (Grades K-12)

A Native American language and culture instructor authorization may be issued to a person to provide instruction in the Native American language and culture in which the person has demonstrated expertise.

4.18(1) The Native American language and culture instructor authorization is valid for five years. It may be renewed for succeeding five-year periods upon application and at the request of the school district. The district must submit evidence of continuing need.

4.18(2) To receive a Native American language and culture instructor authorization, the applicant must:

4.18(2)(a) qualify for an adjunct instructor authorization as specified in section 4.01 of these rules; or

4.18(2)(b) demonstrate expertise in a Native American language of a federally recognized tribe by:

4.18(2)(b)(i) providing evidence of demonstrated expertise in a Native American language of a federally recognized tribe, as verified by the employing school district;

4.18(2)(b)(ii) identifying a partnering, licensed teacher, as verified by the employing school district; and

4.18(2)(b)(iii) meeting the following objective standards, as verified by the employing school district:

4.18(2)(b)(iii)(A) is able to listen, speak, read and write the Native American language identified at a proficient level for the purposes of interpersonal, interpretive, and presentational communication;

4.18(2)(b)(iii)(B) is knowledgeable about the language and related culture, can describe their interrelationships, and is able to articulate to students, other educators and interested stakeholders:

4.18(2)(b)(iii)(B)(I) perspectives related to historic and contemporary ideas, attitudes, and values of the Native American culture;

4.18(2)(b)(iii)(B)(II) the practices within the Native American culture that are based on historical, geographical, and sociological influences;

4.18(2)(b)(iii)(B)(III) the contributions and achievements of the culture to the fields of literature, the arts, science, mathematics, business, technology, and other areas; and

4.18(2)(b)(iii)(B)(IV) the geographic, economic, social, and political features of traditional and contemporary cultures associated with the Native American language being taught;

4.18(2)(b)(iii)(C) and is able to create a learning environment that accepts, encourages, and promotes the culture and language that Native American language speakers bring into the classroom.

4.18(3) A holder of a Native American language and culture instruction authorization is prohibited from teaching any subject other than the Native American language for which he or she has demonstrated expertise.

5.00 Teacher and Special Services Provider Licensure Standards (Teacher Quality Standards)

Teacher Quality Standards

In addition to a demonstrated understanding of the Colorado Academic Standards; the Colorado Reading To Ensure Academic Development Act (Colorado READ Act); strict data privacy and security practices; special education regulations as outlined in section 23-1-121(2)(c.7), C.R.S.; and professional practices to address multiple pathways for students to be postsecondary and workforce ready as outlined in sections 22-2-106, 22-2-136, 22-7-1003(15), and 22-32-109, C.R.S., the following serve as standards for authorization of programming and content for educator preparation programs and licensing of all teacher candidates in Colorado.

5.01 Quality Standard I: Teachers demonstrate mastery of and pedagogical expertise in the content they teach. The elementary teacher is an expert in literacy and mathematics and is knowledgeable in all other content that he or she teaches (e.g., science, social studies, the arts, physical education or world languages). The secondary teacher has knowledge of literacy and mathematics and is an expert in the content area(s) in which the teacher is endorsed.

5.01(1) Element A: Teachers provide instruction that is aligned with the Colorado Academic Standards and their district's organized plan of instruction.

5.01(2) Element B: Teachers develop and implement lessons that connect to a variety of content areas/disciplines and emphasize literacy and mathematics.

5.01(3) Element C: Teachers demonstrate knowledge of the content, central concepts, inquiry, appropriate evidence-based instructional practices, and specialized characteristics of the disciplines they teach.

5.02 Quality Standard II: Teachers establish a safe, inclusive, and respectful learning environment for a diverse population of students.

5.02(1) Element A: Teachers foster a predictable learning environment characterized by acceptable student behavior and efficient use of time, in which each student has a positive, nurturing relationship with caring adults and peers.

5.02(2) Element B: Teachers demonstrate an awareness of, a commitment to, and a respect for multiple aspects of diversity, while working toward common goals as a community of learners.

5.02(3) Element C: Teachers engage students as individuals, including those with diverse needs and interests, across a range of ability levels by adapting their teaching for the benefit of all students.

5.02(4) Element D: Teachers work collaboratively with the families and/or significant adults for the benefit of students.

5.03 Quality Standard III: Teachers plan and deliver effective instruction and create an environment that facilitates learning for their students.

5.03(1) Element A: Teachers demonstrate knowledge about the ways in which learning takes place, including the levels of intellectual, physical, social, and emotional development of their students.

5.03(2) Element B: Teachers use formal and informal methods to assess student learning and provide feedback, and they use results to inform planning and instruction.

5.03(3) Element C: Teachers utilize appropriate, available technology to engage students in authentic learning experiences.

5.03(4) Element D: Teachers establish and communicate high expectations and support the development of critical-thinking and problem-solving skills.

5.03(5) Element E: Teachers provide students with opportunities to work in teams and develop leadership.

5.03(6) Element F: Teachers model and promote effective communication.

5.04 Quality Standard IV: Teachers demonstrate professionalism through ethical conduct, reflection, and leadership.

5.04(1) Element A: Teachers demonstrate high standards for professional conduct.

5.04(2) Element B: Teachers link professional growth to their professional goals.

5.04(3) Element C: Teachers respond to a complex, dynamic environment.

5.04(4) Element D: Teachers demonstrate leadership in their school, the community and the teaching profession.

Special Services Provider Quality Standards

The following must serve as standards for authorization of program content for educator preparation programs and licensing of all special services provider candidates. Colorado has identified nine categories of special services providers, referred to as "other licensed personnel" in law and State Board rules). 1 CCR 301-101 further outlines the quality standards and elements applicable to specific special services provider groups, including:

- School Audiologist
- School Occupational Therapist
- School Physical Therapist
- School Counselor
- School Nurse
- School Orientation and Mobility Specialist
- School Psychologist
- School Social Worker
- School Speech-Language Pathologist

5.05 Quality Standard I: Special services providers demonstrate mastery of and expertise in the domain for which they are responsible.

5.05(1) Element A: Special services providers provide services aligned with state and federal laws, local policies and procedures, Colorado Academic Standards, their district's organized plans of instruction, and the individual needs of their students.

5.05(2) Element B: Special services providers demonstrate knowledge of effective services that support learning.

5.05(3) Element C: Special services providers demonstrate knowledge of their professions and integrate evidence-based practices and research findings into their services.

5.06 Quality Standard II: Special services providers support or establish safe, inclusive, and respectful learning environments for a diverse population of students.

5.06(1) Element A: Special services providers foster a safe and accessible learning environment characterized by acceptable student behavior and efficient use of time, in which each student has a positive, nurturing relationship with caring adults and peers.

5.06(2) Element B: Special services providers understand and respond to diversity within the home, school, and community.

5.06(3) Element C: Special services providers engage students as individuals with diverse needs and interests, across a range of ability levels, by adapting services for the benefit of students.

5.06(4) Element D: Special services providers work collaboratively with the families and/or significant adults for the benefit of students.

5.07 Quality Standard III: Special services providers plan and deliver effective services in an environment that facilitates student learning.

5.07(1) Element A: Special services providers apply knowledge of the ways in which learning takes place, including the appropriate levels of intellectual, physical, social, and emotional development of their students.

5.07(2) Element B: Special services providers utilize formal and informal assessments to inform service delivery.

5.07(3) Element C: Special services providers utilize appropriate, available technology to engage students in authentic learning experiences.

5.07(4) Element D: Special services providers establish and communicate high expectations and support the development of critical-thinking, problem-solving, and self-advocacy skills.

5.07(5) Element E: Special services providers develop and implement services related to student needs, learning, and progress towards goals.

5.07(6) Element F: Special services providers model and promote effective communication.

5.08 Quality Standard IV: Special services providers demonstrate professionalism through ethical conduct, reflection, and leadership.

5.08(1) Element A: Special services providers demonstrate high standards for ethical and professional conduct.

5.08(2) Element B: Special services providers link professional growth to their professional goals.

5.08(3) Element C: Special services providers respond to a complex, dynamic environment.

5.08(4) Element D: Special services providers demonstrate leadership and advocacy in the school, the community, and their profession.

English Language Learner Quality Standards for Teachers and Special Services Providers

In order to ensure that all Colorado educators are well-equipped and able to teach Colorado's diverse student population, all educator pre-service programs, including approved programs of preparation at institutions of higher education and designated agencies providing alternative teacher programs, must ensure the following standards are fully taught and practiced in their programs. The following standards equate to approximately 6 semester hours or the equivalent of 90 clock-hours.

Note: The following standards are to supplement, not supplant, the culturally and linguistically diverse (CLD) endorsement. These standards can and should be aligned to the CLD endorsement standards as noted in 1 CCR 301-101 if the educator preparation entity is seeking to graduate students with dual endorsements in a content area and in CLD.

5.09 Quality Standard I: Educators are knowledgeable about CLD populations.

5.09(1) Element A: Educators are knowledgeable in and can apply the major theories, concepts, and research related to culture, diversity, and equity in order to support academic access and opportunity for CLD student populations.

5.09(2) Element B: Educators are knowledgeable in and can use progress monitoring, in conjunction with formative and summative assessments, to support student learning.

5.10 Quality Standard II: Educators should be knowledgeable in first and second language acquisition.

5.10(1) Element A: Educators understand and can implement strategies and select materials to aid in English language and content learning.

5.10(2) Element B: Educators are knowledgeable in and can apply the major theories, concepts and research related to culture, diversity and equity in order to support academic access and opportunity for CLD student populations.

5.11 Quality Standard III: Educators should understand literacy development for CLD students.

5.11(1) Element A: Educators are knowledgeable in and can apply the major theories, concepts, and research related to literacy development for CLD students.

5.11(2) Element B: Educators understand and can implement strategies and select materials to aid in English language and content learning.

5.12 Quality Standard IV: Educators are knowledgeable in the teaching strategies, including methods, materials, and assessment for CLD students.

5.12(1) Element A: Educators are knowledgeable in, understand and able to use the major theories, concepts, and research related to language acquisition and language development for CLD students.

5.12(2) Element B: Educators are knowledgeable in and can use progress monitoring, in conjunction with formative and summative assessments, to support student learning.

6.00 Principal and Administrator Licensure Standards (Principal Quality Standards)

Principal Quality Standards

A principal must demonstrate an understanding of the Colorado Academic Standards; the Colorado Reading To Ensure Academic Development Act (Colorado READ Act); strict data privacy and security practices; special education laws regulations, as outlined in section 23-1-121(2)(c.7), C.R.S.; and professional practices to address multiple pathways for students to be postsecondary and workforce ready, as outlined in sections 22-2-106, 22-2-136, 22-7-1003(15), and 22-32-109, C.R.S. The following standards must guide the development of the content of principal preparation programs offered by accepted institutions of higher education, designated agencies, and individualized alternative principal programs and must guide the ongoing professional development of these principals.

6.01 Quality Standard I: Principals demonstrate organizational leadership by strategically developing a vision and mission, leading change, enhancing the capacity of personnel, distributing resources, and aligning systems of communication for continuous school improvement.

6.01(1) Element A: Principals collaboratively develop the vision, mission, and strategic plan, based on a cycle of continuous improvement of student outcomes, and facilitate their integration into the school community.

6.01(2) Element B: Principals collaborate with staff and stakeholders to implement strategies for change to improve student outcomes.

6.01(3) Element C: Principals establish and effectively manage systems that ensure high-quality staff.

6.01(4) Element D: Principals establish systems and partnerships for managing all available school resources to facilitate improved student outcomes.

6.01(5) Element E: Principals facilitate the design and use of a variety of communication strategies with all stakeholders.

6.02 Quality Standard II: Principals demonstrate inclusive leadership practices that foster a positive school culture and promote safety and equity for all students, staff, and community members.

6.02(1) Element A: Principals create a professional school environment and foster relationships that promote staff and student success and well-being.

6.02(2) Element B: Principals ensure that the school provides an orderly and supportive environment that fosters a sense of safety and well-being.

6.02(3) Element C: Principals commit to an inclusive and positive school environment that meets the needs of all students and promotes the preparation of students to live productively and contribute to the diverse cultural contexts of a global society.

6.02(4) Element D: Principals create and utilize systems to share leadership and support collaborative efforts throughout the school.

6.02(5) Element E: Principals design and/or utilize structures and processes which result in family and community engagement and support.

6.03 Quality Standard III: Principals demonstrate instructional leadership by: aligning curriculum, instruction and assessment; supporting professional learning; conducting observations; providing actionable feedback; and holding staff accountable for student outcomes.

6.03(1) Element A: Principals establish, align and ensure implementation of a district/BOCES plan of instruction, instructional practice, assessments and use of student data that result in academic growth and achievement for all students.

6.03(2) Element B: Principals foster a collaborative culture of job-embedded professional learning.

6.03(3) Element C: Principals demonstrate knowledge of effective instructional practice and provide feedback to promote continuous improvement of teaching and learning.

6.03(4) Element D: Principals hold all staff accountable for setting and achieving measurable student outcomes.

6.04 Quality Standard IV: Principals demonstrate professionalism through ethical conduct, reflection and external leadership.

6.04(1) Element A: Principals demonstrate high standards for professional conduct.

6.04(2) Element B: Principals link professional growth to their professional goals.

6.04(3) Element C: Principals build and sustain productive partnerships with key community stakeholders, including public and private sectors, to promote school improvement, student learning and student well-being.

English Language Learner Quality Standards for Principals

6.05 English Language Learner Principal Quality Standards

In order to ensure that all Colorado school-based leaders are well-equipped and able to support Colorado educators in teaching the state's diverse student population, all principal pre-service programs including approved programs of preparation at Colorado institutions of higher education and individualized alternative principal programs must ensure the standards outlined in sections 5.09 to 5.12 of these rules are fully taught, addressed and practiced in their programs.

Administrator Quality Standards

6.06 Administrator Licensure Standards (Administrator Quality Standards)

An administrator applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education, must have completed an approved administrator program, and must have demonstrated the competencies specified below:

6.06(1) In addition to knowledge of and the ability to demonstrate the requirements in sections 6.01- 6.05 (Principal Quality Standards) of these rules, the following administrator rules describe additional competencies required to lead at the district level.

6.06(1)(a) Administrators demonstrate organizational leadership, including responsibility for:

6.06(1)(a)(i) district/program vision, mission, and strategic plan;

6.06(1)(a)(ii) continual and sustainable district/program improvement;

6.06(1)(a)(iii) recruitment, development, supervision, evaluation, and retention of high-quality personnel;

6.06(1)(a)(iv) district and community partnerships;

6.06(1)(a)(v) communication with internal and external stakeholders;

6.06(1)(a)(vi) fiscal and resource management, as well as resource-development strategies; and

6.06(1)(a)(vii) compliance with policies, laws, rules, and regulations.

6.06(1)(b) Administrators demonstrate inclusive leadership practices and systems that include responsibility for:

6.06(1)(b)(i) coherent systems of teaching, learning, and leading, including curricular and extra-curricular activities;

6.06(1)(b)(ii) positive culture and climate for staff and student success and well-being;

6.06(1)(b)(iii) safe and orderly environments for the protection and welfare of all;

6.06(1)(b)(iv) equitable and inclusive practices to address diverse student populations and needs;

6.06(1)(b)(v) systems for collaborative and distributed leadership; and

6.06(1)(b)(vi) family and community engagement.

6.06(1)(c) Administrators demonstrate instructional leadership that includes responsibility for:

6.06(1)(c)(i) aligned systems of curriculum, instruction, and assessment;

6.06(1)(c)(ii) professional learning for all staff that supports student learning;

6.06(1)(c)(iii) student outcomes for growth, achievement, engagement, and post-secondary and workforce readiness; and

6.06(1)(c)(iv) continuous improvement accountability systems (e.g., goal setting, data-informed decisions, multi-tiered systems of support and research-based practices).

6.06(1)(d) Administrators demonstrate professionalism that includes responsibility for:

6.06(1)(d)(i) ethical behavior and professional norms;

6.06(1)(d)(ii) professional learning, continuous growth and ongoing reflection;

6.06(1)(d)(iii) conflict resolution, problem solving and decision making;

6.06(1)(d)(iv) board-administrator relationships;

6.06(1)(d)(v) partnerships with internal stakeholders and external organizations; and

6.06(1)(d)(vi) democratic and civic participation and advocacy.

English Language Learner Quality Standards for Administrators

6.07 English Language Learner Administrator Standards

In order to ensure that all school-based leaders are well equipped and able to support educators in teaching the state's diverse student population, all administrator pre-service programs, including approved programs of preparation at institutions of higher education, must ensure the standards outlined in sections 5.09-5.12 of these rules are fully taught, addressed, and practiced in their programs.

Standards for Professional Competencies for an Initial Administrator License with a Director of Special Education Endorsement

6.08 Standards for Professional Competencies for an Initial Administrator License with a Director of Special Education Endorsement

In addition to knowledge of and the ability to demonstrate the requirements in section 6.06 of these rules (Administrator Quality Standards), the following standards must be addressed by an accepted institution of higher education's director of special education initial preparation. They are also the standards for the ongoing professional development of these educators. The specific performance indicators for each of these standards must be described in the Department's Performance Indicators for Professional Competency Standards.

6.09 Quality Standard I – Foundations for Leadership: The director of special education must have a solid foundation for leadership by: (a) demonstrating a comprehensive knowledge of special education organization, programs, laws and best practices; and (b) setting high standards and a positive direction for special education consistent with the values, mission, and vision of the state and administrative unit.

6.10 Quality Standard II – Special Education and School Systems: The director of special education must demonstrate knowledge of organizational culture, apply a systems approach to the development of special education programs and processes, and facilitate effective system change.

6.11 Quality Standard III – Law and Policy: The director of special education is knowledgeable about and able to apply relevant federal and state statutes, regulations, case law, and policies that impact all children, including those with disabilities.

6.12 Quality Standard IV – Instructional Leadership: The director of special education is able to integrate general education and special education, including curriculum, instructional strategies, assessments, and individualized instruction, in support of academic achievement for all children, including those with disabilities.

6.13 Quality Standard V – Program Planning and Organization: The director of special education is able to evaluate the efficacy and efficiency of special education programs, facilities, services, and monitoring systems. The director is able to use the evaluation data to improve the programs and services for all children, including those with disabilities.

6.14 Quality Standard VI – Human Resource Functions: The director of special education must have the knowledge and ability to recruit, retain, and evaluate qualified personnel.

6.15 Quality Standard VII – Parent, Family and Community Engagement: The director of special education is knowledgeable about and able to facilitate partnerships and engage parents, families, and communities in the implementation of special education programs.

6.16 Quality Standard VIII – Budget and Resources: The director of special education is knowledgeable about and able to demonstrate school district budgeting and resource allocation, including those related to special education.

Standards for Professional Competencies for an Initial Administrator License with a Director of Gifted Education Endorsement

6.17 Standards for Professional Competencies for an Initial Administrator License with a Director of Gifted Education Endorsement.

In addition to knowledge of and the ability to demonstrate the requirements in section 6.06 (Administrator Quality Standards) of these rules, the following standards must be addressed by the director of gifted education initial preparation program offered by accepted institutions of higher education. They must also guide the ongoing professional development of these educators. The director of gifted education must demonstrate the performance indicators specific to gifted education and the Department's Performance Indicators for Professional Competency Standards.

6.18 Quality Standard I - Foundations for Leadership: The director of gifted education is knowledgeable about professional, ethnical leadership and supports educators, students, family, and community members to effectively address outcomes for gifted learners. The director sets high standards and a positive direction for gifted education consistent with values, mission, and vision of the state and administrative unit.

6.18(1) Element A: The director of gifted education demonstrates methods to develop vision, mission, goals, and design for gifted education programs.

6.18(2) Element B: The director brings together stakeholders to implement general program and gifted-student goals and best practices in gifted education.

6.89(3) Element C: The director implements collaborative decision-making strategies, as appropriate.

6.18(4) Element D: The director applies knowledge of models and practices in change theory for improvement efforts.

6.18(5) Element E: The director is able to define, advocate for, and make changes with regard to issues in gifted education.

6.19 Quality Standard II - Gifted Education and School Systems: The director of gifted education is knowledgeable about organizational culture, applies a systems approach to the development of gifted education programs, and implements processes in order to facilitate effective system change.

6.19(1) Element A: The director of gifted education understands how systems within a district or administrative unit influence gifted-student instruction and performance.

6.19(2) Element B: The director fosters a school and community culture that supports gifted-student programming within and outside the school setting.

6.19(3) Element C: The director applies a systems approach for developing gifted programs to enhance integrated support and service to gifted students and their families.

6.01 Quality Standard III - Law and Policy: The director of gifted education must have comprehensive knowledge and the ability to apply state and federal laws, regulations, case laws, and policies that impact all children, including those with exceptional academic and talent aptitude.

6.01(1) Element A: The director of gifted education demonstrates proficiency in gifted education policy, regulations, case law, and federal programs supporting key instructional needs of gifted students.

6.20(2) Element B: The director identifies needs and recommends and promotes new policies.

6.01(3) Element C: The director clarifies law and regulations for all stakeholders.

6.01(4) ELEMENT D: The director ensures implementation of privacy laws and district confidentiality and privacy policies.

6.20(5) Element E: The director develops, revises, and/or make recommendations to amend school board or administrative unit policy to align with laws and regulations.

6.12 Quality Standard IV - Instructional Leadership: The director of gifted education is able to blend the resources of general and gifted education for the positive benefit of gifted students. The director is knowledgeable about best practices for gifted learners, including specialized curriculum, effective instructional strategies, assessments, social-emotional/affective support, and individualized instruction.

6.21(1) Element A: The director of special education demonstrates knowledge of and support for identification methods and procedures.

6.21(2) Element B: The director interprets and shares data to increase the identification of under-identified, underserved populations and aligns professional development initiatives to needs.

6.21(3) Element C: The director understands models of differentiation, acceleration, and research-based instructional practices that support rigor, challenge, depth, and complexity in instruction and assessment for gifted students.

6.21(4) Element D: The director establishes high expectations for all gifted students and families, including underserved populations and twice-exceptional learners.

6.21(5) Element E: The director monitors standards-based advanced learning plans in order to ensure alignment of programming options to gifted students' needs.

6.21(6) Element F: The director blends the instructional needs of gifted students into the school system.

6.21(7) Element G: The director supports and defends gifted education initiatives within the general education setting.

6.22 Quality Standard V - Program Planning and Organization: The director of gifted education evaluates the efficacy and efficiency of gifted education programing, delivery settings, services, and monitoring systems and uses evaluation data to improve the programs and services for all children, including those with exceptional academic and talent aptitude.

6.22(1) Element A: The director of gifted education designs and implements needs-assessments and uses data to inform restructuring or adjustments to gifted programs.

6.22(2) Element B: The director develops and implements action plans for gifted education based upon student outcomes, challenges, root causes, improvement strategies, and benchmarks.

6.22(3) Element C: The director is knowledgeable about effective, research-based gifted education models and practices that have positive impacts on gifted students.

6.22(4) Element D: The director supports and/or builds gifted programs that effectively embed district and alternative pathways to college and career outcomes.

6.23 Quality Standard VI - Human resource functions: The director of gifted education is able to recruit, retain, supervise, and evaluate qualified personnel.

6.23(1) Element A: The director of gifted education understands educator effectiveness standards in order to observe and evaluate teachers of gifted students.

6.23(2) Element B: The director designs ongoing professional development that increases educators' capacity to understand and address the needs of gifted students.

6.34(3) Element C: The director promotes an understanding and sensitivity toward culture, ethnicity, and diversity of language within staff and student body.

6.23(4) Element D: The director understands the skills and knowledge necessary for educators to meet the specific needs of gifted and talented students.

6.24 Quality Standard VII - Parent, Family and Community Partnership: The director of gifted education is knowledgeable about effective communication, decision-making, problem-solving, and conflict-resolution strategies. The director must be able to facilitate partnerships and engage parents, families, educators, administrators, students, and communities in the implementation of gifted education programs.

6.24(1) Element A: The director of gifted education promotes understanding, resolves conflicts, and builds consensus for improving gifted programs.

6.24(2) Element B: The director develops the infrastructure to include parents, families, and the community in gifted education program.

6.24(3) Element C: The director applies methods and systems to maximize parent and family involvement.

6.45(4) Element D: The director implements family partnership practices that support gifted student achievement and school involvement.

6.24(5) Element D: The director cooperatively develops and shares a vision for the district or administrative unit that supports and promotes gifted education.

6.25 Quality Standard VIII - Budget and Resources: The director of gifted education must be able to budget and allocate resources related to gifted education.

6.56(1) Element A: The director of gifted education develops and manages a gifted education budget. The director facilitates stakeholders' involvement in a collaborative budget development process.

6.25(2) Element B: The director leverages resources for gifted education within school systems.

6.25(3) Element C: The director's gifted education budget addresses state requirements.

6.25(4) Element D: The director conducts research and needs assessments in order to accurately identify specific budget needs and promotes initiatives for gifted education funding through grants and other funding opportunities.

7.00 Renewal of Colorado Licenses

The following must serve as standards for the renewal of initial and professional licenses and master certificates and endorsements thereon.

7.01 Initial Licenses

An initial teacher, special services provider, principal, or administrator license and endorsements may be renewed once for a period of three years for applicants who have not completed the requirements for a professional license as specified in sections 3.05-3.07 of these rules. The State Board of Education may renew the license-holder's initial license for one or more additional three-year periods for good cause if the holder is unable to complete an approved induction program for reasons other than incompetence. A renewal request must include a complete application for renewal, payment of the required fee, and a statement concerning the circumstances related to the applicant's inability to complete the induction program.

7.02 Professional Licenses

A professional teacher, special services provider, principal, or administrator license and endorsements may be renewed for a period of seven years upon submission of a complete application for renewal, payment of the required fee, and completion of professional development activities that meet the requirements of this section 7.02. To be eligible to renew a professional license, the holder must complete such activities within the period of time for which the professional license is valid or, if expired, within the seven years immediately preceding the date of application. An applicant for renewal must meet the following requirements:

7.02(1) Professional development activities: An educator requesting license renewal must complete professional development activities equivalent to six semester hours or 90 contact hours. Applicants must electronically submit an affidavit attesting to the completion of applicable professional development. Such activities must be related to increasing the license-holder's competence in his or her existing or potential endorsement area; to increasing the license-holder's skills and competence in delivery of instruction in his or her existing or potential endorsement area; to evidence-based practices for teaching reading and literacy; or to culturally and linguistically diverse education. Professional development activities may be selected from one or more of the following:

7.02(1)(a) In-service education: A school district or BOCES are approved entities for in-service education programs. One semester hour of credit may be granted for every 15 contact hours of participation.

7.02(1)(b) College or university credit: College or university credit may be earned from accepted institutions of higher education or accepted community, technical, or junior colleges. Courses must be directly related to the standards for professional development as provided in section 7.02 of these rules. Copies of official transcripts may be submitted, in addition to the online affidavit form, as evidence of completion of college/university credit. Though submittal of official transcripts is not required, the Department may audit renewal applications to verify college or university credit.

7.02(1)(c) Educational travel: Educational travel must be directly applicable to the endorsement area of the license-holder as documented by the license-holder and accompanied by supervisor verification. One semester hour of credit may be granted for every 15 contact hours of involvement. Travel time to and from the intended destination must not be included in the hours accumulated.

7.02(1)(d) Involvement in school and/or district initiatives: One semester hour of credit may be granted for every 15 contact hours of participation. When verified by the license-holder's supervisor, activities may include but are not limited to:

7.02(1)(d)(i) membership on school site or district accountability or improvement committee(s);

7.02(1)(d)(ii) curriculum, standards, or assessment development or implementation in the license-holder's endorsement area;

7.02(1)(d)(iii) the implementation of standards;

7.02(1)(d)(iv) the development or implementation of evidence-based practices for teaching reading, literacy, or numeracy; and

7.02(1)(d)(v) professional development in the area of culturally and linguistically diverse education.

7.02(1)(e) Internships/Externships: Advanced field experiences offered as part of graduate study or other professional training and designed to acquire knowledge or enhance the skills of the educator may qualify as an internship. The internship must be directly related to the standards for professional development as provided in section 7.02 of these rules. One semester hour of credit may be accepted for every 15 contact hours of participation. Official transcripts or supervisor verification must be submitted, in addition to the online renewal summary form, as evidence of completion.

7.02(1)(f) Ongoing professional development and training experiences: Online or in-person professional development confirmed by certificate or documentation of completion or instructor verification, attendance or presentation at professional conferences; service on statewide or national educational task forces or boards; professional research and publication; supervision of student teachers or interns; mentorships; and the pursuit of national educator certification.

7.02(2) For renewal of a professional teacher license, at least 10 of the 90 contact hours of professional development activities required must be related to:

7.02(2)(a) behavioral health training that is culturally responsive and trauma- and evidence-informed; and

7.02(2)(b) increasing awareness of laws and practices relating to educating students with disabilities in the classroom.

7.02(2)(c) The behavioral health training required pursuant to section 7.02(2)(a) may include:

7.02(2)(c)(i) mental health first aid training, specific to youth and teens;

7.02(2)(c)(ii) training modules concerning teen suicide prevention;

7.02(2)(c)(iii) training on interconnected systems framework for positive behavioral interventions and supports and mental health;

7.02(2)(c)(iv) training approved or provided by the school district where the teacher is employed;

7.02(2)(c)(v) training concerning students with behavioral concerns or disabilities;

7.02(2)(c)(v) training modules concerning child traumatic stress; and

7.02(2)(c)(vi) any other program or training that meets the requirements of Rule 7.02(2)(a).

7.02(2)(d) The training regarding students with disabilities required pursuant to section 7.02(2)(b) must increase awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to Child Find and inclusive learning environments.

7.02(3) A teacher may obtain the 10 hours required by section 7.02(2) through any combination of courses as long as that combination includes at least one hour of training in each area. A single professional development course or activity may satisfy both content requirements.

7.02(4) For renewal of a professional special services provider, principal, or administrator license, at least 10 of the 90 contact hours of professional development activities required for renewal must be in professional development activities related to increasing awareness of laws and practices relating to educating students with disabilities in the classroom, as described in section 7.02(2)(b).

7.02(5) Professional license-holders must meet the requirement outlined in this section 7.02(2) or 7.02(4), as applicable, during the term of the license, each seven-year renewal cycle except that a professional license-holder who has less than three years left in the license renewal period on June 30, 2020 has until the end of the following applicable renewal period to satisfy the requirements.

7.02(6) Except for the activities undertaken to satisfy the requirements of Rule 7.02(2) and 7.02(4) above, activities completed for professional license renewal must be directly related to one or more of the following standards:

7.02(6)(a) knowledge of subject matter content and learning, including knowledge and application of the Colorado Academic Standards, special education laws and processes, post-secondary workforce readiness, career counseling, multi-tiered systems of support, and other appropriate student-based supports;

7.02(6)(b) knowledge of the Teacher and Special Services Provider Quality Standards, Principal Quality Standards, and Administrator Quality Standards as outlined in sections 5.00, 6.00, and 6.06 of these rules;

7.02(6)(c) knowledge of the English Language Learner Educator Standards as outlined in sections 5.09-5.12 of these rules;

7.02(6)(d) knowledge of content area endorsement standards as outlined in 1 CCR 301-101;

7.02(6)(e) knowledge of the standards for preparation of Special Education and Gifted Education as outlined in sections 6.08 and 6.17 of these rules;

7.02(6)(f) knowledge of the Colorado Reading to Ensure Academic Development (READ) Act as outlined in 1 CCR 301-92;

7.02(6)(g) effective organization, leadership and management of human and financial resources to create a safe and effective working and learning environment;

7.02(6)(h) awareness of warning signs of dangerous behavior in youth and situations that present a threat to the health and safety of students and knowledge of the community resources available to enhance the health and safety of students and the school community, youth mental health, safe de-escalation of crisis situations, recognition of signs of poor mental health and substance use, and support of students;

7.02(6)(i) effective teaching of the democratic ideal;

7.02(6)(j) recognition, appreciation, and support for ethnic, cultural, gender, economic, and human diversity to provide fair and equitable treatment and consideration for all;

7.02(6)(k) effective communication with students, colleagues, parents, and the community;

7.02(6)(l) effective modeling of appropriate behaviors to ensure quality learning experiences for students and for colleagues;

7.02(6)(m) consistently ethical behavior and creation of an environment that encourages and develops responsibility, ethics, and citizenship in self and others;

7.06(6)(n) achievement as a continuous learner who encourages and supports personal and professional development of self and others; or

7.06(6)(o) awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to Child Find and inclusive learning environments.

7.02(7) Professional development activities completed by an applicant for license renewal must apply equally to renewal of any professional educator license or endorsement held by the applicant.

7.02(8) Upon completion of the professional development activities and within the six months prior to the expiration of the professional license(s) to be renewed, the applicant must submit:

7.02(8)(a) a complete application for license renewal, including a signed affidavit in which the license-holder affirms under oath that:

7.02(8)(a)(i) the license-holder satisfactorily completed the ongoing professional development activities specified in the affidavit;

7.02(8)(a)(ii) the activities were completed within the term of the professional license; and

7.02(8)(a)(iii) to the best of the license-holder's knowledge, the activities comply with the requirements of section 7.02 of these rules and section 22-60.5-110, C.R.S.;

7.02(8)(b) a statement of how the activities selected aided the license-holder in meeting the standards for professional educators;

7.02(8)(c) the required evaluation fee;

7.02(8)(d) the oath required in section 2.04(2)(f) of these rules; and

7.02(8)(e) a complete set of license-holder's fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or Board of Cooperative Services using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the Colorado Bureau of Investigation, unless the applicant previously submitted a complete and approved set of fingerprints to the Colorado Bureau of Investigation and satisfactory record of this submission is on file with the Department.

7.02(9) The Department will evaluate the application and supporting evidence and renew the license, request additional information or explanation, or recommend denial of the license renewal if the requirements of section 7.02(4) of these rules are not met.

7.02(10) Master certificates. License-holders who hold master certificates in conjunction with professional licenses may renew the master certification by providing evidence that the license-holder continued to engage in professional development and leadership and continued to demonstrate advanced competencies and expertise during the period in which the master certificate was valid. Master certificates are valid for the period of time for which a professional license is valid and are renewable upon expiration of the license. .

7.02(10)(a) Professional development activities for the renewal of master certificates may include but need not be limited to: involvement in school reform efforts; service on state-wide boards or commissions; supervision and mentorship of advanced-level practicum or internship students; advanced study appropriate to standards 5.00 or 6.00 of these rules; and original research and/or publication.

English Language Learner Professional Development

7.02(11) Effective beginning in the 2018-2019 school year and every year thereafter, educators endorsed in elementary, math, science, social studies, or English language arts, and seeking a renewal of their professional license, must complete professional development activities equivalent to 45 contact hours or three semester hours in Culturally and Linguistically Diverse (CLD) Education within the seven-year renewal period. The activities must meet or exceed the standards set forth in section 7.02 and in sections 5.09-5.12 of these rules. This requirement

must only be completed once. Professional development activities completed to satisfy this requirement may also be counted toward the requirements in section 7.02(1).

7.02(11)(a) Educators may demonstrate knowledge of the standards outlined in sections 5.09-5.12 of these rules in one or in a combination of the following ways:

7.02(11)(a)(i) through a collection of professional development, in-service credit, college/university credit, and/or work experience that meet the standards as outlined;

7.02(11)(a)(ii) completion of any Department-approved English Language Learner pathway, which may include district, college or university, BOCES, or nonprofit programs;

7.02(11)(a)(ii)(A) Agencies wishing to become an approved pathway may submit an application for approval of an English Language Learner pathway to the Department's Educator Talent Division.

7.02(11)(a)(ii)(B) Approved pathways will be reviewed every three years to ensure consistency and alignment to the standards as noted.

7.02(11)(a)(iii) completion of a Colorado CLD or a related out-of-state endorsement (such as English as a Second Language); and/or

7.02(11)(a)(iv) completion of a Department-facilitated English Language Learner professional development pathway.

7.02(11)(b) A district superintendent annually may request a waiver from the English language learner professional development requirements for their educators endorsed in elementary, math, science, social studies, or English language arts if the district has had an average of 2% or fewer identified English language learners in the three years immediately preceding such request, as identified in the Department's annual Student October Pupil Enrollment data collection.

7.02(11)(c) The principal of a charter school authorized by the institute annually may request a waiver from the English language learner professional development requirements for educators in their charter school authorized by the institute endorsed in elementary, math, science, social studies, or English language arts if the charter school has had an average of 2% or fewer identified English language learners in the three years immediately preceding such request as identified in the Department's annual Student October Pupil Enrollment collection.

7.02(11)(d) Upon submission of an application for renewal, license-holders must also submit the superintendent's or institute's notice of request for waiver. The Department will evaluate the waiver request based on the average of the last three years of the English language learner population in the district.

7.03 Appeals Process

An applicant whose application for renewal of any license has been denied by the Department may submit an appeal to the State Board of Education. If the State Board of Education finds that the applicant has met the criteria for license renewal, the Department must approval the license renewal.

7.04 Reinstatement of Expired Licenses or Certificates

An applicant whose previous professional license or certificate was not renewed may reinstate his or her professional license or certificate by:

7.04(1) completing and submitting a renewal application including:

7.04(1)(a) evidence to satisfy the deficiencies that resulted in prior nonrenewal, including but not limited to, evidence of completion of professional development requirements as provided in section 7.02 of these rules. An applicant seeking reinstatement must have completed professional development activities totaling either six semester hours or 90 clock-hours within the seven-year period preceding the application for reinstatement; and

7.04(1)(b) the renewal fee set by the State Board of Education.

7.04(1)(c) In the event that a license or certificate is expired, the applicant must submit new fingerprints to the CBI and the results must be transferred to the Department, as provided by section 2.04(1) of these rules.

8.00 Approved Induction Programs for Teachers, Special Services Providers, and Authorization-Holders.

Initial licenses are valid only in school districts, nonpublic schools, BOCES, or charter schools that provide approved induction programs unless the State Board of Education has waived the induction program requirement as provided in section 15.00 of these rules. Colorado school districts, consortia of districts, BOCES, nonpublic schools, charter schools, the institute, or other educational entities that employ licensed educators may develop induction programs for initial license-holders and holders of authorizations. Induction programs must meet the criteria of these rules and be approved by the Department. The Department may grant initial or continuing approval to induction programs.

8.01 Criteria for Approval and Review of Induction Programs

The following must serve as criteria for the approval of induction programs. The Department must provide technical assistance in the development of induction programs and must disseminate information concerning successful programs.

8.01(1) Effective induction programs must include opportunities which:

8.01(1)(a) enhance educator performance according to the quality standards prescribed in section 5.00 of these rules by providing, through mentors and other professionals:

8.01(1)(a)(i) demonstrations of high-quality instructional practices;

8.01(1)(a)(ii) improvement of educational experiences for all students; and

8.01(1)(a)(iii) ways to adapt curriculum and instruction to accommodate diverse student populations.

8.01(1)(b) encourage professionalism and educator development by:

8.01(1)(b)(i) building a foundation for the continued study of teaching;

8.01(1)(b)(ii) encouraging collaborative relationships among administrators and teachers and partnerships between districts and universities;

8.01(1)(b)(iii) providing an orientation for new teachers to the culture of the school system, the district, the community, and the teaching profession;

8.01(1)(b)(iv) providing a thorough orientation to the district's educator effectiveness evaluation model; and

8.01(1)(b)(v) providing opportunities for professional growth and ongoing professional development and training, including ethics, for both new teachers and mentors.

8.01(2) Effective induction programs must:

8.01(2)(a) formalize the profiles of a successful educator at various career stages;

8.01(2)(b) provide training of site administrators in the Colorado Academic Standards and in the Teacher, Special Services Provider, and Principal Quality Standards and the educator induction process;

8.01(2)(c) establish standards for the selection, training, and release of mentors who work with new teachers and special services providers;

8.01(2)(d) establish an assessment model to review, evaluate, and guide the induction program;

8.01(2)(e) establish a process for the selection and training of mentors and for the matching of mentors with inductees;

8.01(2)(f) establish the primary role of the mentor as coach, advocate, support, guide, and nurturer of new educators ; and

8.01(2)(g) state whether mentors will be included in the evaluation of inductees. If mentors are to be involved in such evaluations, policies must state the specific roles and responsibilities of the mentor in evaluations.

8.01(3) Effective induction programs must include professional support for inductees that includes:

8.01(3)(a) information relating to the Colorado Academic Standards and Teacher, Special Services Provider and/or Principal Quality Standards;

8.01(3)(b) detailed information regarding the educator effectiveness evaluation model;

8.01(3)(c) information related to school and district policies and procedures;

8.01(3)(d) local district goals and local content standards;

8.01(3)(e) educator roles and responsibilities (including moral and ethical conduct);

8.01(3)(f) information about the school community;

8.01(3)(g) substantive feedback to the inductee about performance; and

8.01(3)(h) provisions for the extension of the induction program if deemed necessary by the district.

8.01(4) Effective induction programs should consider implementing the following recommendations:

8.01(4)(a) Develop plans and policies to encourage collaboration between higher education institutions, charter schools, the institute, school districts, and nonpublic schools in

induction programs; provide release time for both mentors and inductees; and provide some form of compensation for mentors;

8.01(4)(b) Formalize commitments to:

8.01(4)(b)(i) place new educators in settings where they are likely to succeed;

8.01(4)(b)(ii) provide inductees with supervisors and mentors skilled in helping new employees;

8.01(4)(b)(iii) provide sufficient planning time for inductees; and

8.01(4)(b)(iv) clarify expectations for inductees and mentors.

8.01(4)(c) Adopt guidelines for mentor selection that include:

8.01(4)(c)(i) the mentor agrees to serve as a mentor;

8.01(4)(c)(ii) the mentor is an experienced professional who consistently models the quality standards as reflected in section 5.00 of these rules and who has demonstrated excellence in practice as measured by the district's educator effectiveness system;

8.01(4)(c)(iii) the mentor works well with adults and is sensitive to the viewpoints of others; and

8.01(4)(c)(iv) the mentor is an active and open learner and competent in interpersonal and public relations skills.

8.01(4)(d) Adopt guidelines for mentor assignment that include:

8.01(4)(d)(i) the mentor be closely matched to the inductee in terms of assignment;

8.01(4)(d)(ii) the mentor be located, when possible, in close proximity to the inductee; and

8.01(4)(d)(iii) the mentor and the inductee styles are not in conflict.

8.01(5) Effective induction programs should adopt best practices, including:

8.01(5)(a) promoting purposeful learning by inductees rather than learning through trial and error;

8.01(5)(b) encouraging the retention of capable, talented professionals;

8.01(5)(c) strengthening teacher leadership and enhancing the working conditions and job satisfaction of professionals to increase student learning;

8.01(5)(d) ensuring mentors are carefully selected and given release time to mentor their new educator and are provided with strong professional development and support for their mentoring activities;

8.01(5)(e) ensuring that mentors model professionalism and ethics, high academic standards, and high-quality teaching;

8.01(5)(f) providing a safe, risk-taking environment and a collegial atmosphere for teaching and learning; and

8.01(5)(g) promoting systemic change and continuous improvement.

8.02 Program Evaluation

Each induction program must conduct a self-evaluation every five years. The evaluation information must be submitted to the Department for use in evaluating renewal of the induction program. The Department may conduct visits to induction sites and survey participants regarding the effectiveness of the program.

9.00 Induction Programs for Principals and Administrators.

Initial licenses are valid only in school districts, nonpublic schools, BOCES, or charter schools which provide approved induction programs, unless the State Board of Education has waived the induction program requirements as provided in section 15.00 of these rules.

9.00(1) Induction programs for principals and/or administrators must be designed to meet four purposes: orientation, socialization and transition, technical skill development, and continuous formative assessment.

9.00(2) Induction programs must assign mentors to all initial license-holders. Mentors may be selected from a variety of sources, including school district personnel or personnel from other districts.

9.00(2)(a) Selection: Mentors must have experience as a school principal or district administrator, as appropriate, and should be regarded as effective by their peers:

9.00(2)(a)(i) mentors should be selected to match the experience of the inductee; and

9.00(2)(a)(ii) mentors must have demonstrated:

9.00(2)(a)(ii)(A) commitment to the quality standards prescribed in section 6.00 for principals or administrators, as appropriate;

9.00(2)(a)(ii)(B) well-developed interpersonal skills including the ability to listen and question effectively, explore multiple solutions to problems, and empathize with others;

9.00(2)(a)(ii)(C) effective oral and written communication skills; and

9.00(2)(a)(ii)(D) an awareness of the political, social, and practical context of the inductee.

9.00(2)(b) Induction programs must include a staff development program for mentors which includes, but is not limited to, orientation to mentoring; development of the knowledge and skills contained in the standards for principals or administrators, as appropriate; cognitive coaching; and writing professional growth and improvement plans.

9.00(2)(c) At the inception of the induction period, the mentor and inductee must jointly develop a professional growth plan in consultation with the inductee's supervisor. The plan is to be based on the inductee's pre-service portfolio, the assessments required for the initial license, the Principal or Administrator Quality Standards, and other applicable data. Each inductee must maintain a portfolio of induction activities. The professional development plan may be modified and adjusted based on ongoing feedback from the mentor and supervisor and the inductee's personal analysis and reflection.

9.00(2)(d) Induction programs must include summative performance evaluations of inductees. The induction program must specify the role of the mentor in evaluation, such as conducting the evaluation, providing input to the evaluation, or having no involvement in the evaluation. Each evaluation must be designed to document growth and performance in relation to the inductee's assignment.

9.00(2)(e) The induction program must define a process for determining when an inductee has successfully completed the program. In no case must an induction program exceed three years.

9.00(2)(f) The district, districts, charter school, nonpublic school, or institute, or BOCES delivering the induction program must recommend an inductee for a professional license based on performance evaluations and ongoing evaluation of the candidate's capability for meeting the Principal or Administrator Quality Standards. Criteria for recommendation must include, but are not limited to, mentor and supervisor recommendation, summative evaluations, and growth documented by formative evaluations.

9.00(2)(g) Each induction program must conduct a self-evaluation every five years. The Department may conduct visits to induction sites and survey participants regarding the effectiveness of the program.

10.00 Denial, Suspension, Revocation, or Annulment of Licenses and School District Reporting Requirements

This section establishes a procedure for processing adverse information, which may result in the State Board seeking denial, suspension, revocation, or annulment of licenses, including lifetime certificates, endorsements and authorizations. It establishes standards against which said adverse information may be judged. This section also provides due process protections for license-holders and applicants and specifies requirements for school districts' reports to the Department on employee misconduct. For the purpose of this section, "license" means any license, certificate, authorization, or endorsement issued by the Department on or after July 1, 1994, pursuant to section 22-60.5-101, C.R.S., and any certificate, letter of authorization, or endorsement issued by the Department on or before June 30, 1994, pursuant to section 22-60-101, C.R.S.

10.00(1) A license may be denied, annulled, suspended, or revoked by the State Board of Education in accordance with the State Administrative Procedures Act, sections 24-4-101 through 107, C.R.S., in the following circumstances:

10.00(1)(a) If the applicant obtained or attempts to obtain the license through misrepresentation, fraud, misleading information, or an untruthful statement submitted with the intent to misrepresent, mislead, or conceal the truth;

10.00(1)(b) If the Department mistakenly issued the license and it is subsequently determined that the holder is not entitled to the license due to a failure to meet educational or non-educational requirements in effect when the license was issued;

10.00(1)(c) When the applicant or holder is or has ever been convicted of, pleads or has ever pled nolo contendere to, or receives or has ever received a deferred sentence for a violation of any one of the following offenses:

10.00(1)(c)(i) contributing to the delinquency of a minor, as described in section 18-6-701, C.R.S.;

10.00(1)(c)(ii) a misdemeanor, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-

800.3 (1), C.R.S., and the conviction is a second or subsequent conviction for the same offense;

10.00(1)(c)(iii) misdemeanor sexual assault, as described in section 18-3-402, C.R.S.;

10.00(1)(c)(iv) misdemeanor unlawful sexual conduct, as described in section 18-3-404, C.R.S.;

10.00(1)(c)(v) misdemeanor sexual assault on a client by a psychotherapist, as described in section 18-3-405.5, C.R.S.;

10.00(1)(c)(vi) misdemeanor child abuse, as described in section 18-6-401, C.R.S.;

10.00(1)(c)(vii) a crime under the laws of the United States, another state, a municipality of this state or another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to one of the offenses described in this paragraph (d); or

10.00(1)(c)(viii) a misdemeanor committed under the laws of the United States, another state, a municipality of another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to sexual exploitation of children as described in section 18-6-403(3)(b.5), C.R.S.;

10.00(1)(d) When the applicant or holder is or has ever been found guilty of, or pleads or has ever pled guilty or nolo contendere to, a misdemeanor violation of any law of this state or another state, any municipality of this state or another state, or the United States or any territory subject to the jurisdiction of the United States involving the illegal sale of controlled substances, as defined in section 18-18-102(5), C.R.S.;

10.00(1)(e) When the applicant or holder is or has ever been found guilty of a felony, other than a felony described in section 10.00(2) of these rules, or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a felony, other than a felony described in section 10.00(2) of these rules, in this state or under the laws of any other state, the United States or any territory subject to the jurisdiction of the United States, of a crime which, if committed within this state, would be a felony, other than a felony described in section 10.00(2) of these rules, when the commission of said felony, in the judgment of the State Board of Education, renders the applicant or holder unfit to perform the services authorized by his or her license;

10.00(1)(f) When the applicant or holder has ever received a disposition or an adjudication for an offense involving what would constitute a physical assault, a battery, or a drug-related offense if committed by an adult and if the offense was committed within the 10 years preceding the date of the license application;

10.00(1)(g) When the applicant or holder is or was charged with having committed a felony or misdemeanor and forfeits or has ever forfeited any bail, bond, or other security deposited to secure his or her appearance; pays or has ever paid a fine; enters or has ever entered a plea of nolo contendere; or receives or has ever received a deferred or suspended sentence imposed by the court for any offense described in sections 10.00(2)(a), (b), or (d) of these rules;

10.00(1)(h) Notwithstanding any provision of section 10.00(2) of these rules to the contrary, when the State Board of Education determines an applicant or holder who held a license prior to June 6, 1991, has ever been convicted of an offense described in sections 10.00(2)(a)-(c) of these rules, unless the applicant or holder was previously afforded the

rights set forth in section 22-60.5-108, C.R.S., with respect to the offense and the applicant or holder received or retained his or her license as a result;

10.00(1)(i) When the holder, without good cause, resigns or abandons his or her contracted position with a school district without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the succeeding academic year at least 30 days prior to the commencement of the succeeding academic year or the commencement of services under his or her employment contract or without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the current academic year at least 30 days prior to the date he or she intends to stop performing the services required by the employment contract. In this case, the license may be suspended;

10.00(1)(j) When the State Board of Education finds and determines that the applicant or holder is or has ever been professionally incompetent as described in section 10.01 of these rules;

10.00(1)(k) When the State Board of Education finds and determines that the applicant or holder is or has ever been guilty of unethical behavior as described in section 10.02 of these rules; or

10.00(1)(l) When the State Board of Education finds and determines that the license-holder knowingly and intentionally failed to protect student data pursuant to section 22-1-123, C.R.S. In this case, the license may be suspended or revoked for a period not less than 90 days.

10.00(2) A license must be denied, annulled, suspended, or revoked by the State Board of Education in accordance with the State Administrative Procedures Act, sections 24-4-101 through 107, C.R.S., in the following circumstances:

10.00(2)(a) A license must be denied, suspended, or revoked when the applicant or holder is or has ever been convicted by a jury verdict, by entry of a verdict, by acceptance of a guilty plea or a plea of nolo contendere by a court of:

10.00(2)(a)(i) felony child abuse, as specified in section 18-6-401, C.R.S.;

10.00(2)(a)(ii) a crime of violence, as defined in section 18-1.3-406, C.R.S.;

10.00(2)(a)(iii) a felony offense involving unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S.;

10.00(2)(a)(iv) a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

10.00(2)(a)(iv)(A) This ground for mandatory denial, suspension, or revocation of a license only applies for a period of five years following the date the offense was committed, provided the applicant or holder has successfully completed any domestic violence treatment required by the court; or

10.00(2)(a)(v) a felony offense in another state, the United States, or territory subject to the jurisdiction of the United States, the elements of which are substantially

similar to the elements of one of the offenses described in this section 10.00(2)(a).

10.00(2)(b) A license must be denied, suspended, or revoked when the applicant or holder is or has ever been convicted by a jury verdict, by entry of a verdict, or by acceptance of a guilty plea or a plea of nolo contendere by a court of indecent exposure, as described in section 18-7-302, C.R.S., or of a crime under the laws of another state, a municipality of this or another state, the United States, or a territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the offense of indecent exposure described in this section 10.00(2)(b).

10.00(2)(c) A license must be denied, suspended, or revoked when the applicant or holder receives or has ever received a disposition or an adjudication for an offense that would constitute felony unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S., if committed by an adult.

10.00(2)(d) A license must be denied, suspended, or revoked if the applicant or holder is or has ever been convicted by a jury verdict, by entry of a verdict, or by acceptance of a guilty plea or a plea of nolo contendere by a court of a felony drug offense described in section 18-18-401, et seq., C.R.S., and committed on or after August 25, 2012, or is convicted of an offense under the laws of another state, the United States, or any territory subject to the jurisdiction of the United States, committed on or after June 11, 2021, the elements of which are substantially similar to a felony drug offense described in part 4 of article 18 of title 18, C.R.S.

10.00(2)(d)(i) This requirement for denial, suspension or revocation of a license only applies for a period of five years following the date the offense was committed.10.00(2)(e) A license must be denied, suspended, or revoked when the applicant or holder fails to submit his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or Board of Cooperative Services using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the Colorado Bureau of Investigation to the Department within 30 days after receipt of the Department's written request for fingerprints, which fingerprint submission the Department required upon finding probable cause to believe that the applicant or holder had been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to his or her licensure.

10.00(2)(f) A license must be denied, suspended, or revoked when the applicant or holder is determined to be mentally incompetent by a court of competent jurisdiction and a court enters, pursuant to section 15-14-301, et seq.; 15-14-401, et seq.; 27-65-109(4); or 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that the applicant or holder is incapable of continuing to perform his or her job. In this circumstance, no hearing is required to deny, annul, suspend, or revoke the license, notwithstanding section 22-60.5-108, C.R.S.; denial, annulment, suspension, or revocation happens by operation of law after the Department gives reasonable notice to the applicant or license-holder.

10.00(3) The State Board of Education may take immediate action to deny, annul, or suspend a license without a hearing, notwithstanding the provisions of section 22-60.5-108, C.R.S., upon receipt of a certified copy of the judgment of conviction, a deferred sentence, or the acceptance of a guilty plea or a plea of nolo contendere for any violation of sections 10.00(1)(c)-(e) of these rules or upon receipt of a certified copy of the judgment of conviction or the acceptance of a guilty plea or a plea of nolo contendere for any violation of sections 10.00(2)(a)-(d) of these rules. The State Board of Education may revoke a suspended license based on a violation of sections 10.00(1)(c)-(e) of these rules and must revoke a suspended license based on a violation of sections 10.00(2)(a)-(d) of these rules without a hearing and without any further action after the

exhaustion of all appeals, if any, or after the time for seeking an appeal has elapsed and upon the entry of a final judgment. A certified copy of the judgment of a court of competent jurisdiction of a conviction, a deferred sentence, or the acceptance of a guilty plea or a plea of nolo contendere is conclusive evidence of such conviction or plea for the purposes of sections 10.00(1)(c)-(e) of these rules. A certified copy of the judgment of a court of competent jurisdiction of a conviction or the acceptance of a guilty plea or a plea of nolo contendere is conclusive evidence of such conviction or plea for the purposes of sections 10.00(2)(a)-(d) of these rules.

10.00(4) In cases where the State Board of Education deems summary suspension is appropriate, pursuant to section 24-4-104(4), C.R.S., proceedings for suspension or revocation may be instituted upon the Board's own motion without a proceeding pursuant to these regulations. The holder is entitled to a post-deprivation hearing consistent with section 24-4-105, C.R.S. At such hearing, the burden of proof rests with the license-holder.

10.01 Standards of Professional Incompetence

The following serve as standards against which charges of professional incompetence will be judged. To warrant denial, annulment, suspension, or revocation of the license, violations must be found to be substantial or continued, as well as related to services rendered within the scope of the license. It is considered professional incompetence for a license-holder or applicant to:

10.01(1) willfully depart or to have ever willfully departed from the quality standards described in sections 5.00 or 6.00 of these rules;

10.01(2) willfully fail or to have ever willfully failed to practice with reasonable skill and safety;

10.01(3) act or to have ever acted in a manner evidencing a clear and substantial lack of knowledge, ability, or fitness to perform the services rendered within the scope of the license;

10.01(4) refuse or to have ever refused to perform duties required by federal and state law and regulation;

10.01(5) recklessly disregard or to have ever recklessly disregarded duties required by federal and state law and regulation;

10.01(6) have or to have ever had a mental of physical condition, as diagnosed by a professional competent to make such a diagnosis, that results in the license-holder’s or applicant’s inability to satisfactorily perform required duties, subject to the American with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and other nondiscrimination law; or

10.01(7) habitually abuse or to have ever habitually abused alcoholic, narcotic, hypnotic, or other substances, the abuse of which results in the license-holder’s or applicant’s inability to satisfactorily perform required duties, subject to the American with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and other nondiscrimination law.

10.02 Standards of Unethical Behavior

The following serve as standards against which charges of unethical behavior will be judged. To warrant denial, annulment, suspension, or revocation of the license, violations must be found to be substantial or continued. It is considered unethical behavior for a license-holder or applicant to:

10.02(1) fail or to have ever failed to make reasonable effort to protect a minor from conditions harmful to health and safety;

10.02(2) provide or to have ever provided professional services in a discriminatory manner regarding age, gender, gender identity, sexual orientation, national origin, race, ethnicity, color, creed, religion, language, disability, socio-economic status, or marriage status;

10.02(3) fail or to have ever failed to keep in confidence information obtained in the course of professional services, unless disclosure serves to protect the child, other children, or school personnel or is required by law;

10.02(4) direct or to have ever directed a person to carry out professional responsibilities knowing that such person is not qualified for the responsibility given, except for assignments of short duration in emergency situations;

10.02(5) deliberately distort or suppress or to have ever deliberately distorted or suppressed curricular materials or educational information in order to promote their own personal view, interest, or goal;

10.02(6) falsify or misrepresent or to have ever falsified or misrepresented records or facts relating to the license-holder or applicant's qualifications, another educator's qualifications, or a student's records;

10.02(7) make or to have ever made false or malicious statements about students or school personnel;

10.02(8) using one's position for personal gain

10.02(9) fail or to have ever failed to conduct financial transactions relating to the school program in a manner consistent with applicable law, rule, or regulation;

10.02(10) engage or to have ever engaged in immoral conduct that affects the health, safety, or welfare of children; conduct that offends the morals of the community; or conduct that sets an inappropriate example for children or youth whose ideals the educator is expected to foster and elevate;

10.02(11) engage or to have ever engaged in unlawful distribution or sale of dangerous or unauthorized prescription drugs or other dangerous nonprescription substances, alcohol, or tobacco.; or

10.02.(12) engage or to have ever engaged in a sexual act, meaning sexual contact, sexual intrusion, or sexual penetration as defined in section 18-3-401, C.R.S., with a student enrolled at the school where the license-holder or applicant is or was employed at the time of the sexual act, including a student who is eighteen years of age or older, regardless of whether the student consented to the sexual act.

10.03 Filing of Adverse Information Regarding an Educator License

10.03(1) Filing of external complaints:

10.03(1)(a) A complaint regarding an educator is a formal statement, filed by an aggrieved party or a party in interest against an individual who holds or has applied for an educator license, of an alleged violation of conditions that, if found to be substantial or continued, and if found to be true, becomes grounds for denying, annulling, revoking, or suspending

the license. The Department must supply necessary complaint forms and information for the filing of adverse information.

10.03(1)(b) The complainant must personally deliver, send by mail, or send in a secured electronic environment the complaint to the Department. The complainant must sign and swear to the complaint, regardless of delivery method. The complaint must allege actions serving as the basis of the complaint, and the alleged actions must be substantial or continued. The complaint must specify the statutory and regulatory violations.

10.03(2) Filing of notification by public district/school:

10.03(2)(a) The local board of education, charter school, BOCES, or its designee must notify the Department pursuant to the requirements of section 10.05 of these rules.

10.03(3) Conducting investigations and pursuing formal action by the State Board of Education:

10.03(3)(a) The Department conducts background investigations upon receipt of any adverse information. The purpose of this inquiry is to determine if there is probable cause to seek annulment, revocation, or suspension of the license or denial of the application. If the Department determines probable cause exists, the Department may ask the State Board of Education to direct the initiation of formal proceedings against the license-holder pursuant to section 22-60.5-108, C.R.S., or to deny the application pursuant to section 24-4-104(8), C.R.S.

10.03(3)(b) Except in cases of summary suspension, the Department must provide the license-holder or applicant notice of the allegations against him or her and an opportunity to respond prior to asking the State Board of Education to deny an application or initiate formal proceedings. The Department must provide such opportunity by sending a formal written letter of inquiry by first-class mail to the applicant or license holder, explaining the allegations, requesting a response within 20 days, and notifying them of their right to return a response within 20 days. If the Department knows that the person is an employee of a Colorado charter school, BOCES, or school district, the Department must notify the charter school, BOCES, or school district of the inquiry.

10.03(3)(c) After the expiration of the 20-day response period or upon receipt of the response, whichever is sooner, the Department will review the allegations and response and determine whether to pursue the charges for denial, revocation, or annulment of the license. In any case where, based on the response, the Department determines probable cause does not exist, the Department must withdraw or dismiss the complaint and notify the person complained against and the school district, charter school, or BOCES of the Department's action. Any handling of the complaint must be consistent with the laws on confidentiality unless contrary to statute.

10.03(3)(d) The Department is authorized to grant extensions to any of the processing deadline dates in sections 10.03(3)-(4) of these rules, based upon sufficient cause shown.

10.03(3)(e) The Department will present its findings and recommendations to the State Board of Education for action.

10.03(3)(e)(i) If the Department recommends revocation or annulment and the State Board of Education accepts that recommendation, the Board must refer the matter for a hearing in accordance with section 24-4-105, C.R.S. The Department must notify by first-class mail the person charged of the State Board of Education’s decision to refer the matter for a hearing. If the State Board of

Education rejects the Department's recommendation, the Department must dismiss the complaint and notify the person complained against and the complainant of the Department's action. Any handling of the complaint must be consistent with the laws on confidentiality unless contrary to statute.

10.03(3)(e)(ii) if the Department recommends denial and the State Board of Education accepts that recommendation, the Department must notify by first-class mail the applicant of the denial and the applicant's right to request a hearing conducted in accordance with section 24-4-105, C.R.S. If the State Board of Education rejects the Department's recommendation, the Department must clear the application and issue the credential to the applicant.

10.03(3)(f) If the State Board of Education refers the matter for a hearing and if the Department knows that the person charged is a current employee of a Colorado charter school, BOCES, or school district, the Department must notify such school, BOCES, or school district of the State Board of Education's decision.

10.03(3)(g) If the State Board of Education refers the matter for a hearing, or if the applicant timely requests a hearing concerning the Board's denial of his or her application, the hearing and subsequent proceedings must be conducted by an administrative law judge appointed by the Colorado Division of Administrative Hearings in accordance with section 24-4-105(3), C.R.S..

10.03(3)(h) Pursuant to section 24-4-105(14), C.R.S., the decision of the administrative law judge must include a statement of findings and conclusions and the appropriate order, sanction, relief, or denial thereof. If the administrative law judge sustains the charge, the decision must result in revocation or denial of the license.10.04 Application for License Following Suspension, Revocation, Annulment, or Denial

10.04(1) A license-holder whose license has been suspended or revoked may submit an application for a new license, the renewal of the expired license, or the reinstatement of the license to the Department and for review by the State Board of Education. The application must include justification for license issuance, renewal, or reinstatement, with evidence as to rehabilitation appropriate to the basis for the prior suspension or revocation. The application must demonstrate the current fitness of the applicant to resume educational duties, in accordance with all laws and rules. The burden of proof rests with the applicant.

10.04(1)(a) The reinstated license will bear the same expiration date as had been originally issued.

10.04(1)(b) In the event the original license expired during the period of suspension or revocation, the applicant will be required to meet all requirements for the renewal of the license.

10.04(2) An applicant whose license application has been denied or annulled by the State Board of Education may apply for a license to the Department and for review by the State Board. The application will include justification for issuance, with appropriate supporting documentation as to the current fitness of the applicant to resume educational duties, in accordance with all laws and rules. The burden of proof must rest with the applicant.

10.05 Mandatory Reporting of Misconduct

10.05(1) The local board of education, charter school, BOCES, or designee must notify the Department within 10 business days of any employee's dismissal or resignation if the dismissal or resignation is based on an allegation of unlawful behavior involving a child, including unlawful

sexual behavior or allegation of a sexual act (meaning sexual contact, sexual intrusion, or sexual penetration as those terms are defined in section 18-3-401, C.R.S.) involving a student who is eighteen years of age or older, regardless of whether the student consented to the sexual act, that is supported by a preponderance of the evidence. The local board, charter school, BOCES, or designee must provide any information requested by the Department concerning the circumstances of the dismissal or resignation.

10.05(2) The local board of education, charter school, BOCES, or designee must immediately notify the Department when any employee's resignation or dismissal is based upon a conviction, guilty plea, plea of nolo contendere, or deferred sentence as set forth in sections 10.00(1)(d)-(g) and 10.00(2)(a)-(c) of these rules. The local board, charter school, BOCES, or designee must provide any information requested by the Department concerning the circumstances of the employee's dismissal or resignation.

10.05(3) The local board of education, charter school, BOCES, or designee must notify the Department when the county department of social services or local law enforcement agency reasonably believes that an incident of abuse or neglect has occurred and an employee of the district, charter school, or BOCES is the suspected perpetrator and was acting in his or her official capacity as an employee. The local board, charter school, BOCES, or its designee must provide any information requested by the Department concerning the employee's alleged abuse or neglect.

10.05(4) The local board of education, charter school, BOCES, or designee must notify the Department when it reasonably believes that one of its employees is guilty of unethical behavior or professional incompetence as set forth in sections 10.01 and 10.02 of these rules. The local board, charter school, BOCES or its designee must provide any information requested by the Department concerning the employee's behavior or competence.

10.05(5) The local board of education, charter school, BOCES, or designee must notify the Department when it learns from a source other than the Department that a current or past employee has been convicted of, has pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children.

10.06 Mandatory Disclosure of Attempts to Seal Criminal Records

10.06(1) An applicant or license-holder who files a petition to seal a criminal record under § 24-72-701, et seq., C.R.S., must notify the Department of the pending petition to seal. The Department may inquire into the facts of the criminal offense(s) for which the petition to seal is pending under § 24-72-703(2)(d)(III), C.R.S. The applicant or license-holder does not have any right to privilege or privilege that justifies refusal to answer the Department's questions about the criminal offense(s) at issue in the petition to seal.

11.00 Standards for the Approval of Educator Preparation Programs

The Department will work with the Colorado Department of Higher Education to review and approve educator preparation programs at Colorado public, private, and proprietary institutions of higher education based on the identified requirements for approval under section 23-1-121(2) & (3), C.R.S.

Pursuant to 22-2-109, C.R.S and the standards set forth in sections 5.00 and 6.00 of these rules and sections 4.00 through 7.00 of 1 CCR 301-101,the State Board of Education will review the content of educator preparation programs. Such review will evaluate the program's content, delivery, and outcomes, including whether the program effectively enables a candidate to meet the requirements for licensure. For educator preparation programs located at institutions of higher education, the State Board will

recommend to the Colorado commission on higher education that a program will be approved, be placed on conditional approval, probation, or not be approved.

Authorization of alternative teacher programs, alternative principal programs, and individualized alternative principal programs is solely the Department's responsibility as outlined in sections 22-60.5-205(3), 22-60.5-305.5(6), and 22-60.5-111(14), C.R.S. Section 12.00 of these rules provides the requirements for these programs.

11.01 Design of the Educator Preparation Programs

The Department's Educator Talent Division promotes high-quality programs that meet the requirements, policies, and the best practices identified by Colorado Commission of Higher Education, Department of Higher Education, and Department of Education pursuant to sections 22-2-109, C.R.S. and 23-78-104, C.R.S.

11.01(1) Endorsement standards in sections 5.00 and 6.00 of these rules and sections 4.00 through 7.00 of 1 CCR 301-101 outline the competencies candidates need to attain during preparation. In addition, each program's instructional content must include the following components:

11.01(1)(a) for all teacher candidates in elementary, early childhood and all special education programs, concentrated focus on foundational reading skills—specifically phonemic awareness, phonics, vocabulary, fluency, and comprehension, per 23-1-121(2)(c.5), C.R.S.;

11.01(1)(b) for all teacher candidates in an initial licensure program, behavioral health training including culturally responsive and trauma-informed practices.

11.01(1)(c) for all educator candidates, education and training on federal and state regulations and policies related to students with exceptional needs, including, but not limited to, Americans With Disabilities Act of 1990, Rehabilitation Act of 1973, and Individuals With Disabilities Education Act; and

11.01(1)(d) for all educator candidates, pedagogical instruction in high-quality practices for face-to-face, blended and online learning.

11.02 Program Review by the Department's Educator Talent Division

The Department's Educator Talent Division will evaluate all new and established educator preparation programs for consistency with these rules and with the State Board of Education-approved rules 1 CCR 301-101. The Division will assess the content of these programs based on sections 22-2-109(5) and 23-1-121, C.R.S. The purpose of the evaluation and approval process is to assure the public that educators who complete educator preparation programs in the state of Colorado are well-prepared to educate PreK-12 students according to the Colorado Revised Statutes, the rules set forth by the State Board of Education, and the Colorado Academic Standards. Educator preparation programs must prepare candidates to meet or exceed the standards for licensure specified in sections 5.00 and 6.00 of these rules and the corresponding standards in sections 4.00 through 7.00 of 1 CCR 301-101, including any approved content tests required by state board rule.

11.02(1) The Educator Talent Division's review of program content must ensure that each program is designed and implemented in a manner that will enable a candidate to meet licensure and endorsement requirements.

11.02(2) For the reauthorization of educator preparation programs at public, private, or proprietary postsecondary institutions of higher education recognized by the Colorado Department of Higher Education, the Educator Talent Division will provide the State Board of Education information for its consideration as to whether the Board should recommend to CCHE approval, conditional approval,

probation or termination..11.02(3) For alternative teacher programs and alternative principal programs, the State Board of Education will determine full reauthorization, conditional reauthorization, probationary reauthorization, or termination of the program.

11.02(3)(a) An on-site evaluation for the reauthorization of alternative preparation programs will occur no more frequently than once every five years.

11.02(3)(b) An initial site visit and review will be conducted 12 to 24 months after approval for all newly authorized alternative preparation programs.

12.00 Alternative Teacher Programs

The following must serve as standards for the initial and continuing approval of alternative teacher preparation programs. School districts, BOCES, accepted institutions of higher education, non-profit organizations, nonpublic schools, charter schools, the institute or any combination thereof may apply to the State Board of Education for approval as a designated agency of an alternative teacher program under section 22-60.5-205, C.R.S.

12.00(1) An alternative teacher program must:

12.00(1)(a) be a one-year or two-year teacher preparation program for persons of demonstrated knowledge and ability who hold an alternative teacher license:

12.00(1)(a)(i) a one-year program shall be designed to be completed in one year. The program may be extended for one additional year based on documentation of unforeseen circumstances, as demonstrated by the applicant and the designated agency and approved by the Department;

12.00(1)(a)(ii) a two-year program shall be designed to be completed in two years;

12.00(1)(a)(iii) for the purpose of preparing a special education generalist, an alternative preparation program may be designed to be completed in a maximum of three years.

12.00(1)(b) be the responsibility of a designated agency. The agency's duties include the organization, management, and operation of the program as follows:

12.00(1)(b)(i) the designated agency must establish an advisory council, which must include, at a minimum, representatives from participating school districts, charter schools, nonpublic schools, the institute, or BOCES; at least one qualified mentor teacher; and a representative from any accepted institution of higher education cooperating with the designated agency, if applicable. Representatives on the advisory council must reflect the geographic make-up of the designated agency if the agency is composed on more than one entity.

12.00(1)(c) require alternative teachers to be employed by or have a clinical agreement in place with a school district, a licensed nonpublic childcare or other preschool facility, charter school, the Charter School Institute, nonpublic school, or BOCES to teach, receive training, and be supervised by a qualified mentor teacher and an appropriate support team as follows:

12.00(1)(c)(i) alternative teachers must demonstrate competency in their subject area endorsement and/or assignment pursuant to section 3.00 of these rules including:

12.00(1)(c)(i)(A) if the alternative teacher is asked to teach in any content area(s) outside of his/her assessed content area, the school or school district is required to keep on file documented evidence that the alternatively licensed teacher has completed 24 semester hours of applicable coursework in the additional content area(s) or the equivalent thereof, or has passed the related approved content area test(s);

12.00(1)(c)(ii) training of alternative teachers must include 225 clock-hours of planned instruction, and activities must include, but not be limited to, teacher preparation courses that meet the Teacher Quality Standards and English Language Learner Quality Standards.

12.00(1)(c)(ii)(A) The 225-clock-hours must, at a minimum, include professional development that addresses dropout prevention and the standards as outlined in section 5.00 of these rules;

12.00(1)(c)(ii)(B) The hours of required instruction and activities may be modified by the alternative teacher's support team, but only after a documented and performance-based evaluation of the candidate's proficiency determines that one or more of the program's requirements has already been met by the alternative teacher's proven knowledge or past experience;

12.00(1)(c)(ii)(C) Evaluations of alternative teachers must be conducted and documented in accordance with section 22-9-106, C.R.S.;

12.00(1)(c)(ii)(D) Early childhood education programs must align to the standards outlined in section 4.01 of 1 CCR 301-101, and elementary and special education programs must align to the standards outlined in section 4.02 of 1 CCR 301-101; and

12.00(1)(c)(ii)(E) The training must address special education regulations as outlined in 22-60.5-205, C.R.S.

12.00(2) Proposals submitted by entities for authorization as designated agencies of alternative teacher preparation must include, but not be limited to:

12.00(2)(a) demonstrated evidence of a need for the proposed program;

12.00(2)(b) evidence of the establishment of an advisory council by the designated agency;

12.00(2)(c) a listing of the advisory council's duties, which must include but need not be limited to: providing the designated agency with information regarding the organization and management and operation of the approved alternative teacher program;

12.00(2)(d) criteria for the selection of mentor teachers which must include but need not be limited to: evidence of exemplary teaching and school leadership; the ability to model and counsel the alternative teacher; relevant coursework; and a valid license and endorsement in the alternatively-licensed teacher's content area if available. A mentor teacher endorsement is not required.

12.00(2)(d)(i) Mentor teachers may evaluate alternative teachers if trained in accordance with 22-9-106(4), C.R.S., except that mentor teachers are not required to hold a principal or administrator license.

12.00(2)(d)(ii) If a mentor teacher is not available, the designated agency may submit a plan for mentor support that provides that same level of mentorship to the alternative teacher.

12.00(2)(e) an articulated, mandatory, and intensive supervision training program for mentors that provides direction with regard to structured guidance, the provision of regular ongoing support to new teachers, and teacher performance evaluation;

12.00(2)(f) identification of the duties of the mentor teacher including: serving as a member of the support team; providing ongoing observation, counseling and supervision of the alternative teacher; and representing the support team for purposes of making recommendations about the alternative teacher's licensing;

12.00(2)(g) a checklist of the duties of the mentor teacher and the time required of that teacher to mentor the alternative teacher. The designated agency must keep this checklist on file.

12.00(2)(h) provisions made by the designated agency to assist the mentor teacher in properly discharging his/her regular duties. Such provisions may include:

12.00(2)(h)(i) providing a substitute teacher for the mentor teacher, as necessary and appropriate; and

12.00(2)(h)(ii) allowing for adequate compensatory time and/or other compensation for the mentor teacher's required planning and observation schedule and ongoing regular conferences with the alternative teacher.

12.00(2)(i) the composition of an alternative teacher's support team. The team must include, at a minimum, the alternative teacher's mentor, the building principal, and a representative of the approved designated agency;

12.00(2)(j) identification of the duties of the support team including:

12.00(2)(j)(i) meeting on a regular schedule with an agenda. Documentation of such regularly scheduled meetings must include evidence of the alternative teacher's progress toward meeting the program's objectives;

12.00(2)(j)(ii) evaluating the related prior education and experience of the alternative teacher to determine the appropriate program elements which will prepare the candidate for full licensure;

12.00(2)(j)(iii) developing the instruction plans and activities for the alternative teacher's preparation. The programming must meet the State Board of Education-approved standards, as prescribed in section 5.00 of these rules; and

12.00(2)(j)(iv) prior to the beginning of the program, providing the alternative teacher with an orientation to the school, its student population, the policies and procedures which affect teaching, classroom management strategies, and the teacher's responsibilities, as prescribed by section 12.00(1)(c) of these rules.

12.00(2)(k) an assurance that the major portion of the alternative teacher's assignment will be in the content area in which the alternative teacher has been approved by the state under section 3.12(1)(c);

12.00(2)(l) explanation of how the entity employing the alternative teacher meets the requirements in section 12.00(1)(c)(i)(A) of these rules if it asks the alternative teacher to teach outside of his/her approved content area;

12.00(2)(m) the method of evaluation of the alternative teacher's proficiencies using performance evaluations, as based on the Teacher Quality Standards and as prescribed by section 5.00 of these rules;12.00(2)(n) an inventory of Teacher Quality Standards for each alternative teacher in its program that documents how the alternative teacher demonstrates proficient knowledge and understanding of the standards and the English Language Leader Quality Standards;

12.00(2)(o) a schedule of mentor and principal observations, including a minimum of four alternative teacher observations by program leaders;

12.00(2)(p) the process by which performance evaluations of alternative teachers will be conducted, which must be consistent with the provisions of section 22-9-106, C.R.S.; and

12.00(2)(q) measurable objectives for the alternative teacher's preparation program.

12.00(3) When an entity is approved and offers a new educator preparation program, the Department may review the new educator preparation program no sooner than twelve months but not more than twenty-four months after the new preparation program is initially approved. The alternative teacher program may be approved for up to five years. An onsite evaluation will be conducted no more than once every five years for purposes of reauthorization.

13.00 Individualized Alternative Principal Programs and Alternative Principal Programs

The following will serve as standards for the initial and continuing approval of individualized alternative principal programs and alternative principal programs.

13.01 In designing an individualized alternative principal program, the school district, charter school, or nonpublic school shall, at a minimum, submit to the State Board:

13.01(1) documentation of the coursework, practicum and other educational requirements identified by the school district, charter school, or nonpublic school that will comprise the individualized alternative principal program plan and that will be completed while the applicant is employed under the principal authorization; and

13.01(2) a letter from the district, charter school, or nonpublic school stating its intention to employ the applicant as a principal or assistant principal upon issuance of the principal authorization;

13.01(3) At a minimum, an individualized alternative principal program must ensure that:

13.01(3)(a) the applicant will attain the information, experience, training, and skills comparable to those possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301(1)(a), C.R.S.;

13.01(3)(b) upon completion, the candidate will be able to provide documented evidence of having met or surpassed the Principal Quality Standards cited in section 6.00 of these rules;

13.01(3)(c) the candidate will receive coaching and mentoring from one or more licensed principals and administrators, as well as continuing performance-based assessment of the candidate’s skills development;

13.01(3)(d) except that, if the candidate participates in a nonpublic school's individualized alternative principal program approved by the State Board of Education, the candidate must receive coaching and mentoring from one or more principals and administrators who have three or more years of experience in a nonpublic school;

13.01(3)(e) the candidate demonstrates professional competencies using the assessment of quality standard measures in subject matter areas as specified by rule of the State Board pursuant to section 22-60.5-303, C.R.S.; and

13.01(3)(f) the candidate receives information and training on special education laws and regulations, as outlined in section 22-60.5-111(14)(c)(IV), C.R.S.

13.02 A school district or districts, BOCES, accepted institution of higher education, nonprofit organization, charter school, the institute, nonpublic school, or any combination thereof may apply to the State Board for approval as a designated agency of alternative principal programs under section 22-60.5-305.5, C.R.S.

13.02(2) In designing an alternative principal program, the designated agency must, at a minimum, demonstrate that:

13.02(2)(a) the applicant will attain the information, experience, training, and skills comparable to those possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301(1)(a), C.R.S.;

13.02(2)(b) the program content meets or exceeds the Principal Quality Standards cited in section 6.00 of these rules;

13.02(2)(c) training of alternative principals will include a minimum of 225 clock-hours of planned instruction, and activities must include, but not be limited to, principal preparation courses that meet the Principal Quality Standards and English Language Learner Quality Standards.

13.02(2)(d) the candidate will receive coaching and mentoring from one or more licensed principals and administrators, as well as continuing performance-based assessment of the candidate's skills development;

13.02(2)(e) the candidate will be required to demonstrate professional competencies using the assessment of quality standard measures in subject matter areas as specified by rule of the State Board pursuant to section 22-60.5-303, C.R.S.;

13.02(2)(f) the candidate will receive information and training on special education laws and regulations, as outlined in section 22-60.5-111(14)(c)(IV), C.R.S.;

13.02(2)(g) the alternative principal program will be designed to be completed in three years or less..

13.02(2)(f)(i) School districts may only employ a person under a principal authorization for three years, after which time, the person must obtain an initial or professional license in order to continue working as a principal.

13.02(3) Proposals submitted by entities for authorization as designated agencies of alternative principal programs must include, but not be limited to:

13.02(3)(a) demonstrated evidence of a need for the proposed program;

13.02(3)(b) evidence of the establishment of an advisory council by the designated agency;

13.02(3)(c) a listing of the advisory council's duties, which must include but need not be limited to: providing the designated agency with information regarding the organization, management, and operation of the approved alternative principal program;

13.02(3)(d) criteria for the selection of mentor principals which must include but need not be limited to: evidence of exemplary school leadership; the ability to model and counsel the alternative principal; relevant coursework; and a valid license and endorsement as a professional principal.

13.02(4) When a new designated agency is approved to offer a new alternative principal program, the department may review the new program no sooner than twelve months but not more than twenty-four months after the new program is initially approved. The designated agency that operates an alternative principal program will be reauthorized not more than once every five years.

14.00 Colorado Teacher of the Year Program

14.01 Administration

14.01(1) The Colorado Teacher of the Year is selected in accordance with the National Teacher of the Year selection criteria as articulated by the Council of Chief State School Officers.

14.01(2) The Department may reward the educator with gifts, services, and opportunities that may include:

14.01(2)(a) a sabbatical from teaching responsibilities that includes moneys awarded to the recipient's employer for the purpose of hiring a substitute teacher during the award recipient's sabbatical;

14.01(2)(b) a cash gift;

14.01(2)(c) travel and lodging expenses;

14.01(2)(d) a computer;

14.01(2)(e) supplies and equipment for the award recipient's classroom or school; and

14.01(2)(f) the opportunity to receive additional training or education.

14.01(3) During tenure as Colorado Teacher of the Year, the award recipient may participate in activities such as:

14.01(3)(a) attending local, regional, and national events related to the award recipient's designation as Colorado Teacher of the Year;

14.01(3)(b) promoting the teaching profession;

14.01(3)(c) teaching best practices to other teachers;

14.01(3)(d) teaching temporarily in other public schools or school districts;

14.01(3)(e) mentoring students in teacher preparation programs and supporting newer teachers in Colorado;

14.01(3)(f) collaborating with institutions of higher education in scholarly research and teaching; and

14.01(3)(g) participating in special projects relating to education that are important to the award recipient.

15.00 Inactive Status of Licenses

15.00(1) Holders of professional licenses may choose to place their licenses in inactive status by:

15.00(1)(a) notifying the Department, via an online application, of their intent to place a professional license on inactive status.

15.00(2) While on inactive status, the expiration date of a professional license is suspended and the individual is deemed as not holding the credential.

15.00(3) A person may return a professional license to active status at any time upon application.

15.00(4) Upon application to return to active status, the Department must reissue the professional license with a new expiration date reflecting the period remaining on the professional license as of the date the license-holder placed the license in inactive status.

15.00(4)(a) The Department may, upon request of a license-holder, and with evidence of the license-holder's active military service, reissue the license with a new expiration date reflecting the amount of time which remained on the license prior to the license-holder's active military service, plus the amount of time during which the license-holder served in active military service.

15.00(5) Renewal of licenses previously inactive:

15.00(5)(a) Any person who placed a license on inactive status may, but is not required, to complete professional development activities which meet the requirements of section 7.02 of these rules. Such activities completed while on inactive status must apply to renewal of the person's professional license after the person returns to active status.

15.00(5)(b) At the time of renewal, the license-holder must provide to the Department evidence of completion of the professional development activities which meet the requirements for license renewal as provided in section 7.02 of these rules and which were completed within the seven years preceding the date on which the professional license will expire after its return to active status.

16.00 Waivers

16.01 A written request for a waiver must be received by the State Board of Education at least 120 days prior to proposed implementation. The State Board is authorized to waive any requirement regarding alternative teacher programs or approved induction programs. Waiver applications must include:

16.01(1) the specific portion of these rules to be waived;

16.01(2) the rationale for the request;

16.01(3) detailed information on the innovative programs or plans to be instituted;

16.01(4) financial impact of the proposed waiver, if applicable;

16.01(5) reasons why these innovative programs or plans cannot be implemented under the applicable rule; and

16.01(6) a detailed plan for the evaluation of the innovative programs or plans to show their effectiveness in improving the quality of the affected educators.

Editor's Notes

History

Rules 2260.5-R-1.00, 15.00, 15.05 emer. rules eff. 08/14/2008.

Rules 2260.5-R-1.00, 15.00, 15.05 eff. 10/31/2008.

Rules 2260.5-R-1.16, 4.04 eff. 10/30/2009.

Rules 2260.5-R-1.00-2.04, 3.01, 3.03, 3.12, 4.03, 4.12, 4.17, 7.02, 13.00, 18.00-19.00 eff. 07/30/2010.

Rules 2260.5-R-1.19, 4.11, 4.14(11)(d-e) emer. rules eff. 09/16/2010.

Rules 2260.5-R-1.17, 4.11, 6.13, 10.05 eff. 12/31/2010.

Rules 2260.5-R-1.20, 8.22-8.23 eff. 01/31/2011.

Rules 2260.5-R-1.21, 4.16, 15.00-15.00(5) eff. 09/30/2012.

Rules 2260.5-R-2.01, 2.03, 3.01, 3.03, 3.05-3.07, 3.12, 4.02-4.04, 4.11, 4.13, 4.17, 8.02, 8.04, 8.14, 12.02,

15.03, 18.00, 23.01 eff. 01/30/2013.

Rules 2260.5-R-1.23, 3.01(2)(e)(ii)(3), 3.06(1), 3.12(3)(b)(i), 4.13(3), 4.13(5), 4.17 eff. 05/15/2014.

Rule 2260.5-R-8.20 eff. 07/30/2014.

Rule 2260.5-R-4.18 eff. 08/14/2014.

Entire rule eff. 03/30/2016.

Rules 2260.5-R-1.24, 2.01(26), 3.02(1), 3.05-3.07, 4.02(1), 4.09, 4.12-4.14, 4.17, 4.18, 7.02(1), 8.14, 9.01, 9.05-9.07, 10.02, 10.04-10.06, 11.09, 12.00, 12.02, 13.00, 13.01, 15.00, 15.01 eff. 06/14/2017.

Rules 2260.5-R-1.25, 2.01, 12.02(1), 13.00, 15.00, 18.00, 18.01 eff. 01/30/2018.

Entire rule eff. 08/14/2018.

Entire rule eff. 05/30/2019.

Entire rule eff. 07/30/2020.

Entire rule eff. 04/30/2021.

Annotations

Introductory paragraph of Rule 2260.5-R-23.00 (adopted 11/10/2005) was not extended by House Bill 07-1167 and therefore expired 05/15/2007.

Rules 2260.5-R-3.03(2)(a), 3.06(1)(a), 3.06(1)(c), 3.07(1)(d), 4.13(4)(c), 4.17(7), 15.00(2)(d), 15.00(2)(j) (adopted 12/14/2006) were not extended by Senate Bill 08-075 and therefore expired 05/15/2008.

Rules 2260.5-R-3.07(1), 4.17(1), 4.17(2), 4.17(3) were repealed by Senate Bill 08-075, eff. 05/15/2008.

Rules 4.11(6)-4.11(6)(d) (adopted 08/08/2012) were not extended by Senate Bill 13-079 and therefore expired 05/15/2013.

Rule 4.04 (adopted 12/05/2012) was not extended by Senate Bill 15-100 and therefore expired 05/15/2015.

DEPARTMENT OF EDUCATION

Colorado State Board of Education

COLORADO EDUCATOR LICENSING ACT OF 1991

1 CCR 301-37

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

1.00 Statement of Basis and Purpose

The statutory basis for these rules is found in section 22-60.5-101, et seq, C.R.S., the Colorado Educator Licensing Act of 1991, and section 22-2-109(1), State board of education – additional duties. These rules establish the standards and criteria for the issuance of licenses and authorizations to teachers, special services providers, principals, and administrators. The Act calls for the State Board of Education to adopt rules for a three-tiered system of licensure for education personnel which includes an initial license for entry-level educators, a professional license for experienced educators, and a voluntary master certificate for outstanding educators.

These rules also provide for the issuance of special authorizations to educators as necessary to meet the needs of Colorado schools and students. Standards and processes for the approval of educator preparation programs through institutions of higher education and other designated agencies~~at alternative sites~~ are provided. Criteria for the renewal of licenses and authorizations, which provide for significant involvement of practicing educators, are established. Standards for endorsement in subject areas or other areas of educational specialization are prescribed.

These rules provide a process for the recognition of educator preparation programs in other states to facilitate the movement of educators among states. The rules establish the requirements for induction programs to assist new educators through support, supervision, ongoing professional development and evaluation.

The rules establish the standards and processes by which licenses may be denied, suspended, annulled or revoked for conviction of certain criminal offenses, unethical behavior, professional incompetence, and other reasons enumerated by statute. Other miscellaneous provisions are included to meet the requirements of the Act.

2.00 General Licensing Regulations

The Colorado Department of Education has the sole authority to issue educator licenses and authorizations. Pursuant to sections 22-63-201 and 22-32-126, C.R.S., a Colorado license or authorization is required for employment as a teacher, special services provider, or principal in a Colorado school or school district. All licenses and authorizations must be endorsed to indicate the grade levels/developmental levels and specialization area(s) which are appropriate to the applicant's preparation, training, and experience.

2.01 Definitions

2.01(1) Accepted institution of higher education: An institution of higher education that offers at least the standard bachelor's degree and is recognized by one of the following regional associations: Western Association of Schools and Colleges; Northwest Commission on Colleges and Universities; Higher Learning Commission; New England Commission of Higher Education; Southern Association of Colleges and Schools; or Middle States Commission on Higher Education.

2.01(2) Administrator: Any person who may or may not be licensed, but who administers, directs or supervises an education instructional or education-related program, or a portion thereof, in any school or school district, or nonpublic school in the state and who is not the chief executive officer or an assistant chief executive officer of such school.

2.01(3) Alternative principal: Any person employed as the chief executive officer or an assistant chief executive officer of any school in the state to administer, direct or supervise the education instruction program in such school or nonpublic school under a principal authorization and is actively participating in an alternative principal program or an individualized alternative principal program.

2.01(4) Alternative principal program: a program of study provided by a designated agency, as described in section 22-60.5-305.5(6), C.R.S., for principal preparation designed to provide the information, experience, and training to enable participants to develop the skills and obtain experience and training comparable to that possessed by a person who qualifies for an initial principal license.

2.01(~~5~~3) ~~———~~Alternative teacher contract: A one- or two-year contract, as described in section 22-60.5-207 C.R.S., entered into by a holder of an alternative teacher license pursuant to section 22-60.5-201(1)(a), C.R.S., and a school district, board of cooperative services, ~~nonpublic school,~~ or charter school that provides or participates in, a one-year or two-year alternative teacher program.

2.01(~~6~~4) ~~———~~Alternative teacher program: A one- or two-year program of study and training for teacher preparation for a person of demonstrated knowledge and ability who holds an alternative teacher license, ~~who holds an alternative teacher license pursuant to section 22-60.5-201(1)(a), C.R.S.,~~ which meets the standards of and has been approved by the State Board of Education, and that upon completion leads to a recommendation for initial licensure by the designated agency providing the program.

2.01(~~7~~5) ~~———~~Alternative teacher support team: A team established by the designated agency ~~for alternative preparation~~ for each holder of an alternative teacher license employed as an alternative teacher. At a minimum, each alternative teacher support team must be composed of the alternative teacher's mentor, ~~teacher and~~ the building principal and a representative of the~~an accepted institution of higher education~~approved designated agency.~~, if applicable.~~8~~7) Alternative teacher: Any person employed to instruct students in any public or nonpublic school in the state under an alternative teacher license and ~~is~~ actively participating in an alternative teacher~~preparation~~ program ~~as defined in 2.01(4) of these rules~~.

2.01(~~6~~98) ~~———~~Approved content tests: assessments approved by the State Board of Education for the purpose of evaluating the required subject matter knowledge and skills for a license, authorization, and/or endorsement.

2.01(~~7~~109) ~~———~~Approved induction program: A program of continuing professional development for initial license-holders that meets the requirements of and is approved by the State Board of Education, and that upon completion leads to a recommendation for a professional license by the school

district or districts, charter school, nonpublic school, or the institute providing such induction program.

2.01(~~8~~1~~0~~) ~~—~~Approved program of preparation: A program of study for the preparation of educators that meets the requirements of the State Board of Education as outlined in 1 CCR 301-37 and 1 CCR 301-101 for public and private institutions, is approved by Colorado Commission on Higher Education, and that, upon completion, leads to a recommendation for licensure by an accepted institution of higher education.

~~2.01(9) Award recipient: The teacher named the Colorado Teacher of the Year.~~

2.01(12~~1~~) Board of Cooperative Services (BOCES): A regional educational service unit designed to provide supporting, instructional, administrative, facility, community or any other services contracted by participating members.

2.01(~~10~~132) ~~—~~Board of education: The governing body authorized by law to administer the affairs of any school district in the state except junior and community college districts. “Board of education” also includes a BOCES~~board of cooperative services~~ organized pursuant to section 22-5-101, C.R.S.

2.01(~~11~~143) ~~—~~Charter school: A school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22 or a school authorized by the state charter school institute pursuant to Part 5 of Article 30.5 of Title 22.

2.01(~~12~~154) ~~—~~Colorado Academic Standards: The state academic standards that identify the knowledge and skills that a student should acquire as the student progresses from preschool through elementary and secondary education, as adopted by the State Board of Education in 202018 pursuant to section 22-7-1005, C.R.S. The Colorado Academic Standards herein incorporated by reference in these rules were adopted by the State Board of Education and are available at www.cde.state.co.us. Later amendments to the Colorado Academic Standards are not incorporated. The Department maintains a copy of the s~~S~~tandards readily available for public inspection at 201 East Colfax Avenue, Denver, Colorado, during regular business hours.

2.01(~~13~~165) ~~—~~Colorado Teacher of the Year: The Colorado teacher selected as ~~named~~ Teacher of the Year in the state program administered by the Department and coordinated through the national teacher of the year program.

2.01(~~14~~176) ~~—~~Critical teacher shortage: A grade level or content area in which a local education provider (LEP) determines there is a severe need and impact on students and in which an ~~local education provider~~LEP has been unable to place an appropriately licensed teacher in the vacant position(s) despite reasonable attempts to fill the position.

2.01(15~~8~~7) ~~—~~Department of Education or Department: The Colorado State Department of Education (CDE) as defined in section 24-1-115, C.R.S.

2.01(~~16~~198) ~~—~~Designated agency: A school district or districts, a ~~board of cooperative services (~~BOCES~~)~~, an accepted institution of higher education, a nonprofit organization, a charter school, nonpublic school, the institute, or any combination thereof, that is responsible for the organization, management and operation of an ~~approved~~ alternative teacher program or an alternative principal program. ~~preparation teacher program as defined in 2.01(4) of these rules~~.

2.01(~~17~~1920) ~~—~~Diversity: The backgrounds of all students and school personnel.~~;~~

2.01(~~18~~210) ~~—~~Endorsement: The designation on a license or an authorization of grade level(s) or developmental level(s), subject matter, or service specialization in accordance with the

preparation, training and experience of the holder of such license or authorization. Endorsements typically reflect major areas of specialization.

2.01(~~19~~221) ~~—~~Field-based experiences: Experiences conducted at a school site, ~~a~~ school administration center, ~~a~~ school clinic, or community agency. These experiences m~~ay~~ight include classroom observations; tutoring; assisting school principals, administrators, teachers or special services providers; participation in school- and community-wide activities; student teaching or internships.

2.01(~~20~~)232) ~~—~~Individualized alternative principal program: Created in collaboration between a school district, charter school, the institute, or nonpublic school and an individual identified as requiring principal preparation, it is a plan of preparation that aligns to the Principal Quality Standards in section 6.00 of these rules and comprises coursework, practicums, and other educational requirements the individual will complete while serving as a principal or assistant principal under a principal authorization in the collaborating school district, charter school, the institute or nonpublic school.

2.01(2~~4~~34) ~~—~~Institute: The state charter school institute created pursuant to section 22-30.5-503, C.R.S.

2.01(2~~5~~45) ~~—~~Licensure: The official recognition by a state governmental agency that an individual has met state-mandated minimum requirements and is approved to practice as a duly certified/licensed educator in the state.

2.01(2~~6~~56) ~~—~~Local education provider (LEP): A school district, a charter school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22, C.R.S., a charter school authorized by the State Charter School Institute pursuant to Part 5 of Article 30.5 of Title 22, C.R.S., or a BOCES~~board of cooperative services~~ created and operating pursuant to Article 5 of Title 22, C.R.S. that operates a public school.

2.01(2~~7~~64) ~~—~~Mentor administrator: Any administrator who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial administrator license-holders, who has demonstrated outstanding administrative skills and school leadership and who can provide exemplary modeling and counseling to initial administrator license-holders participating in an approved induction program.

2.01(2~~8~~78) ~~—~~Mentor principal: Any principal who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial principal license-holders, who has demonstrated outstanding principal skills and school leadership and who can provide exemplary modeling and counseling to initial principal license-holders participating in an approved induction program.

2.01(2~~9~~89) ~~—~~Mentor special services provider: ~~any~~ Any special services provider who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial special services license-holders, who has demonstrated outstanding special services provider skills and school leadership and who can provide exemplary modeling and counseling to initial special services license-holders participating in an approved induction program.

2.01(30~~2~~9) Mentor Teacher:

2.01(30~~2~~9)(a) ~~—~~A teacher who holds a professional license designated by a school district, charter school, or nonpublic school employing an alternative teacher, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to alternative teachers participating in an alternative teacher program; or

2.01(3029)(b) —Any teacher who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial teacher license-holders, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to initial teacher license-holders participating in an approved induction program.

2.01(28310) ——Nonpublic School: Any independent or parochial school that provides a basic academic education. Neither the State Board of Education nor any local school board ~~of education~~ has jurisdiction over the internal affairs of any independent or parochial school in Colorado.

2.01(29321) ——Practicum: An intensive experience in which candidates practice and demonstrate professional skills and knowledge. Student teaching and internships are examples of a practicum.

2.01(30332) ——Principal: Any person who is employed as the chief executive officer or an assistant chief executive officer of any school in the state and who administers, directs or supervises the education instruction program in such school or nonpublic school.

2.01(31343) ——Qualified, licensed teacher: An individual who holds a valid Colorado teaching license in the grade level and subject endorsement area(s) in which that individual teaches or will teach.

2.01(354) Rural school district: A school district in Colorado that the Department determines is rural, based on the district's geographic size and its distance from the nearest large, urbanized area, with a total student enrollment of 6,500 students or fewer students.

~~2.01(32) Sabbatical: a period of paid leave from work for the award recipient for the purposes of carrying out the responsibilities of being named teacher of the year.~~

2.01(3365) ——School: Any of the public schools of the state.

2.01(3767) ——School district: Any school district organized and existing pursuant to law, but not including junior or community college districts. "School district" includes a BOCES~~board of cooperative services~~ organized pursuant to 22-5-101, C.R.S.

2.01(38735) ——Special services provider: Any person other than a teacher, principal or administrator who is employed by any school district, charter school, nonpublic school or the institute to provide professional services to students in direct support of the education instructional program.

2.01(3986) ——Specialization area: The sequence of courses and experiences in the academic or professional area that the candidate plans to teach, for the grade level(s) or developmental level(s) at which the candidate plans to teach, and/or for the services that the candidate plans to provide. Examples of specialty areas include science (grades 7-12), elementary education (grades K-6), school counselor (ages birth-21), reading specialist (grades K-12) and physical education (grades K-12).

2.01(4039) ——State Board of Education: The Colorado State Board of Education established by section 1 of Article IX of the Constitution of the State of Colorado.

2.01(38410) ——Student teaching: Part of the field or clinical experience required in a teacher preparation program as identified in section 23-1-121(2)(d), C.R.S., that is an in-depth, direct teaching experience conducted in a school and classroom setting. It is considered a culminating field-based experience for the basic teacher preparation program where candidates practice and demonstrate professional skills and knowledge.

2.01(39421) ——Teacher: Any person employed to instruct students in any ~~school~~ public or nonpublic school in the state.

2.01(~~40~~32) ~~—~~Teacher of record: A person licensed pursuant to section 22-60.5-201(1)(a.5), C.R.S.

2.02 Validity of certificates/license.

2.02(1) Certificates and letters of authorization issued by the Department prior to July 1, 1994, must remain valid for the period for which they were issued.

2.02(2) Endorsements placed on teacher or special services certificates prior to July 1, 1994, which were based on major areas of specialization or experience and academic credit, may be issued on subsequent teacher or special services license renewals provided all renewal requirements specified in section 7.00 of these rules have been met.

2.02(3) Certificates, licenses, and authorizations which have expired are not valid ~~for purposes of teaching in the schools of Colorado~~ unless the applicant has a complete and active application on file with the Department before the expiration date identified on the applicant's current and active educator license, certificate, or authorization.

2.03 General Requirements for Colorado Licenses

2.03(1) Degree. Each applicant for a Colorado license must hold the appropriate academic degree for the license and/or endorsement sought from an accepted institution of higher education.

2.03(1)(a) It will be determined that an applicant "holds" or "has been awarded" the bachelor's or higher degree when the registrar of the accepted institution of higher education certifies that the applicant has met all institutional requirements for graduation with the degree, whether or not the degree has been conferred upon the applicant in formal ceremonies or otherwise conveyed to the individual.

2.03(1)(b) The Department and accepted institutions of higher education may recognize credits and degrees earned in foreign institutions of higher education if, after appropriate evaluation by an established credentials evaluation service as selected by the Department, there is evidence that such credits and degrees are the equivalent of those approved as fulfilling the specific license requirements.

2.03(2) Approved program of preparation. An initial license may be issued upon satisfactory completion of an approved program of preparation ~~as defined in section 2.01(810)~~, an alternative teacher ~~preparation~~ program ~~as defined in section 2.01(4)~~, an alternative principal program, an individualized alternative principal program, or an out-of-state educator preparation program approved or authorized by a state other than Colorado as defined in section 2.03(3)(b) of these rules, and upon demonstration of required competencies as specified in these rules and in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements. Applicants who completed an approved program in a state other than Colorado must meet the requirements in section 2.03(3) of these rules.

2.03(3) Out-of-state applicants. An initial license may be issued to an applicant from another state or country whose qualifications meet or exceed the requirements of the State Board of Education and who has met the following requirements:

2.03(3)(a) has completed the appropriate degree, experiences, and educational level for the license and endorsement(s) requested as specified in these rules;

2.03(3)(b) has successfully completed an educator preparation program approved or authorized by a state other than Colorado, including a program at an accepted institution

of higher education in the endorsement area sought or another educator preparation program, including an alternative teacher preparation program;

2.03(3)(c) has successfully completed field-based experience that meets or exceeds Colorado's field-based experience requirement as provided by section 23-1-121(2)(d), C.R.S.;

2.03(3)(d) holds a standard license issued by the state education agency of another state or country, is eligible to hold a standard license issued by the state education agency of the preparing state, or meets the official requirements of the legally designated licensing agency of the preparing state; and

2.03(3)(e) has provided evidence of satisfactory completion of the approved content tests appropriate to the license and endorsement requested.

2.03(4) An out-of-state applicant must meet the subject matter knowledge requirements for every endorsement sought by passage of the required approved content test for each endorsement or by providing evidence of completion of three or more years of successful full-time, fully licensed, evaluated, post-preparation experience in the endorsement area(s) sought within the previous seven years as a teacher, special services provider, principal, or administrator in an established elementary or secondary school in another state or country.

2.03(4)(a) Applicants who satisfy the requirements of sections 2.03(3)(a)-(d) but not 2.03(3)(e) may be eligible for an interim authorization as provided in section 4.09 of these rules.

2.034)(b) Applicants who satisfy the requirements in sections 2.03(3)(a)-(d) but not 2.03(3)(e) and who provide evidence of completion of three or more years of successful full-time, fully licensed, evaluated post-preparation experience within the previous seven years as a teacher, special services provider, principal, or administrator in an established elementary or secondary school in another state or country, may be eligible for a Colorado professional license.

2.03(5) The State Board of Education may enter into interstate reciprocal agreements whereby the Department agrees to issue initial licenses to persons licensed in other states and such states agree to issue licenses to Colorado license-holders. Such agreements must not be inconsistent with section 2.03(3) of these rules.

2.03(6) Pursuant to section 22-60.5-201(3)(c), C.R.S., the state board may annually designate teacher shortage areas and modify the requirements in sections 4.00 and 5.00 of 1 CCR 301-101 for licensure and endorsement in such shortage areas for the purpose of issuing initial teacher licenses or interim authorizations as outlined in these rules to applicants.

2.03(7) Pursuant to section 22-60.5-201(3.5), C.R.S. the Department may issue professional teacher licenses to applicants who have earned and present certificates issued by the National Board for Professional Teaching Standards.

2.04 Application Procedures

2.04(1) Prior to submitting to the Dd~~d~~epartment an application for a license, authorization, or endorsement, or for the renewal of a license or authorization, the applicant must submit to the Colorado Bureau of Investigation (CBI) a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or BOCES~~board of cooperative services~~ using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the CBI for the purpose of obtaining a criminal history record check, and any fingerprint processing fee(s).

2.04(1)(a) The applicant must give his or her social security number, if any, to the CBI and must indicate to the CBI that the criminal history is to be forwarded to the Department.

2.04(1)(a)(i) If an individual submits an application or renewal application after the expiration of a credential, the individual must submit a new, complete set of fingerprints to the CBI.

2.04(1)(a)(ii) If an applicant previously submitted a complete set of fingerprints to the CBI pursuant to section 22-2-119.3, C.R.S., the individual need not submit a new set of fingerprints unless: (1) he or she has not continuously resided in Colorado for more than one full year; (2) he or she submits an application or renewal application after the expiration of a credential from the Department; or (3) the individual has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to the educator's licensure or authorization.

2.04(2) An applicant must submit a complete application to the Department via its online system, which includes all required information and documentation as set forth in these rules, the application form, and any other application instructions published by the Department on its website. Required information and documentation includes that which the applicant is responsible for submitting and any other information and documentation that may be required from other sources to support the application, including but not limited to the following:

2.04(2)(a) The applicant must provide official transcripts showing conferral of the degree required for the license and endorsement sought:

2.04(2)(a)(i) Each transcript must be authentic, original or photocopy, bearing the printed or embossed seal of the institution and the signature of the registrar, and include descriptive titles, course numbers, credits, and grades for each course listed and degrees conferred, if any. For the purpose of these rules, credits must be in semester hours. Quarter, trimester, unit or term credits will be converted to semester hours at the time of evaluation. Submission of an incomplete, unofficial, or illegible transcript may render an application incomplete.

2.04(2)(a)(ii) Transcripts from institutions of higher education outside the United States must be evaluated by an established credential evaluation service, selected by the Department, for course equivalence.

2.04(2)(a)(iii) Copies of official transcripts submitted with an application become part of the applicant's record with the Department and are not returnable.

2.04(2)(b) The applicant must provide an institutional recommendation from the educator preparation program, appropriate to the license sought and on the Department’s program verification form, which at a minimum confirms: the date of completion of an educator preparation program; endorsement area(s) and grade level(s); completion of student teaching, clinical experience, or practicum; that the applicant holds or is eligible to hold a license in the preparing state or territory; and any additional information requested on the Department form.

2.04(2)(b)(i) The recommendation must certify that the applicant completed the educator preparation program in a satisfactory manner and is in good standing; and

2.04(2)(b)(ii) The recommendation must indicate the subject and level or grades of student teaching, the number of hours of field-based experience performed, and

the area of recommended endorsement as defined in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements.

2.04(2)(b)(iii) An individual applying for an initial license or professional license for the first time who holds a valid license or certificate in another state and demonstrates ~~has completed~~ three or more years of successful full-time, evaluated, fully licensed teaching experience (post completion of an educator preparation program) within the previous seven years may be exempt from the institutional recommendation requirement.

2.04(2)(c) The applicant must provide a copy of the official test score report(s) verifying completion of the approved content test(s) when a test or tests are required for a license or endorsement. Submission of a score report for the wrong test or wrong version of a test will render the application incomplete.

2.04(2)(d) Out-of-state applicants must include a copy of any and all educator credentials held (valid or expired) in other states or territories.

2.04(2)(e) The applicant must submit the following to verify their identity:

2.04(2)(e)(i) the applicant's name and mailing address; and

2.04(2)(e)(ii) applicant's social security number, or if unavailable, the individual taxpayer identification number, one of the following documents verifying the applicant's identity: a clear copy of one of the following forms of government-issued photo identification: a valid passport or passport card; a valid driver's license from any state; an identification card or document from any state; a United States military card or a military dependent's identification card; a United States Coast Guard Merchant Mariner card; or a Native American tribal document.

~~2.04(2)(e)(ii) a clear copy of one of the following forms of government-issued photo identification: a valid passport or passport card; a valid driver's license from any state; an identification card or document from any state; a United States military card or a military dependent's identification card; a United States Coast Guard Merchant Mariner card; or a Native American tribal document;~~

~~2.04(2)(e)(iii) their social security number. If the applicant does not have a social security number, the applicant must submit a sworn statement that they are truthfully representing their identity and that they do not have a social security number; and.~~

~~2.04(2)(e)(iii) their current mailing address.~~

2.04(2)(f) The applicant must submit a complete and accurate response, including but not limited to every required disclosure, form, and supporting document, to every applicable section of the online application and attest that all information submitted is true and complete to the best of the applicant's knowledge.

2.04(3) The fee for the evaluation and review of an application is established by the State Board of Education and shall be nonrefundable.

2.04(4) In any application for licensure, the applicant must indicate all endorsements sought and pay the established fees for the requested endorsement(s) at the time of submission of the application. If an applicant fails to indicate an endorsement(s) sought in a license application and subsequently seeks an endorsement, the Department will not consider the endorsement request until the applicant submits a complete added endorsement application and all required fees.

2.04(5) An application is deemed complete when all required information, documentation, and fees are received by the Department. An application that fails to include required information, documentation, or fees will be deemed incomplete. Within 45 days of submission of an application, applicants will be notified if their application is incomplete. An applicant whose application is deemed incomplete may cure the deficiency or submit to the Department a written request for reconsideration which states the basis for reconsideration. An applicant who fails to cure the deficiency or request reconsideration within 60 days of notification will be deemed to have withdrawn the application and such withdrawal shall not be subject to appeal or review. The Department will issue a written determination to an applicant in response to any request for reconsideration within 30 days of its receipt of the request.

2.04(6) Applications that are initiated in the Department's online system but not submitted will be closed and deemed withdrawn 14 days after initiation. Such closed and withdrawn applications shall not be subject to appeal or review.

2.04(7) The Department will promptly act upon complete applications. The Department may require additional information and documentation from an applicant to determine compliance with applicable laws and rules, or to verify any information and documentation submitted.

3.00 Types of Licenses

3.01 Initial Teacher License

An initial teacher license ~~must be~~ is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.01(1) An initial teacher license may be issued to an applicant who:

3.01(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.01(1)(b) has completed an approved program of preparation at an accepted institution of higher education, including the field-based experience required by section 23-1-121(2)(d), C.R.S.;

3.01(1)(c) has provided an institutional recommendation which meets the requirements outlined in 2.04(2)(b), and:

3.01(1)(c)(i) verifies satisfactory completion of the approved program;

3.01(1)(c)(ii) specifies the grade/developmental level(s), endorsement area(s), or specialization(s) completed by the applicant;

3.01(1)(c)(iii) verifies successful completion of student teaching, internship, or practicum as specified in 2.01(~~38~~410~~)~~) of these rules; the grade/developmental level(s) and endorsement/specialization areas of the experience; and

3.01(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the subject matter to be taught and has the competencies essential for educational service.

3.01(1)(d) has submitted a complete application for a license as defined in section 2.04 of these rules; and

3.01(1)(e) has demonstrated subject matter knowledge necessary for teaching in the endorsement area:

3.01(1)(e)(i) for elementary education teachers (grades K-6), ~~including~~ special education generalist teachers (ages 5-21), early childhood educators (ages birth-8) and early childhood special education teachers (ages birth-8) by passage of the approved content test~~s for elementary education~~.

3.01(1)(e)(ii) for secondary teachers (grades 7-12) and all other endorsement areas not identified in Rule 3.01(1)(e)(i), ~~teachers of all Pre~~K-12 ~~teachers and endorsement areas for ages birth-8~~ by:

3.01(1)(e)(ii)(A) ~~holding~~ an ~~a~~ earned bachelor's or higher degree from an accepted institution of higher education in the endorsement area; or

3.01(1)(e)(ii)(B) passage of the approved content test(s) relevant to the area of endorsement; or

3.01(1)(e)(ii)(C) ~~twenty-four~~ 24 semester hours of specific college/university coursework as demonstrated through transcript evaluation in the endorsement area.

3.01(2) An initial teacher license may be issued to an applicant who has completed an alternative teacher program and who:

3.01(2)(a) holds an alternative teacher license as prescribed in section 3.12 of these rules;

3.01(2)(b) has completed an alternative teacher program as defined in section 2.01(64) of these rules;

3.01(2)(c) has submitted a complete application for an initial license, as defined in section 2.04 of these rules;

3.01(2)(d) has provided an institutional recommendation from the approved designated agency and which meets the requirements outlined in 2.04(2)(b), and:

3.01(2)(d)(i) verifies satisfactory completion of the alternative teacher program;

3.01(2)(d)(ii) verifies employment as an alternative teacher as provided in sections 22-60.5-201 and 22-60.5-205, C.R.S., in the endorsement area sought; and

3.01(2)(d)(iii) certifies that the applicant has demonstrated thorough knowledge of the subject matter to be taught and has demonstrated the competencies essential for educational service.

3.01(2)(e) has demonstrated subject matter knowledge necessary for teaching in the endorsement area:

3.01(2)(e)(i) for elementary education teachers (grades K-6), ~~including~~ special education generalist teachers (ages 5-21), early childhood educators (ages birth-8) and early childhood special education teachers (ages birth-8) by passage of the approved content test~~s for elementary education~~.

3.01(2)(e)(ii) for secondary teachers (grades 7-12) and ~~teachers of~~ all other endorsement areas not identified in Rule 3.01(2)(e)(i),~~K-12 teachers and PreK-12 endorsement areas and for endorsement areas for ages birth-8~~t by:

3.01(2)(e)(ii)(A) holding an earned bachelor's or higher degree from an accepted institution of higher education in the endorsement area; or

3.01(2)(e)(ii)(B) passage of the approved content test relevant to the person's endorsement area; or

3.01(2)(e)(ii)(C) ~~twenty-four~~24 semester hours of specific coursework as demonstrated through transcript evaluation in the endorsement area.

3.02 Initial Special Services License

An initial special services license ~~must be~~ is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.02(1) An initial special services license may be issued to an applicant who:

3.02(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.02(1)(b) has completed an approved special services preparation program at an accepted institution of higher education;

3.02(1)(c) has supplied an institutional recommendation which meets the requirements outlined in 2.04(2)(b), and:

3.02(1)(c)(i) verifies satisfactory completion of the approved program;

3.02(1)(c)(ii) specifies the area(s) of endorsement/specialization completed by the applicant;

3.02(1)(c)(iii) verifies successful completion of student teaching, internship or practicum in a school setting or other appropriate setting in the endorsement/specialization area sought for licensure; and

3.02(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the special service area and has the competencies essential for educational service.

3.02(1)(d) has submitted a complete application for a license as defined in section 2.04 of these rules; and

3.02(1)(e) holds a valid license~~,~~ or certificate ~~or registration~~ in the respective discipline, where applicable, and meets the requirements for the respective discipline as outlined in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements.

3.03 Initial Principal License

An initial principal license ~~must be~~ is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.03(1) An initial principal license may be issued to an applicant who:

3.03(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.03(1)(b) has completed an approved principal preparation program at an accepted institution of higher education, including the field-based experience required by section 23-1-121(2)(d), C.R.S., ~~or~~ an individualized alternative principal program as defined in sections 22-60.5-305.5 and 22-60.5-111(14), C.R.S., an alternative principal program created by a designated agency and approved by the State Board of Education pursuant to section 22-60.5-305.5(6)(a), C.R.S., or has evidence of partial completion of an approved principal preparation program in each of two or more accepted institutions of higher education. Upon a finding by the Department of completion of the equivalent of any one program by combining work completed at different programs, the requested license may be issued, assuming all requirements set forth in these rules have been met;

3.03(1)(c) has provided an institutional recommendation from the principal preparation program, appropriate to the license sought and on the Department's program verification form, which at a minimum confirms:

3.03(1)(c)(i) the date of completion and verifies satisfactory completion of the approved program;

3.03(1)(c)(ii) specifies the area(s) of endorsement/specialization completed by the applicant;

3.03(1)(c)(iii) verifies successful completion of internship or practicum in a school setting or other appropriate setting in the endorsement/specialization area sought for licensure; and

3.03(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the Principal Quality Standards and has the competencies essential for educational service.

3.03(1)(d) provides documented evidence of three or more years of full-time, successful experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state or has three or more years of experience working with students as a professional in a nonpublic school;

3.03(1)(e) has submitted a complete application for an initial license as defined in section 2.04 of these rules; and

3.03(1)(f) has demonstrated professional competencies as evidenced by a passing score on the approved content test.

3.03(2) An initial principal license must be valid in any school district, BOCES, nonpublic or charter school which provides, participates in, or has been granted a waiver from providing an approved induction program for principals as described in section 9.00 of these rules.

3.03(3) An initial principal license must be valid for occasional teaching, which must not constitute more than one-half of a typical teaching assignment.

3.04 Initial Administrator License

An initial administrator license ~~must be~~is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.04(1) An initial administrator license may be issued to an applicant who:

3.04(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.04(1)(b) has completed an approved program for district-level administrators at an accepted institution of higher education or has evidence of partial completion of an approved administrator preparation program in each of two or more accepted institutions of higher education. Upon a finding of completion by the Department of completion of the equivalent of any one program by combining work completed at different programs, the requested license may be issued, assuming all requirements set forth in these rules have been met;

3.04(1)(c) has supplied an institutional recommendation from the preparing administrator preparation program, appropriate to the license sought and on the Department's program verification form, which at a minimum confirms:

3.04(1)(c)(i) the date of completion and verifies satisfactory completion of the approved program;

3.04(1)(c)(ii) specifies the area(s) of endorsement/specialization completed by the applicant;

3.04(1)(c)(iii) verifies successful completion of internship, or practicum in a school setting or other appropriate setting in the endorsement/specialization area sought for licensure; and

3.04(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the Principal Quality Standards and has the competencies essential for educational service.

3.04(1)(d) has submitted a complete application for an initial license as defined in section 2.04 of these rules; and

3.04(1)(e) has demonstrated professional competencies as evidenced by a passing score on the approved content test for administrators.

3.04(2) An initial administrator license must be valid in any school district, BOCES, nonpublic school or charter school, which provides, participates in, or has been granted a waiver from providing an approved induction program for administrators as described in section 9.00 of these rules.

3.04(3) A holder of an initial administrator license who has completed three or more years of full-time, continuous, successful experience working with students as a licensed professional in a public or nonpublic elementary or secondary school in this state or another state may function as an occasional teacher. For purposes of this section, occasional teaching is defined as no more than one-half of a typical teaching assignment.

3.04(4) The applicant for an initial administrator license with ~~an endorsement as~~ a director of gifted education endorsement must:

3.04(4)(a) hold a master's or higher degree in gifted education from an accepted institution of higher education or demonstrate knowledge and application of standards for the specialist, ~~from an accepted institution of higher education~~as determined upon evaluation by the Department;

3.04(4) (b) have a minimum of two years' full-time experience working with students with exceptional academic and talent aptitude;

3.04(4) (c) have completed an approved program for the preparation of directors of gifted education, which must include a supervised field-based experience, as confirmed on the institutional recommendation from the preparing program;

3.04(4)(d) have demonstrated professional competencies as evidenced by a passing score on the approved content test for administrators: and

3.04(4) (de) meet the professional competencies outlined in section 6.17.

3.04(5) The applicant for an initial administrator license with a director of special education endorsement must:

3.04(5)(a) hold a master's or higher degree in special education from an accepted institution of higher education or demonstrate knowledge and application of standards for the specialist, as determined upon evaluation by the Department;

3.04(5)(b) have a minimum of two years' full-time experience working with students with special needs;

3.04(5)(c) have completed an approved program for the preparation of directors of special education, which must include a supervised field-based experience, as confirmed on the institutional recommendation from the preparing program;

3.04(5)(d) have demonstrated professional competencies as evidenced by a passing score on the approved content test for administrators; and

3.04(5)(e) meet the professional competencies outlined in section 6.08.

3.05 Professional Teacher or Special Services License

A professional teacher or special services license must beis valid for a period of five seven years from the date of issuance, except as provided in section 3.08 of these rules, and may be renewed as provided in section 7.02 of these rules.

3.05(1) A professional teacher or special services provider license may be issued to an applicant who:

3.05(1)(a) holds a Colorado initial teacher license or Colorado initial special services license;

3.05(1)(b) has successfully completed an approved teacher or special services provider induction program as prescribed in section 8.00 of these rules and/or has been recommended for the professional teacher or special services license by the district or BOCES providing such induction program; and

3.05(1)(c) has submitted a complete application for a professional teacher or special services license as defined in Rule 2.04.

3.05(2) Notwithstanding the provisions in 3.05(1)(b), the Department may issue An applicant for a professional teacher license need not complete an approved induction program as an initial teacher license holder if the applicant meets the requirements for an initial teacher license and

previously completed an induction program while teaching under an adjunct instructor authorization, an emergency authorization, an interim authorization, ~~or~~ a temporary educator eligibility authorization or alternative teacher license.~~.~~ If the applicant is employed by a school district, charter school, the institute, nonpublic school, or BOCES that has obtained a waiver of the induction program requirement, the applicant must demonstrate completion of any requirements specified in the school district's, charter school's, the institute's, nonpublic school's or BOCES's plan for support, assistance, and training of an initially licensed educator.

3.05(3) Notwithstanding the provisions in 3.05(1)(b), the Department may issue ~~An applicant for~~ a professional special services license ~~need not complete an approved induction program as an initial special services license holder~~ if the applicant meets the requirements for an initial special services license and previously completed an induction program while serving under an emergency authorization or a temporary educator eligibility authorization. If the applicant is employed by a school district, charter school, the institute, nonpublic school, or BOCES that has obtained a waiver of the induction program requirement, the applicant must demonstrate completion of any requirements specified in the school district's, charter school's, the institute's, nonpublic school's, or BOCES's plan for support, assistance, and training of an initially licensed educator.

~~3.05(4) A professional teacher license or professional special services license may be issued to an out-of-state applicant who holds a license from another state for which standards of issuance are comparable to Colorado's licensing requirements and has three or more years of full-time, fully licensed, post-preparation, evaluated teaching experience within the previous seven years as a teacher or special services provider in an established elementary or secondary school and provides documentation of such employment~~.

3.06 Professional Principal License

A professional principal license ~~must be~~is valid for a period of ~~five~~ seven years from the date of issuance ~~except as provided in section 3.10 of these rules~~ and may be renewed as provided in section 7.02 of these rules.

3.06(1) A professional principal license may be issued to an applicant who:

3.06(1)(a) holds:

3.06(1)(a)(i) an earned master's degree from an accepted institution of higher education and has successfully completed an approved principal preparation program at an accepted institution of higher education, an alternative principal program, or an individualized alternative principal program; and

3.06(1)(a)(ii) an initial principal license;

3.06(1)(b) has successfully completed an approved principal induction program as described in section 9.00 of these rules;

3.06(1)(c) has been recommended for a professional license by the school district(s), BOCES, nonpublic school, charter school, or the institute which ~~provides~~ provided the ~~such~~ induction program.

~~3.06(1)(c)(i) if an out-of-state applicant holds a principal license from another state for which standards of issuance are comparable to Colorado's licensing requirements and has completed three or more years of full-time, continuous, successful, evaluated experience as a principal in an established elementary or secondary school and provides documentation of such employment;~~

~~3.06(1)(c)(ii) if the applicant, while employed under a principal authorization, successfully completed an induction program and completed the individualized alternative principal program; or~~

~~3.06(1)(c)(iii) if the applicant is employed by a school district, charter school, nonpublic school, BOCES, or the institute that has obtained a waiver of the induction program requirement and then applicant demonstrates completion of any requirements specified in the school district's, charter school's, nonpublic school's, BOCES's or the institute's plan for support, assistance, and training of an initial principal license-holder; and~~

3.06(1)(d) has submitted a complete application for a professional license as defined in Rule 2.04.

3.06(2) Notwithstanding the provisions in 3.06(1)(b), the Department may issue a professional principal license if the applicant meets the requirements for an initial principal license and completed an approved principal induction program while employed under an emergency authorization, interim authorization or principal authorization. The applicant need not complete an approved induction program as an initial principal license-holder if the applicant previously completed an induction program while employed under an emergency authorization, interim authorization, or a principal authorization or if the school district, BOCES, nonpublic school, charter school or the institute in which the applicant is employed has obtained waiver of the induction program requirement pursuant to section 22-60.5-114(2), C.R.S. ~~The induction requirement for licensure purposes may also be waived:~~

~~3.06(3) In accordance with sections 4.03 and 4.17 of these rules, an individual may also apply for a professional principal license if the applicant completes an induction program and meets the requirements for an initial principal license while employed under an emergency or principal authorization.~~

3.06(~~4~~3) A professional principal license ~~must be~~is valid for occasional teaching, which must not constitute more than one-half of a typical teaching assignment. A principal who has previously held a professional teacher license may be reissued that license upon application and completion of the renewal requirements as outlined in 7.02.

3.07 Professional Administrator License

A professional administrator license ~~must be~~is valid for a period of ~~five~~ seven years from the date of issuance ~~except as provided in section 3.11 of these rules~~ and may be renewed as provided in section 7.02 of these rules.

3.07(1) A professional administrator license may be issued to an applicant who:

3.07(1)(a) holds:

3.07(1)(a)(i) an earned master's degree from an accepted institution of higher education and has completed an approved administrator program at an accepted institution of higher education; and

3.07(1)(a)(ii) a valid initial administrator license; and

3.07(1)(a)(ii)(A) completes an approved administrator induction program; and

3.07(1)(a)(ii)(B) has been recommended for professional licensure by the school district, charter school, the institute, nonpublic school, or BOCES that provided such induction program.

3.07(2) Notwithstanding the provisions of section 3.07(1)(a)(ii), the Department may issue a professional administrator license if an ~~person~~ applicant meets the requirements for an initial administrator license and completed an approved administrator induction program while~~is~~ employed under an emergency authorization, interim authorization or a temporary educator eligibility authorization~~, meets the requirements for an initial administrator license, and successfully completed an approved administrator induction program~~. The applicant need not complete an approved induction program as an initial license-holder if the applicant previously completed an induction program while employed under an emergency authorization, interim authorization, or a temporary educator eligibility ~~principal~~ authorization or if the school district, BOCES, nonpublic school, charter school or the institute in which the applicant is employed has obtained waiver of the induction program requirement pursuant to section 22-60.5-306(1)(b)(C), C.R.S.

~~3.07(3) Notwithstanding the provisions of section 3.07(1), the Department may issue a professional administrator license to any applicant from another state if the applicant holds a license or certificate from that state that is comparable to a Colorado administrator license, where the standards of such license or certificate meet or exceed the Colorado standards for a professional administrator license, and the applicant has had at least three years of demonstrated full-time, continuous, successful, evaluated experience as an administrator in an established elementary or secondary school~~.

3.07(4) A holder of professional administrator licenses who has completed three or more years of full-time, continuous, successful, evaluated experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state may function as an occasional teacher. For purposes of this section, occasional teaching is defined as no more than one-half of a typical teaching assignment.

3.08 Master Certificate - Teacher

~~The~~ A master ~~teacher~~ certificate represents achievements and contributions over and above expectations in the Teacher Quality Standards ~~as~~ outlined in section 5.0 of these rules. A master certificate ~~must be~~is valid for the period of time for which the applicant's professional teacher license is valid and is renewable as provided in section 7.02(6) of these rules. ~~Issuance of a master certificate must extend the validity of the professional teacher license to seven years.~~

3.08(1) A master certificate may be issued to an applicant who holds a valid Colorado professional teacher license and who has demonstrated advanced teaching competencies or expertise through:

3.08(1)(a) the attainment of National Board for Professional Teaching Standards certification; or

3.08(1)(b) demonstrated excellence in the following standards:

3.08(1)(b)(i) Standard 1: The master teacher develops a personal leadership vision focused on the successful learning and development of each student.

3.08(1)(b)(i)(A) Element A: The master teacher develops a leadership mission that promotes whole-child success and the well-being of each student.

3.08(1)(b)(i)(B) Element B: The master teacher articulates, advocates for, and cultivates core values that promote student-centered education, high

expectations, learner support, equity, inclusiveness, social justice, openness, caring, trust, and continuous improvement.

3.08(1)(b)(i)(C) Element C: The master teacher strategically develops, implements and evaluates actions to achieve one's personal leadership mission and vision.

3.08(1)(b)(i)(D) Element D: The master teacher anticipates, identifies and addresses barriers to achieving one's leadership vision and mission.

3.08(1)(b)(i)(E) Element E: The master teacher models one's leadership mission, vision and core values in all interactions with students, colleagues, parents and community members.

3.08(1)(b)(ii) Standard 2: The master teacher understands the principles of adult learning and knows how to develop a collaborative culture of collective responsibility in the school. The master teacher uses this knowledge to promote an environment of collegiality, trust, and respect that focuses on continuous improvement in instruction and student learning.3.08(1)(b)(ii)(A) Element A: The master teacher utilizes group processes to help colleagues (for the purposes of this section, including all members of the school community involved in the education of children) work collaboratively to solve problems, make decisions, manage conflict, and promote meaningful change.

3.08(1)(b)(ii)(B) Element B: The master teacher models effective skills in listening, presenting ideas, leading discussions, clarifying, mediating, and identifying the needs of self and others ~~in order~~ to advance shared goals and professional learning.

3.08(1)(b)(ii)(C) Element C: The master teacher facilitates the creation of trust among colleagues, development of collective wisdom, building ~~of~~ ownership, and action that supports collective efficacy and student learning.

3.08(1)(b)(ii)(D) Element D: The master teacher uses knowledge and understanding of different backgrounds, races, ethnicities, cultures, and languages to create an inclusive culture and promote effective interactions among colleagues.

3.08(1)(b)(iii) Standard 3: The master teacher understands how research creates new knowledge, informs policies and practices, and improves teaching and learning. The master teacher models and facilitates the use of systematic inquiry as a critical component of teachers' ongoing learning and development.

3.08(1)(b)(iii)(A): Element A: The master teacher assists colleagues in accessing and using research ~~in order~~ to select appropriate strategies to improve student learning.

3.08(1)(b)(iii)(B): Element B: The master teacher models and facilitates analysis of student learning data, collaborative interpretation of results, and application of findings to improve teaching and learning.

3.08(1)(b)(iii)(C): Element C: The master teacher supports colleagues in collaborating with higher education institutions and other organizations engaged in researching critical education issues.

3.08(1)(b)(iii)(D): Element D: The master teacher teaches and supports colleagues to collect, analyze, and communicate data from their classrooms to improve teaching and learning.

3.08(1)(b)(iii)(E): Element E: The master teacher collaborates with colleagues to identify promising, innovative practices and conduct action research to determine effectiveness and expansion possibilities.

3.08(1)(b)(iv) Standard 4: The master teacher understands the evolving nature of teaching and learning, established and emerging technologies, and the school community. The master teacher uses this knowledge to promote, design, and facilitate job-embedded professional learning aligned with school improvement goals.

3.08(1)(b)(iv)(A) Element A: The master teacher collaborates with colleagues and school administrators to plan professional learning that is team-based, job-embedded, sustained over time, aligned with content standards, and linked to school/district improvement goals.

3.08(1)(b)(iv)(B) Element B: The master teacher uses information about adult learning to respond to the diverse learning needs of colleagues by identifying, promoting, and facilitating varied and personalized professional learning.

3.08(1)(b)(iv)(C) Element C: The master teacher identifies and uses appropriate technologies to promote collaborative and personalized professional learning.

3.08(1)(b)(iv)(D) Element D: The master teacher works with colleagues to collect, analyze, and disseminate data related to the quality of professional learning and its effect on teaching and student learning.

3.08(1)(b)(iv)(E) Element E: The master teacher advocates for sufficient preparation, time, and support for colleagues to work in teams to engage in job-embedded professional learning.

3.08(1)(b)(iv)(F) Element F: The master teacher provides constructive feedback to colleagues to strengthen teaching practice and improve student learning.

3.08(1)(b)(iv)(G) Element G: The master teacher uses information about emerging education, economic, and social trends in planning and facilitating professional learning.

3.08(1)(b)(v) Standard 5: The master teacher demonstrates a deep understanding of the teaching and learning processes and uses this knowledge to advance the professional skills of colleagues by being a continuous learner and modeling reflective practice based on student results. The master teacher works collaboratively with colleagues to ensure instructional practices are aligned to a shared vision, mission, and goals.

3.08(1)(b)(v)(A) Element A: The master teacher models, facilitates, and enhances the process for collection, analysis, and use of classroom-and school-based data to identify opportunities to improve curriculum, instruction, assessment, school organization, and school culture.

3.08(1)(b)(v)(B) Element B: The master teacher engages in reflective dialogue with colleagues based on student learning and helps make connections to research-based effective practices.

3.08(1)(b)(v)(C) Element C: The master teacher serves as a team leader to harness the skills, expertise, and knowledge of colleagues to address curricular expectations and student learning needs.

3.08(1)(b)(v)(D) Element D: The master teacher uses knowledge of existing and emerging learning innovations to guide colleagues in helping students skillfully and appropriately navigate the universe of knowledge available on the Internet, use social media to promote collaborative learning, and connect with people and resources around the globe.

3.08(1)(b)(v)(E) Element E: The master teacher supports instructional strategies that respect issues of diversity and equity in the classroom and that promote equitable outcomes for all students.

3.08(1)(b)(vi) Standard 6: The master teacher is knowledgeable about current research on classroom- and school-based data and the design and selection of appropriate formative and summative assessment methods. The master teacher shares this knowledge and collaborates with colleagues to use assessment and other data to make informed decisions that improve learning for all students and to inform school and district improvement strategies.

3.08(1)(b)(vi)(A) Element A: The master teacher increases the capacity of colleagues to identify and use multiple assessment tools aligned to state and local standards.

3.08(1)(b)(vi)(B) Element B: The master teacher collaborates with colleagues in assessment design, implementation, scoring, and ~~interpretation~~ interpreting ~~of~~ student data to improve educational practice and student learning.

3.08(1)(b)(vi)(C) Element C: The master teacher creates a climate of trust and critical reflection ~~in order~~ to engage colleagues in challenging conversations about student learning data that lead to solutions to identified issues.

3.08(1)(b)(vi)(D) Element D: The master teacher works with colleagues to use assessment and data findings at multiple levels to promote changes in instructional practices or organizational structures to improve student learning.

3.08(1)(b)(vi)(E) Element E: The master teacher collaborates with colleagues to design opportunities to collect, analyze, and use qualitative data to improve teaching and learning.

3.08(1)(b)(vi)(F) Element F: The master teacher collaborates with colleagues to lead students to evaluate their own data and set relevant goals.

3.08(1)(b)(vii) Standard 7: The master teacher understands that families, cultures, and communities have a significant impact on educational processes and student learning. The master teacher ~~teacher leader~~ works with colleagues to promote ongoing systematic collaboration with families, community members, business

and community leaders, and other stakeholders to improve the educational system and expand opportunities for student learning.

3.08(1)(b)(vii)(A) Element A: The master teacher uses knowledge and understanding of the different backgrounds, ethnicities, races, cultures and languages in the school community to promote effective interactions among colleagues, families and the larger community.

3.08(1)(b)(vii)(B) Element B: The master teacher models and teaches effective communication and collaboration skills with families and other stakeholders focused on attaining equitable achievement for students of all backgrounds and circumstances.

3.08(1)(b)(vii)(C) Element C: The master teacher facilitates colleagues' self-examination of their own biases and understandings of community culture and diversity and how they can develop an asset-oriented mindset along with culturally responsive strategies to enrich the educational experiences of students and achieve high levels of learning for all students.

3.08(1)(b)(vii)(D) Element D: The master teacher develops a shared understanding among colleagues of the diverse educational needs of families and the community.

3.08(1)(b)(vii)(E) Element E: The master teacher collaborates with families, communities, and colleagues to develop comprehensive strategies to address the diverse educational needs of families and the community.

3.08(1)(b)(viii) Standard 8: The master teacher understands how educational policy is made at the local, state, and national level, as well as the roles ~~of~~ school leaders, boards of education, legislators, and other stakeholders have in formulating those policies.

3.08(1)(b)(viii)(A) Element A: The master teacher shares information with colleagues within and/or beyond the district regarding how local, state, and national trends and policies can impact classroom practices and expectations for student learning.

3.08(1)(b)(viii)(B) Element B: The master teacher works with colleagues to identify and use research to advocate for teaching and learning processes that meet the needs of all students.

3.08(1)(b)(viii)(C) Element C: The master teacher collaborates with colleagues to select appropriate opportunities to advocate for the rights and/or needs of students, to secure additional resources within the building or district that support student learning, and to communicate effectively with targeted audiences, such as parents and community members.

3.08(1)(b)(viii)(D) Element D: The master teacher advocates for access to professional resources, including financial support and human and other material resources, that allow colleagues to spend significant time learning about effective practices and developing a professional learning community focused on school improvement goals and student success.

3.08(1)(b)(viii)(E) Element E: The master teacher represents and advocates for the profession in contexts inside and outside of the classroom.

3.09 Master Certificate - Special Services

A master certificate represents achievements and contributions over and above expectations in the Special Services Provider Quality Standards outlined in section 5.0 of these rules. A master certificate ~~must be~~is valid for the period of time for which the applicant's professional special services license is valid and is renewable as provided in section 7.02 of these rules. ~~Issuance of a master certificate must extend the validity of the special services license to seven years.~~

3.09(1) A master certificate may be issued to an applicant who:

3.09(1)(a) holds a valid Colorado professional special services license and is employed in a school in the area of specialization;

3.09(1)(b) has been involved in ongoing professional development and training;

3.09(1)(c) has demonstrated advanced competencies or expertise as identified by the educator evaluation system employed in the district;

3.09(1)(d) has been recognized for outstanding achievements in the field of specialization; and

3.09(1)(e) meets the following requirements for the area(s) of specialization:

3.09(1)(e)(i) School Audiologist:

3.09(1)(e)(i)(A) holds national certification in audiology;

3.09(1)(e)(i)(B) has completed at least five years of full-time, continuous, successful, evaluated experience as a school audiologist;

3.09(1)(e)(i)(C) has completed graduate-level university training in school audiology and related areas;

3.09(1)(e)(i)(D) has been involved in at least four of the following areas: local, state, or national professional organizations; mentoring or supervision of peers; publication; professional presentations; funded grants; professional leadership; community activities and organizations; and

3.09(1)(e)(i)(E) has been granted an exemplary performance evaluation by a team of peers.

3.09(1)(e)(ii) School Counselor:

3.09(1)(e)(ii)(A) has held a Colorado professional special services license in school counseling for a minimum of five years;

3.09(1)(e)(ii)(B) has demonstrated professional growth through continuing education, professional leadership experiences, and exceptional program development;

3.09(1)(e)(ii)(C) has demonstrated commitment to the school counseling profession through professional organization involvement, supervision and training of other school counselors, publication of professional materials, and presentations at professional conferences; and

3.09(1)(e)(ii)(D) has demonstrated active community involvement, development of effective parent partnership programs, and promotion of cooperation with other professional educators.

3.09(1)(e)(iii) School Occupational Therapist:

3.09(1)(e)(iii)(A) holds a master's degree in occupational therapy from an accepted institution of higher education;

3.09(1)(e)(iii)(B) holds an active occupational therapy license from the Colorado Department of Regulatory Agencies;

3.09 (1)(e)(iii)(C) has demonstrated outstanding contribution or accomplishments to the profession through at least three of the following: achieved certification or accreditation in an area of specialization of occupational therapy; supervised and mentored occupational therapy students; completed graduate-level professional coursework; completed research and/or publication in the area of school occupational therapy; made presentations at professional meetings; wrote grants; held or holds office in national, state, or local professional organizations or boards;

3.09(1)(e)(iii)(D) has received recognition for outstanding achievements in occupational therapy; and

3.09(1)(e)(iii)(E) is involved in community programs.

3.09(1)(e)(iv) School Orientation and Mobility Specialist:

3.09(1)(e)(iv)(A) has demonstrated outstanding professional activities in at least three of the following areas: authored professional publications; juried articles, newsletters or books; made presentations at professional meetings or conferences; mentored other professionals and supervised student practicum experiences; taught at the university or school district in service levels; served as a model for demonstrations; provided active community leadership by promoting disability education and participation; or wrote grant proposals which were funded; and

3.09(1)(e)(iv)(B) has received recognition for demonstrated leadership in the field.

3.09(1)(e)(v) School Physical Therapist:

3.09(1)(e)(v)(A) holds a master's degree in physical therapy;

3.09(1)(e)(v)(B) holds an active professional physical therapy license from the Colorado Department of Regulatory Agencies;

3.09(1)(e)(v)(C) has demonstrated outstanding contributions or accomplishments to the profession through at least three of the following: achieved certification or accreditation in an area of specialization of physical therapy; supervised and mentored physical therapy students; completed

graduate-level professional coursework; completed research and/or publication in the area of school physical therapy; presented at professional meetings; wrote grants; held or holds office in national, state or local professional organizations or boards;

3.09(1)(e)(v)(D) has received recognition for outstanding achievements in physical therapy; and

3.09 (1)(e)(v)(E) has been involved in community programs.

3.09(1)(e)(vi) School Nurse:

3.09(1)(e)(vi)(A) has completed additional preparation in advanced practice in nursing or specialties in school health-related fields or has earned additional certification in nursing administration, vocational education, or other certifications applicable to school nursing;

3.09(1)(e)(vi)(B) has demonstrated professional leadership experiences and exceptional program development;

3.09(1)(e)(vi)(C) has mentored school nurses and supervised practicum students;

3.09(1)(e)(vi)(D) has had active participation in school nurse professional organizations; and

3.09(1)(e)(vi)(E) has participated in teaching, research and/or publishing to further the specialty of school nursing.

3.09(1)(e)(vii) School Psychologist:

3.09(1)(e)(vii)(A) has demonstrated commitment to the profession of school psychology through active involvement and leadership in local, state, or national school psychology organizations;

3.09(1)(e)(vii)(B) has mentored school psychologists with an initial license and supervised school psychology interns;

3.09(1)(e)(vii)(C) has contributed to school and district program development;

3.09(1)(e)(vii)(D) has produced professional publications and presentations; and

3.09(1)(e)(vii)(E) has received recognition by peers for outstanding performance.

3.09(1)(e)(viii) School Social Worker:

3.09(1)(e)(viii)(A) has demonstrated leadership in state school social work organizations;

3.09(1)(e)(viii)(B) has actively participated in leadership roles in national social work organizations pr other community and human service organizations;

3.09(1)(e)(viii)(C) holds advanced credentials in the field (e.g., doctorate in social work, school social work specialist credential, diplomate in clinical social work, etc.);

3.09(1)(e)(viii)(D) has demonstrated outstanding skill in service to schools and children, such as the creation of innovative and successful programs and services to meet the needs of students and mentoring and supervising school social workers and other school professionals; and

3.09(1)(e)(viii)(E) has received recognition by peers for outstanding performance.

3.09(1)(e)(ix) Speech/Language Pathologist:

3.09(1)(e)(ix)(A) has demonstrated professional growth through professional leadership experiences and exceptional program development;

3.09(1)(e)(ix)(B) has demonstrated commitment through involvement in local, state, or national professional organizations;

3.09(1)(e)(ix)(C) has accepted additional responsibilities at the school, district, state, or national levels;

3.09(1)(e)(ix)(D) ~~———~~has published appropriate materials at the district, state, or national levels;

3.09(1)(e)(ix)(E) has presented original research and materials at professional conferences;

3.09(1)(e)(ix)(F) has supervised practicum and internship students; and

3.09(1)(e)(ix)(G) ~~———~~has mentored and supervised other speech/language pathologists.

3.10 Master Certificate - Principal

A master certificate represents achievements and contributions over and above the expectations in the Principal Quality Standards outlined in section 6.0 of these rules. A master certificate ~~must be~~is valid for the period of time for which the applicant's professional principal license is valid and is renewable as provided in section 7.02 of these rules. ~~Issuance of a master certificate must extend the validity of the professional principal license to seven years~~.

3.10(1) A master certificate may be issued to an applicant who:

3.10(1)(a) holds a valid Colorado professional principal license;

3.10(1)(b) has displayed excellence and depth in all of the content and performance standards required for the professional principal license;

3.10(1)(c) displays depth in all content knowledge; has modeled sustained commitment to improved student performance, to ongoing systemic renewal, and to strengthening the profession; and has demonstrated superior performance through accomplishments having significant impact on the school's educational community;

3.10(1)(c)(i) The master principal must possess knowledge in the following areas:

3.10(1)(c)(i)(A) systemic renewal strategies;

3.10(1)(c)(i)(B) multiple models for school and district management;

3.10(1)(c)(i)(C) dynamic political and policy movements in the state;

3.10(1)(c)(i)(D) promising practices in the professional development of educational leaders; and

3.10(1)(c)(i)(E) leading research and writing on instructional strategies, student learning, assessment methodology and supervisory techniques;. and

3.10(1)(c)(ii) The master principal must demonstrate the ability to:

3.10(1)(c)(ii)(A) create a community of learners who focus on student performance;

3.10(1)(c)(ii)(B) translate vision into program excellence;

3.10(1)(c)(ii)(C) provide value-added leadership to create an organization that has purpose, direction, and energy;

3.10(1)(c)(ii)(D) implement programs in schools that result in sustained improvement in student performance;

3.10(1)(c)(ii)(E) integrate multiple instructional models to meet diverse learning needs of both students and adults to enhance student performance;

3.10(1)(c)(ii)(F) imagine alternatives based on knowledge of best practices and create those alternatives as a model for others;

3.10(1)(c)(ii)(G) engage a diverse school community in sustained efforts for school improvement;

3.10(1)(c)(ii)(H) influence and provide a model for larger systems (e.g., the district, BOCES, or state); and

3.10(1)(c)(ii)(I) contribute to the development of the profession through mentoring, teaching, writing, and other modalities; and.

3.10(1)(c)(ii)(J) capitalize on opportunities presented by diverse stakeholders.

3.10(1)(d) has demonstrated evidence of positive impacts on student performance at the building level; and

3.10(1)(e) has contributed to the education community through service as a mentor, teacher, writer, researcher, or other service-oriented activity.

3.11 Master Certificate - Administrator

A master certificate represents achievements and contributions over and above expectations in the Administrator Quality Standards outlineds in section 6.0 of these rules. A master certificate must beis valid for the period of time for which time the applicant's professional administrator license is valid and is renewable as provided in section 7.02 of these rules. Issuance of a master certificate must extend the validity of the professional administrator license to seven years.

3.11(1) A master certificate may be issued to an applicant who:

3.11(1)(a) holds a valid Colorado professional administrator license;

3.11(1)(b) has displayed excellence and depth in all of the content and performance standards required for the professional license;

3.11(1)(c) has demonstrated excellence on all performance standards and displays depth in all content knowledge; has modeled sustained commitment to improved student performance, to ongoing systemic renewal, and to strengthening of profession; and has demonstrated superior performance through accomplishments having significant impact on an educational community;

3.11(1)(c)(i) The master administrator must possess knowledge in the following areas:

3.11(1)(c)(i)(A) systemic renewal strategies;

3.11(1)(c)(i)(B) multiple models for school and district management;

3.11(1)(c)(i)(C) dynamic political and policy movements in the state;

3.11(1)(c)(i)(D) promising practices in the professional development of educational leaders;

3.11(1)(c)(i)(E) leading research and writing on instructional strategies, student learning, assessment methodology, and supervisory techniques; and

3.11(1)(c)(ii) The master administrator must demonstrate the ability to:

3.11(1)(c)(ii)(A) initiate and sustain significant change in the district directed toward predetermined goals, themes, and needs;

3.11(1)(c)(ii)(B) create a community of learners who focus on student performance;

3.11(1)(c)(ii)(C) translate vision into program excellence;

3.11(1)(c)(ii)(D) provide value added leadership to create an organization that has shared purpose, direction, and energy;

3.11(1)(c)(ii)(E) provide incentives, direction, and motivation for development of programs that enhance student performance;

3.11(1)(c)(ii)(F) imagine alternatives based on knowledge of best practices and create those alternatives as a model for others;

3.11(1)(c)(ii)(G) engage a diverse community in sustained efforts for school improvement in the entire district;

3.11(1)(c)(ii)(H) influence and provide a model for the larger system (e.g., the district, BOCES, or state); and

3.11(1)(c)(ii)(I) contribute to the development of the profession through mentoring, teaching, writing, and other modalities.

3.11(1)(c)(ii)(J) capitalize on opportunities presented by diverse stakeholders.

3.11(1)(d) has demonstrated evidence of positive impacts on student performance throughout the district; and

3.11(1)(e) has contributed to the education community through service as a mentor, teacher, writer, researcher, or other service-oriented activity.

3.12 Alternative Teacher License

An alternative teacher license ~~must be~~is valid for either a one-, two- or three-year period, as outlined below. An alternative teacher license ~~must~~ authorizes the holder to be employed only as an ~~alternatively licensed~~alternative teacher while participating in an alternative teacher program, pursuant to the terms of an alternative teacher contract, as provided by 22-60.5-201(1)(a), C.R.S.

3.12(1) An alternative teacher license may be issued to an applicant who meets the following criteria:

3.12(1)(a) holds a bachelor's degree from an accepted institution of higher education;

3.12(1)(b) has submitted a complete application as defined in section 2.04 of these rules; ~~and~~

3.12(1)(c) has demonstrated subject matter knowledge in the endorsement area:

3.12(1)(c)(i) for elementary education teachers (grades K-6), ~~including~~ early childhood educators (ages birth-8), ~~and~~ early childhood special education (ages birth-8) and special education generalist teachers (ages 5-21), by passage of the approved content tests.

3.12(1)(c)(ii) for secondary teachers (grades 7-12) and all other endorsement areas not identified in Rule 3.12(1)(c)(i), ~~teachers of all K-12 and endorsements for ages birth-8 by~~:

3.12(1)(c)(ii)(A) holding an earned bachelor's or higher degree in the content area; or

3.12(1)(c)(ii)(B) ~~twenty-four~~24 semester hours of specific coursework as demonstrated through transcript evaluation in the endorsement area; or

3.12(1)(c)(ii)(C) passage of the approved content test(s) relevant to the person's area of endorsement(s); and~~.~~

3.12(1)(d) provides a statement of assurance signed by the human resources officer or other representative of the designated agency and the applicant verifying that the applicant is enrolled in an approved alternative teacher program, employed as a teacher or participating in a clinical experience, and that the placement is in the endorsement area for which the teacher has demonstrated appropriate subject matter knowledge.

3.12(2) An alternative teacher license is valid as follows: ~~must be valid from the date of issuance.~~:

3.12(2)(a) ~~The alternative teacher in a one-year alternative teacher program is expected to complete the program in one year.~~ The alternative teacher license for a one-year program is valid for one year from date of issuance and may be renewed for one additional year, but only upon written evidence of: (1) unforeseen circumstances; and (2) that the

employing school district, BOCES, charter school, or nonpublic school anticipates extending the alternative teacher's contract for one additional year pursuant to section 22-60.5-207(2), C.R.S.~~. The program may be extended for only one year based on documentation of unforeseen circumstances and if approved by the Department.~~

3.12(2)(b) ~~The alternative teacher in a two-year alternative teacher program is expected to complete the program in two years.~~ The alternative teacher license for a two-year program is valid for two years from date of issuance.

3.12(2)(c) A person may be employed as an alternative teacher for a total of three years for the purpose of receiving a special education generalist endorsement.

3.12(3) An alternative teacher license ~~must be~~is valid in any school district, BOCES, nonpublic school, or charter school.

3.13 Teacher of Record License and Program

3.13(1) **Teacher of Record License.** A teacher of record license is valid for two years ~~after~~ from the date of issuance and may be renewed once, but only if the holder did not complete a bachelor's degree due to unforeseen circumstances or hardship.

3.13(1)(a) A teacher of record license may be issued to an applicant who:

3.13(1)(a)(i) is enrolled in an accepted institution of higher education and has no more than 36 credit hours remaining for completion of a bachelor's degree that leads to a teacher license, but has not yet completed field-based experience ~~teaching field work~~ requirements;

3.13(1)(a)(ii) is enrolled ~~in a Grow Your Own Educator Program pursuant to section 22-60.5-208.5, C.R.S., or~~ in a one- or two-year Teacher of Record Program pursuant to section 22-60.5-208.7, C.R.S.; and

3.13(1)(a)(iii) is or will be employed by an LEP ~~local education provider (LEP), as defined in section 22-60.5-208.7(1), C.R.Ssection 20.1(26) of these rules~~., in a position for which no other qualified licensed teacher has applied, and for which the LEP has determined that there is a critical teacher shortage as defined in Rule 2.01(17)~~this ruleset~~.

3.13(1)(b) The standards and competencies for ~~the employment of~~ an individual working under a teacher of record license ~~in a school district or public school~~ are those set forth in section 5.0 of these rules.

3.13(1)(~~c~~b) A teacher of record license may not be issued with an endorsement in special education.

3.13(2) **Teacher of Record Program.** An LEP is authorized to implement a one- or two-year teacher of record program and may ~~only~~ employ a teacher of record only when the individual will fill a vacant position in a critical teacher shortage area ~~if the LEP has determined that there is a critical teacher shortage~~ and when ~~if~~ no other qualified, licensed applicants applied for ~~a~~ the posted vacant position.

3.13(2)(a) A teacher candidate ~~student~~ employed in a teacher of record program established pursuant to this section shall hold a teacher of record license issued pursuant to section 22-60.5-201(1)(a.5), C.R.S., and section 3.13 of these rules.

3.13(2)(b) To assist the teacher of record in meeting the Teacher Quality Standards, established pursuant to section 22-2-109(3), C.R.S., and section 5.0 of these rules, the teacher of record program must include, at a minimum:

3.13(2)(b)(i) Course requirements and provided supports:

3.13(2)(b)(i)(1) identification of the courses and number of credit hours that a teacher candidate ~~student~~ must complete before and while a teacher of record,

3.13(2)(b)(i)(2) identification of the time and support (e.g., financial resources, class coverage) the LEP will provide for the teacher of record to complete the course work; ~~and~~

3.13(2)(b)(i)(3) identification of accepted institution of higher education supports, including a description of how supports will be delivered (e.g., mentoring, professional development, evaluation, and LEP-identified supports); and~~.~~

3.13(2)(b)(ii) ~~LEP requirements:~~

~~3.13(2)(b)(ii)(1) a requirement that the LEP include the teacher of record in~~ professional development, teacher mentorship, the LEP's induction program, and other supports ~~while~~ for the teacher of record over the course of ~~completes~~ the program.

3.13(2)(c) If the teacher of record successfully completes an induction program, the teacher of record may apply completion of the induction program toward meeting the requirements for a professional teacher license.

3.13(2)(d) An LEP shall treat a teacher of record as a first-year teacher for purposes of compensation and placement on a teacher salary schedule.

3.13(2)(e) ~~In addition to the requirement that the student qualify for the teacher of record license,T~~ the teacher of record program must be approved by the Department prior to submission of an application for the teacher of record license. At a minimum, t~~T~~he approval process will include ~~a~~ review of~~, at a minimum~~:

3.13(2)(e)(i) ~~a~~ the demonstration of need;

3.13(2)(e)(ii) proposed program details as outlined in section 3.13(2) of these rules;

3.13(2)(e)(iii) the teacher candidate's ~~student~~ education, experience and demonstration of content-area competency; ~~details~~; and

3.13(2)(e)(iv) ~~partner~~ assurances from the institution of higher education, LEP~~district~~ and teacher of record candidate.

4.00 Types of Authorizations

The Department is authorized to issue the following authorizations.

4.01 Adjunct Instructor Authorization (Grades K-12)

To address recruiting challenges and ~~to~~ establish a diverse workforce, a school district, BOCES or charter school may employ as an adjunct instructor~~An adjunct instructor is~~ a specialist or content-area expert ~~in a~~

~~content area not available through regular or alternative teacher preparation in an endorsable content area and~~ who is without formal educator training. The purpose of adjunct instruction is to provide students with highly specialized academic enrichment ~~outside of and~~ in support of required content areas.

4.01(1) An adjunct instructor authorization ~~may~~ is ~~be~~ issued for three years ~~and may be renewed upon application for succeeding three-year periods~~ to an applicant who meets the following criteria~~at the employing school district's or charter school's request when~~:

4.01(1)(a) an applicant possesses outstanding talent ~~and~~ or demonstrates specific abilities and knowledge in a particular area of specialization ~~that is not already an approved endorsement area, as specified in 1 CCR 301-101~~;

4.01(1)(b) a school district board of education or superintendent or the principal of a charter school or BOCES requests the applicant's services and provides evidence of the applicant's outstanding talent or~~,~~ specific abilities~~,~~ and particular knowledge for the assignment;

4.01(1)(c) the school district, BOCES, or charter school ~~BOCES~~ provides evidence that the applicant's services are required; and

4.01(1)(d) the applicant has been employed for at least five years in the area of specialization or holds an earned bachelor's or higher degree in the area of specialization.

4.01(2) An adjunct instructor authorization may be renewed for succeeding three-year periods at the employing school district's or charter school's request when~~:~~

~~4.01(2)(a)~~ the school district or charter school provides documented evidence of ongoing need for the adjunct instructor's services.~~; and~~

4.01(3) A person may be employed under an adjunct instructor authorization only by the ~~employing~~ school district or charter school that requested the person's services~~authorization~~.

4.01(4) A person who holds an adjunct instructor authorization and is employed by a school district may teach only under the general supervision of a licensed professional teacher. For the purposes of this provision, "general supervision" means support, mentorship, and supervision of an adjunct instructor, and does not require more than one teacher in a classroom at a time.

4.01(4)(a) A school district or charter school shall not employ a person under an adjunct instructor authorization as a full-time teacher; except

4.01(4)(a)(i) a rural school district may employ an adjunct instructor authorization-holder as a full-time teacher if there are no qualified, licensed applicants for the position.

4.02 Special Services Intern Authorization (Birth-21)

A special services intern works under the supervision of a Colorado licensed professional special services provider from the same discipline.

4.02(1) The special services intern authorization may be issued for one academic year. It may only be renewed if the special services intern is employed by a district or BOCES and the intern has not completed the approved program of preparation due to unforeseen circumstances or hardship.

4.02(2) The applicant must hold a bachelor's or higher degree from an accepted institution of higher education and ~~must~~ be~~is~~ enrolled in an approved program of preparation for special services providers. The program of preparation must require an internship and offered by an accepted institution of higher education.

4.02(3) For the period of time while the authorization-holder serves as an intern, the authorization-holder may receive pay from the school district.

4.03 Emergency Authorization (Grades K-12, Ages Birth-21)

The applicant for an emergency authorization has not yet met the requirements for a Colorado initial teacher, principal, administrator or special services provider license or a school speech/language pathology assistant authorization but provides evidence of holding an earned bachelor's degree or higher from an accepted institution of higher education and of enrollment in an approved program of preparation.

4.03(1) An applicant for a school speech-language pathology assistant emergency authorization must hold a bachelor's degree in~~:~~ speech, language, and hearing sciences; communications disorders-speech sciences; or any other field with completion of 24 semester hours in speech, language, hearing sciences from an accepted institution of higher education, as determined by the Department's transcript review.

4.03(2) The emergency authorization may be issued for up to one year and may be renewed for up to one additional year when:

4.03(2)(a) a school district or BOCES requests the emergency authorization in order to employ a non-licensed teacher, principal, administrator, or special services provider;

4.03(2)(b) the district provides evidence of a need for specific and essential educational services which can be provided by the applicant and which would otherwise be unavailable, due to a shortage of licensed educators with appropriate endorsements; and

4.03(2)(c) in the judgment of the State Board of Education,

4.03(2)(c)(i) the employment of the non-licensed applicant is essential to the preservation of the district's instructional program, and

4.03(2)(c)(ii) that the establishment of an alternative teacher program by the local board of education is not a practicable solution to resolve the demonstrated shortage.

4.03(3) The district may provide an induction program for an individual on an emergency authorization, as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding an emergency authorization may count toward fulfilling requirements for a professional license.

~~4.03(3)(a) If the authorization-holder completes an induction program is completed while holding an emergency authorization, the authorization-holder may apply it towards the requirements for a professional educator license.~~

~~4.03(3)(b) If the authorization-holder completes an induction program satisfactorily and meets the requirements for an initial license while holding an emergency authorization, the authorization-holder may apply for and be issued a professional license.~~

4.04 Career and Technical Education Authorization (Grades 7-12)

4.04(1) An initial career and technical education (CTE) authorization may be issued for three years ~~by the Department~~ and may not be renewed. The applicant must meet the minimum qualifications adopted by the State Board for Community Colleges and Occupational Education under section 23-60-304(3)(a), C.R.S.

4.04(2) A professional career and technical education authorization may be issued for five years to an applicant who holds an initial career and technical education authorization and who meets the necessary requirements for holding a professional-level CTE authorization. It ~~and~~ may be renewed for succeeding five-year periods. The applicant must meet the minimum qualifications or renewal requirements that the State Board for Community Colleges and Occupational Education adopts pursuant to section 23-60-304(3)(a), C.R.S.

4.04(4) Postsecondary career and technical education credentials are issued by the Colorado Community College System and are governed by the rules for the Administration of the Colorado Vocational Act, 8 CCR 1504-2.

4.05 Substitute Authorization (Grades K-12)

A substitute authorization may be issued to an applicant to serve as a substitute educator.

4.05(1) A substitute authorization is~~will be~~ valid for ~~a period of~~ one, three, or five years, ~~when the applicant has met the requirements listed~~as specified below. It may be renewed indefinitely upon application.

4.05(1)(a) A five-year substitute authorization may be issued when an applicant has completed an approved teacher preparation program (as indicated by a signed approved program verification form and conferred transcript) or holds or has held a Colorado initial or professional license or another equivalent out-of-state-issued license.~~to an applicant who~~:

~~4.05(1)(a)(i) the applicant holds a valid Colorado teacher license or a valid educator teacher license from another state; or~~

~~4.05(1)(a)(ii) who the applicant has previously held a valid Colorado teacher certificate or license.~~

4.05(1)(b) A three-year substitute authorization may be issued to an applicant who holds an earned bachelor's or higher degree from an accepted institution of higher education.

4.05(1)(c) A one-year substitute authorization may be issued ~~to an applicant who~~when:

4.05(1)(c)(i) the applicant holds a high school diploma or its equivalent, ~~as verified by the employing school district;~~ and

4.05(1)(c)(ii) ~~who provides~~ the applicant attests to having ~~evidence of successful experience working~~ worked successfully with children.

4.06-4.08 Reserved

4.09 Interim Authorization (Grades K-12, Ages Birth-21)

An interim authorization may be issued to an out-of-state applicant who has not completely fulfilled Colorado educator licensure requirements.

4.09(1) An interim authorization ~~may be~~is issued for one year and may be renewed upon application for one additional year~~. when:~~.

~~4.09(2) The applicant must:~~An applicant for interim authorization must meet the following criteria:

4.09(~~2~~1)(a) the applicant is~~be~~ certified, licensed, or eligible for certification or licensure as a teacher, principal, or administrator in another state; and

4.09(2)(b) ~~have~~ the applicant has not successfully passed the approved content test(s) required for obtaining a Colorado initial license but otherwise meets the requirements for a Colorado initial license.

4.09(~~3~~3) The employing school district may provide an induction program for holders of interim authorizations as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding interim authorizations may count toward fulfilling the requirements of a professional license.

4.10 Military Spouse Interim Authorization (Grades K-12, Ages Birth-21)

A military spouse interim authorization is valid for one year, and the Department of Education may renew the authorization for one additional year. A military spouse interim authorization may be issued to a military spouse when: ~~who has not completely fulfilled Colorado educator licensure requirements.~~

~~4.10(1) A military spouse interim authorization is valid for one year and may be renewed upon application for one additional year when:~~.

~~4.10(2) The applicant must:~~

4.10(~~2~~1)(a) ~~be the~~the applicant is a spouse of an active duty member of the United States armed forces who has been transferred to Colorado, is scheduled to be transferred to Colorado, is domiciled in Colorado~~.~~ or has moved to Colorado on a permanent change-of-station basis;

4.10(~~2~~1)(b) ~~be~~ the applicant is certified, licensed, or eligible for certification or licensure as a teacher~~,~~ special services provider, principal, or administrator in another state; and

4.10(~~2~~1)(c) the applicant has not successfully passed the approved content test(s) required for obtaining an initial license but otherwise meets the requirements for an initial license.

4.10(3) The employing school district may provide an induction program for holders of military spouse interim authorization as specified in sections 8.00 and 9.00 of these rules~~s~~. Induction programs completed while holding ~~such~~ this authorization~~s~~ may count toward fulfilling the requirements of a professional ~~educator~~ license.

4.11 School Speech-Language Pathology Assistant Authorization (Ages Birth–21).

A school speech-language pathology assistant (SLPA) serves as a member of an educational team and is authorized to perform tasks prescribed, directed, and supervised by a ~~certified~~ licensed school speech-language pathologist (SLP) in implementing services for children/students with speech, language, cognitive, voice, and augmentative/alternative communication disorders and hearing impairments.

4.11(1) An SLPA authorization is valid for five years~~. The Department may renew the authorization~~and may be renewed for succeeding five-year periods upon application and ~~presentation of evidence of~~ completion of content-related renewal requirements, including 50 contact hours of continuing education~~., when:~~.

4.11(~~2~~1(a)) ~~For the authorization to issue, an SLPA~~ An ~~the~~ applicant for SLPA authorization must: ~~applicant must:~~

~~4.11(2)(a)~~ holds a bachelor's degree in speech communication, speech-language pathology ~~or,~~ communication disorders-speech sciences or a bachelor's degree in any other field with completion of 24 semester hours in speech language hearing sciences from an accepted institution of higher education, as determined by the Department's transcript review;

4.11(~~2~~1)(b) have ~~has~~ successfully completed ~~an associate degree in~~ a speech-language pathology assistant~~s~~ program ~~at from~~ a regionally or nationally accredited institution;

4.11(~~2~~1)(c) have ~~has~~ successfully completed a minimum 100 clock-hours of a school-based practicum under the supervision of an American Speech-Language-Hearing Association-certified and ~~Department~~ licensed school SLP, in accordance with the requirements of section 4.11(6) below; and

4.11(~~2~~1)(d) have ~~has~~ demonstrated through Department transcript review knowledge in the competencies specified in sections 4.11(3) and 4.11(4) below.

4.11(~~3~~2) As determined by the Department of Higher Education, the SLPA applicant ~~must be~~is knowledgeable about communication processes and basic human communication, and ~~is must be~~is able to articulate:

4.11(3)(a) the anatomical/physiological, psychological, developmental, linguistic, and cultural bases of communication processes;~~.~~

4.11(3)(b) communication disorders, ~~including~~ articulation, fluency, voice, and resonance, receptive and expressive language, and language-based learning disabilities;~~.~~

4.11(3)(c) hearing disorders and their impact on speech and language;~~.~~

4.11(3)(d) cognitive and social aspects of communication disorders;~~.~~

4.11(3)(e) communication modalities including oral, written, manual, augmentative and alternative communication techniques, and assistive technologies;~~.~~

4.11(3)(f) normal development of reading and writing in the context of the general education curriculum; and~~.~~

4.11(3)(g) characteristics of exceptional students including categorical disabilities, learning differences, and developmental deficits.

4.11(4) The SLPA is knowledgeable about service delivery and must be ~~is~~ able to:

4.11(4)(a) use appropriate verbal and written language in interactions with children/students, teachers, and related professionals; ~~and.~~

4.11(4)(b) follow oral and written directions, including those in intervention plans~~,~~; ~~and~~:

4.11(4)(~~b~~c)(~~i~~) assist in the selection, preparation and presentation of instructional and other related materials;

4.11(4)(~~b~~d)(~~ii~~) maintain accurate and concise documentation in a timely manner;

4.11(4)(~~b~~e)(~~iii~~) implement documented intervention plans developed by the supervising speech-language pathologist;

4.11(4)(~~b~~f)(~~iv~~) assist with clerical duties assigned by the supervising speech-language pathologist including, but not limited to, scheduling, safety/maintenance of supplies and equipment, and record keeping;

4.11(4)(~~b~~g)(~~v~~) collect data for quality improvement including child/student performance data in classrooms or individual therapy settings; ~~and~~

4.11(4)(~~b~~h)(vi) record children's/students' each student's status with regard to progress towards established objectives as stated in the intervention plans, and report information to the supervising SLP;~~.~~

4.11(4)(~~c~~i) use constructive feedback from the supervising SLP to adapt or modify interaction and/or intervention with children/students;

4.11(4)(~~d~~j) provide consistent, discriminating, and meaningful feedback and reinforcement to the children/students; and~~.~~

4.11(4)(~~k~~e) implement designated intervention goals/objectives in specified sequence.

4.11(5) The SLPA is knowledgeable about screening and assessment, but may not perform standardized or non-standardized diagnostic tests, including, but not limited to, feeding evaluations~~,~~ or interpreting test results, or counseling parents; and is able to:

4.11(5)(a) assist the SLP with speech-language and hearing screenings or assessments, without interpretation, and report results directly to the supervising SLP;

4.11(5)(b) assist with informal documentation as directed by the SLP.

4.11(5)(c) provide directly to the supervising SLP descriptive behavioral observations that contribute to screening/assessment results; and.

4.11(5)(d) support the SLP in research projects, in service training and public relations programs, including Child Find activities.

4.11(6) The SLPA is ~~must be~~ knowledgeable about ethical practice and maintaining appropriate relationships with children/students, families, teachers, and related service professionals, and ~~is able to~~ must be able to:

4.11(6)(a) demonstrate respect for and maintain the confidentiality of information pertaining to students and their families;

4.11(6)(b) behave in accordance with educational facility guidelines;

4.11(6)(c) articulate an awareness of student needs and respect for cultural values;

4.11(6)(d) direct student, family, and educational professionals to the supervising SLP for information regarding testing, intervention, and referral;

4.11(6)(e) request assistance from the supervising SLP, as needed;

4.11(6)(f) manage time effectively and productively; and

4.11(6)(g) recognize personal professional limitations and perform within boundaries of training and job responsibilities.

4.12 Exchange Educator Interim Authorization (Grades K-12, Ages Birth-21)

An exchange educator interim authorization may be issued to a participant in a district-recognized educator exchange program who has not completely fulfilled Colorado educator licensure requirements.

4.12(1) An exchange educator interim authorization is valid for one year and may be renewed upon application for one additional year.

4.12(2) Applicants must:

4.12(2)(a) be a participant in a district-recognized educator exchange program; and

4.12(2)(b) be certified, licensed, or eligible for certification or licensure as a teacher, special services provider, principal, or administrator in another country.

4.13 Temporary Educator Eligibility Authorization (Grades K-12, Ages Birth-21)

The Department may issue a temporary educator eligibility (TEE) authorization to a person who is enrolled in an approved program of preparation for a special education educator or who is working to attain a special services provider initial license but who has not yet met the requirements for the applicable initial educator license or endorsement sought.

~~The applicant for a temporary educator eligibility (TEE) authorization has not yet met the requirements for an initial teacher license as a special education teacher, an initial special services license, or an administrator license with a director of special education endorsement but provides evidence of continuing enrollment in a program that will meet the requirements for that license.~~

4.13(1) A TEE authorization is valid for one year. Renewal is contingent upon the applicant maintaining continuous progress toward completion of requirements for the license or~~and~~ endorsement sought~~the approved preparation program~~. A TEE authorization may be renewed twice, for a total of three years.

4.13(2) A TEE authorization may be issued to an applicant when:

4.13(2)(a) a school district requests the TEE authorization in order to employ as a special education teacher, special services provider or special education administrator an applicant who does not yet meet licensing requirements but who meets the eligibility requirements specified below; and

4.13(2)(b) the district provides evidence of a demonstrated need for specific and essential educational services that can be provided by the applicant but that would be otherwise unavailable to students due to a shortage of licensed educators with appropriate endorsement(s).

4.13(3) In addition to the circumstances and criteria specified in 4.13(2)(a) and (b), a~~A~~ special services provider who has met the minimum degree requirement necessary to practice in the chosen profession but who has not completed a national content exam or school practicum may qualify for a TEE authorization under the supervision of a professionally licensed person in the same discipline.

4.13(4) ~~The applicant for a TEE must meet the degree requirements outlined in 4.13(3) or be entered into an approved special education preparation program offered by an accepted institution of higher education.~~4TEE applicants seeking a special education teacher endorsement must:

4.13(4)(a)~~(i)~~ hold a bachelor's degree from an accepted institution of higher education; and

4.13(4)(b~~a~~)(~~ii~~) be enrolled in an approved or alternative program of preparation or a special education director preparation program offered by an accepted institution of higher education. In the program, the teacher must:

4.13(4)(b)(i~~i~~)~~(A)~~ receive high-quality professional development that is sustained, intensive, and classroom-focused;

4.13(4)(~~a~~b)(ii)~~(B)~~ participate in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; and

4.13(4)(b~~a~~)(i~~i~~i)~~(C)~~ demonstrate satisfactory progress toward full licensure (e.g., transcripts demonstrating movement toward the completion of the educator preparation or degree program; attempting to pass the required content exam).

4.13(5) The employing school district may provide an induction program for an individual on a TEE authorization as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding this authorization may count toward fulfilling the requirements of a professional license.

~~4.13(5)(a) If the TEE authorization-holder completes an induction program while holding such the authorization, the authorization-holder may be applied it towards meeting the requirements for a professional educator license.~~

~~4.13(5)(b) If the TEE authorization-holder satisfactorily completes an induction program and the requirements for an initial license while holding the authorization, the applicant may apply for and be issued a professional license.~~

4.14 Educational Interpreter Authorization (Ages Birth-21)

The educational interpreter authorization allows a school district to employ a person to provide teaching and interpreting services for students who are deaf or hard of hearing.

4.14(1) An educational interpreter authorization is valid for five years and may be renewed for succeeding five-year periods upon application and submittal of evidence of completion of four (4) semester hours of professional development or its equivalent of 60 contact/clock-hours in educational interpreter content.

4.14(2) The applicant must provide evidence of:

4.14(2)(a) an associate's or higher degree in educational interpreting or a related field;

4.14(2)(b) a certificate of completion for the Educational Interpreter Performance Assessment (EIPA) written exam;

4.14(2)(c) successful performance on one or more of the following professional skill assessments:

4.14(2)(c)(i) for sign language interpreters, a score of 3.5 or higher on the EIPA or current certification with the Registry of Interpreters for the Deaf (RID);

4.14(2)(c)(ii) for cued speech transliterators, a score of 4.0 or higher on the EIPA-Cued Speech exam or a passing score on the Cued Language Transliterator National Certification Exam; or

4.14(2)(c)(iii) for oral interpreters, a current Oral Transliteration Certificate from RID.

4.14(2)(d) demonstration of the following competencies:

4.14(2)(d)(i) effectively analyze communication for the speaker's style, affect, register, and overall prosodic and coherence markers;

4.14(2)(d)(ii) effectively manage the interpreting process in order to produce a linguistically appropriate representation of classroom communication, as based on student ability and the individualized education plan (IEP) goals;

4.14(2)(d)(iii) manage the process for effectively switching from one speaker and mode to another;

4.14(2)(d)(iv) utilize attending and interrupting techniques effectively, based on culturally appropriate methods and classroom protocol; and

4.14(2)(d)(v) effectively apply knowledge of:

4.14(2)(d)(v)(A) cognitive processes associated with consecutive and simultaneous interpreting, and the implication of each for interpreting classroom discourse;

4.14(2)(d)(v)(B) the differences between classroom discourse and conversational discourse, and the implication of those differences in the interpreting process;

4.14(2)(d)(v)(C) communication processes with inclusive students who are deaf or hard-of-hearing as related, but not limited to, issues of taking turns, avoiding overlap of speaking/signing processes, challenges associated with the use of multimedia and uncaptioned materials; and

4.14(2)(d)(v)(D) classroom subject matter concepts and associated vocabulary and terminology.

4.15 Junior Reserve Officer Training Corps (JROTC) Instructor Authorization (Grades 9-12)

A JROTC instructor authorization may be issued to allow a person to instruct a JROTC unit hosted by a school district.

4.15(1) The JROTC Instructor Authorization ~~must be~~ is valid for five years and may be renewed upon application and submittal of evidence of service-specific JROTC recertification.

4.15(2) Applicants must provide documented evidence of JROTC certification based upon successful acquisition of service-specific JROTC program director certification or completion of service-specific ~~specific-service~~ JROTC preparation program requirements.

4.16 Adult Basic Education Authorization

An adult basic education authorization allows a person to work as an adult basic education instructor in an adult education program operated by a school district before, during, or after regular school hours~~.~~.

4.16(1) An adult basic education authorization is valid for five years and may be renewed for succeeding five-year periods upon application. To be eligible for renewal, the application must submit evidence of completion of 90 contact hours of adult education instructor professional development activities completed within the period of time for which the authorization was issued.

4.16(2) An adult basic education authorization may be issued to an applicant who:

4.16(2~~1~~)(a) holds an associate's or higher degree from an accepted institution of higher education or accredited community, technical, or junior college; and

4.16(2~~1~~)(b) has submitted an application for an adult basic education authorization, which includes:

4.16(~~1~~2)(b)(i) a copy of an official degree-conferred transcript; and

4.16(2~~1~~)(b)(ii) evidence of the completion of adult basic education coursework, including:

4.16(~~1~~2)(b)(ii)(A) a copy of an official transcript from an accepted institution of higher education or accredited community, technical, or junior college showing the completion of adult basic education coursework within the seven years immediately preceding the date of application. Coursework must include: introduction to adult education; planning and delivering instruction to adult learners; teaching adult basic education/adult secondary education; and teaching English as a second language (ESL) to adults; or

4.16(2~~1~~)(b)(ii)(B) evidence of completion of other adult basic education coursework in lieu of an official transcript showing completion of courses specified in section 4.16(1)(b)(ii)(A). The applicant must submit the Department's equivalency form and copies of official transcripts from an accepted institution of higher education or accredited community, technical, or junior college showing coursework completed within the seven years immediately preceding the date of application. The Department will determine whether the coursework is equivalent to that listed in section 4.16(1)(b)(ii)(A).

4.16(3)~~1~~)~~(b)(iii)~~ Applicants who have not met the requirements as specified in section 4.16(2)(b)(ii)~~—~~may submit evidence of experience, including:

4.16(32)~~(a)(b)(iii)(A)~~ documentation illustrating 750 hours of performance of adult basic education instruction, adult secondary education instruction, or ESL instruction to adults; and

4.16(32)(b)~~(iii)(B)~~ the Department's observation form, which includes observations of the applicant's instruction and competencies in adult basic education. The observation form must be completed by a qualified observer as determined by the Department.

~~4.16(2) An adult basic education authorization is valid for five years and may be renewed for succeeding five-year periods upon application. To be eligible for renewal, the applicant must submit evidence~~

~~of participation in 90 contact hours of adult education instructor professional development completed within the period of time for which the authorization was issued.~~

4.17 Principal Authorization (Grades K-12)

A principal authorization may be issued to a person who does not hold or may not qualify for an initial principal license but who holds a bachelor's or higher degree from an accepted institution of higher education and who will be employed by a district, charter school, or nonpublic school under an individualized alternative principal ~~preparation~~ program. ~~if the program is approved by the State Board of Education~~ or who participates in an ~~approved~~ alternative principal program through a designated agency. ~~as outlined in section 12.00 of these rules.~~ A school district may employ a person who holds a principal authorization to perform principal or assistant principal duties only when the authorization-holder is supervised by a professional principal license-holder.

4.17(1) A principal authorization ~~must be~~is valid for three years and may not be renewed.

4.17(2) To submit a principal authorization application ~~receive~~ for an individualized alternative principal ~~authorization~~program, an applicant, in collaboration with a school district, charter school, nonpublic school or the institute, must submit to the Department documentation pursuant to section 13.01 of these rules.~~:~~

~~4.17(2)(a) documentation of the coursework, practicum and other educational requirements identified by the school district, charter school, nonpublic school, or the institute that will comprise the individualized alternative principal program plan and that will be completed while the applicant is employed under the principal authorization; and~~

~~4.17(2)(b) a letter from the district, charter school, or nonpublic school stating its intention to employ the applicant as a principal or an assistant principal or in a principal-like position (e.g., dean of students) upon issuance of the principal authorization; and .~~

~~4.17(3).17(2)(c) At a minimum, an individualized alternative principal program must ensure thatassurances that:~~

~~4.17(32)(ac)(i) the applicant will attain the information, experience, training, and skills comparable to those possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301(1)(a), C.R.S.;~~

~~4.17(32)(bc)(ii) upon completion, the candidate will be able to provide documented evidence of having met or surpassed the Principal Quality Standards cited in section 6.00 of these rules;~~

~~4.17(32)(c)(iii) the candidate will receive coaching and mentoring from one or more licensed principals and administrators, as well as continuing performance-based assessment of the candidate's skills development;~~

~~4.17(32)(c)(iii)(A) except that, if the candidate participates in a nonpublic school's individualized alternative principal program approved by the State Board of Education, the candidate must receive coaching and mentoring from one or more principals and administrators who have three or more years of experience in a nonpublic school;~~

~~4.17(32)(dc)(iv) the candidate demonstrates professional competencies using the assessment of quality standard measures in subject matter areas as specified by rule of the State Board pursuant to section 22-60.5-303, C.R.S.; and~~

~~4.17(32)(ec)(v) the candidate receives information and training on special education law and regulations, as outlined in section 22-60.5-111(14)(c)(IV), C.R.S.4.17(4).. If the State Board of Education determines that the individualized alternative principal program meets the requirements specified in section 4.17(32), the State Board of Education must approve the individualized alternative principal program, and the Department must issue the principal authorization to the applicant.~~

4.17(3) To submit a principal authorization application for a person participating in an alternative principal program through a designated agency, the applicant must provide documentation of employment as an alternative principal or assistant principal and enrollment in an alternative principal program approved by the Colorado Department of Education pursuant to section 13.02 of these rules.

4.17(~~3~~4) Upon successful completion of an individualized alternative principal program or alternative principal program, if the principal authorization-holder has three or more years of licensed experience in a school, that person may apply for an initial principal license.

4.17(~~6~~5) The employer may provide an induction program for an individual working under~~on~~ a principal authorization as specified in section 9.00 of these rules. Induction programs completed while holding this authorization may count toward fulfilling requirements for a professional license.~~Upon successful completion of an individualized alternative principal program, if the principal authorization-holder has also successfully completed an induction program while under a principal authorization, the candidate may apply for a professional principal license.~~

4.18 Native American Language & Culture Instructor Authorization (Grades K-12)

A Native American language and culture instructor authorization may be issued to a person to provide instruction in the Native American language and culture in which the person has demonstrated expertise.

4.18(1) The Native American language and culture instructor authorization ~~must be~~is valid for five years. It may be renewed for succeeding five-year periods upon application and at the request of the school district. The district must submit evidence of continuing need.

4.18(2) To receive a Native American language and culture instructor authorization, the applicant must:

4.18(2)(a) qualify for an adjunct instructor authorization as specified in section 4.01 of these rules; or

4.18(2)(b) demonstrate expertise in a Native American language of a federally recognized tribe by:

4.18(2)(b)(i) providing evidence of demonstrated expertise in a Native American language of a federally recognized tribe, as verified by the employing school district;

4.18(2)(b)(ii) identifying a partnering, licensed teacher, as verified by the employing school district; and

4.18(2)(b)(iii) meeting the following objective standards, as verified by the employing school district:

4.18(2)(b)(iii)(A) is able to listen, speak, read and write the Native American language identified at a proficient level for the purposes of interpersonal, interpretive, and presentational communication;

4.18(2)(b)(iii)(B) is knowledgeable about the language and related culture, can describe their interrelationships, and is able to articulate to students, other educators and interested stakeholders:

4.18(2)(b)(iii)(B)(I) perspectives related to historic and contemporary ideas, attitudes, and values of the Native American culture;

4.18(2)(b)(iii)(B)(II) the practices within the Native American culture that are based on historical, geographical, and sociological influences;

4.18(2)(b)(iii)(B)(III) the contributions and achievements of the culture to the fields of literature, the arts, science, mathematics, business, technology, and other areas; and

4.18(2)(b)(iii)(B)(IV) the geographic, economic, social, and political features of traditional and contemporary cultures associated with the Native American language being taught;

4.18(2)(b)(iii)(C) and —is able to create a learning environment that accepts, encourages, and promotes the culture and language that Native American language speakers bring into the classroom.

4.18(3) A holder of a Native American language and culture instruction authorization is prohibited from teaching any subject other than the Native American language for which he or she has demonstrated expertise.

5.00 Teacher and Special Services Provider Licensure Standards (Teacher Quality Standards)

Teacher Quality Standards

In addition to a demonstrated understanding of the Colorado Academic Standards; the Colorado Reading To Ensure Academic Development Act (Colorado READ Act); strict data privacy and security practices; special education regulations as outlined in section 23-1-121(2)(c.7), C.R.S.; and professional practices to address multiple pathways for students to be postsecondary and workforce ready as outlined in sections 22-2-106, 22-2-136, 22-7-1003(15), and 22-32-109, C.R.S., the following serve as standards for authorization of programming and content for educator preparation programs and licensing of all teacher candidates in Colorado.

5.01 Quality Standard I: Teachers demonstrate mastery of and pedagogical expertise in the content they teach. The elementary teacher is an expert in literacy and mathematics and is knowledgeable in all other content that he or she teaches (e.g., science, social studies, the arts, physical education or world languages). The secondary teacher has knowledge of literacy and mathematics and is an expert in the content area(s) in which the teacher is endorsed.

5.01(1) Element A: Teachers provide instruction that is aligned with the Colorado Academic Standards and their district's organized plan of instruction.

5.01(2) Element B: Teachers develop and implement lessons that connect to a variety of content areas/disciplines and emphasize literacy and mathematics.

5.01(3) Element C: Teachers demonstrate knowledge of the content, central concepts, inquiry, appropriate evidence-based instructional practices, and specialized characteristics of the disciplines they teach.

5.02 Quality Standard II: Teachers establish a safe, inclusive, and respectful learning environment for a diverse population of students.

5.02(1) Element A: Teachers foster a predictable learning environment characterized by acceptable student behavior and efficient use of time, in which each student has a positive, nurturing relationship with caring adults and peers.

5.02(2) Element B: Teachers demonstrate an awareness of, a commitment to, and a respect for multiple aspects of diversity, while working toward common goals as a community of learners.

5.02(3) Element C: Teachers engage students as individuals, including those with diverse needs and interests, across a range of ability levels by adapting their teaching for the benefit of all students.

5.02(4) Element D: Teachers work collaboratively with the families and/or significant adults for the benefit of students.

5.03 Quality Standard III: Teachers plan and deliver effective instruction and create an environment that facilitates learning for their students.

5.03(1) Element A: Teachers demonstrate knowledge about the ways in which learning takes place, including the levels of intellectual, physical, social, and emotional development of their students.

5.03(2) Element B: Teachers use formal and informal methods to assess student learning and provide feedback, and they use results to inform planning and instruction.

5.03(3) Element C: Teachers utilize appropriate, available technology to engage students in authentic learning experiences.

5.03(4) Element D: Teachers establish and communicate high expectations and support the development of critical-thinking and problem-solving skills.

5.03(5) Element E: Teachers provide students with opportunities to work in teams and develop leadership.

5.03(6) Element F: Teachers model and promote effective communication.

5.04 Quality Standard IV: Teachers demonstrate professionalism through ethical conduct, reflection, and leadership.

5.04(1) Element A: Teachers demonstrate high standards for professional conduct.

5.04(2) Element B: Teachers link professional growth to their professional goals.

5.04(3) Element C: Teachers respond to a complex, dynamic environment.

5.04(4) Element D: Teachers demonstrate leadership in their school, the community and the teaching profession.

Special Services Provider Quality Standards

The following must serve as standards for authorization of program content for educator preparation programs and licensing of all special services provider candidates. Colorado has identified nine

categories of special services providers, referred to as “other licensed personnel” in law and State Board rules). 1 CCR 301-101 further outlines the quality standards and elements applicable to specific special services provider groups, including:

- School Audiologist
- School Occupational Therapist
- School Physical Therapist
- School Counselor
- School Nurse
- School Orientation and Mobility Specialist
- School Psychologist
- School Social Worker
- School Speech-Language Pathologist

5.05 Quality Standard I: Special services providers demonstrate mastery of and expertise in the domain for which they are responsible.

5.05(1) Element A: Special services providers provide services aligned with state and federal laws, local policies and procedures, Colorado Academic Standards, their district’s organized plans of instruction, and the individual needs of their students.

5.05(2) Element B: Special services providers demonstrate knowledge of effective services that support learning.

5.05(3) Element C: Special services providers demonstrate knowledge of their professions and integrate evidence-based practices and research findings into their services.

5.06 Quality Standard II: Special services providers support or establish safe, inclusive, and respectful learning environments for a diverse population of students.

5.06(1) Element A: Special services providers foster a safe and accessible learning environment characterized by acceptable student behavior and efficient use of time, in which each student has a positive, nurturing relationship with caring adults and peers.

5.06(2) Element B: Special services providers understand and respond to diversity within the home, school, and community.

5.06(3) Element C: Special services providers engage students as individuals with diverse needs and interests, across a range of ability levels, by adapting services for the benefit of students.

5.06(4) Element D: Special services providers work collaboratively with the families and/or significant adults for the benefit of students.

5.07 Quality Standard III: Special services providers plan and deliver effective services in an environment that facilitates student learning.

5.07(1) Element A: Special services providers apply knowledge of the ways in which learning takes place, including the appropriate levels of intellectual, physical, social, and emotional development of their students.

5.07(2) Element B: Special services providers utilize formal and informal assessments to inform service delivery.

5.07(3) Element C: Special services providers utilize appropriate, available technology to engage students in authentic learning experiences.

5.07(4) Element D: Special services providers establish and communicate high expectations and support the development of critical-thinking, problem-solving, and self-advocacy skills.

5.07(5) Element E: Special services providers develop and implement services related to student needs, learning, and progress towards goals.

5.07(6) Element F: Special services providers model and promote effective communication.

5.08 Quality Standard IV: Special services providers demonstrate professionalism through ethical conduct, reflection, and leadership.

5.08(1) Element A: Special services providers demonstrate high standards for ethical and professional conduct.

5.08(2) Element B: Special services providers link professional growth to their professional goals.

5.08(3) Element C: Special services providers respond to a complex, dynamic environment.

5.08(4) Element D: Special services providers demonstrate leadership and advocacy in the school, the community, and their profession.

English Language Learner Quality Standards for Teachers and Special Services Providers

In order to ensure that all Colorado educators are well-equipped and able to teach Colorado's diverse student population, all educator pre-service programs, including approved programs of preparation at institutions of higher education and designated agencies providing alternative teacher programs, must ensure the following standards are fully taught and practiced in their programs. The following standards equate to approximately 6 semester hours or the equivalent of 90 clock-hours.

Note: The following standards are to supplement, not supplant, the culturally and linguistically diverse (CLD) endorsement. These standards can and should be aligned to the CLD endorsement standards as noted in 1 CCR 301-101 if the educator preparation entity is seeking to graduate students with dual endorsements in a content area and in CLD.

5.09 Quality Standard I: Educators are knowledgeable about CLD populations.

5.09(1) Element A: Educators are knowledgeable in and can apply the major theories, concepts, and research related to culture, diversity, and equity in order to support academic access and opportunity for CLD student populations.

5.09(2) Element B: Educators are knowledgeable in and can use progress monitoring, in conjunction with formative and summative assessments, to support student learning.

5.10 Quality Standard II: Educators should be knowledgeable in first and second language acquisition.

5.10(1) Element A: Educators understand and can implement strategies and select materials to aid in English language and content learning.

5.10(2) Element B: Educators are knowledgeable in and can apply the major theories, concepts and research related to culture, diversity and equity in order to support academic access and opportunity for CLD student populations.

5.11 Quality Standard III: Educators should understand literacy development for CLD students.

5.11(1) Element A: Educators are knowledgeable in and can apply the major theories, concepts, and research related to literacy development for CLD students.

5.11(2) Element B: Educators understand and can implement strategies and select materials to aid in English language and content learning.

5.12 Quality Standard IV: Educators are knowledgeable in the teaching strategies, including methods, materials, and assessment for CLD students.

5.12(1) Element A: Educators are knowledgeable in, understand and able to use the major theories, concepts, and research related to language acquisition and language development for CLD students.

5.12(2) Element B: Educators are knowledgeable in and can use progress monitoring, in conjunction with formative and summative assessments, to support student learning.

6.00 Principal and Administrator Licensure Standards (Principal Quality Standards)

Principal Quality Standards

A principal must demonstrate an understanding of the Colorado Academic Standards; the Colorado Reading To Ensure Academic Development Act (Colorado READ Act); strict data privacy and security practices; special education laws regulations, as outlined in section 23-1-121(2)(c.7), C.R.S.; and professional practices to address multiple pathways for students to be postsecondary and workforce ready, as outlined in sections 22-2-106, 22-2-136, 22-7-1003(15), and 22-32-109, C.R.S. The following standards must guide the development of the content of principal preparation programs offered by accepted institutions of higher education, designated agencies, and individualized alternative principal programs and must guide the ongoing professional development of these principals.

6.01 Quality Standard I: Principals demonstrate organizational leadership by strategically developing a vision and mission, leading change, enhancing the capacity of personnel, distributing resources, and aligning systems of communication for continuous school improvement.

6.01(1) Element A: Principals collaboratively develop the vision, mission, and strategic plan, based on a cycle of continuous improvement of student outcomes, and facilitate their integration into the school community.

6.01(2) Element B: Principals collaborate with staff and stakeholders to implement strategies for change to improve student outcomes.

6.01(3) Element C: Principals establish and effectively manage systems that ensure high-quality staff.

6.01(4) Element D: Principals establish systems and partnerships for managing all available school resources to facilitate improved student outcomes.

6.01(5) Element E: Principals facilitate the design and use of a variety of communication strategies with all stakeholders.

6.02 Quality Standard II: Principals demonstrate inclusive leadership practices that foster a positive school culture and promote safety and equity for all students, staff, and community members.

6.02(1) Element A: Principals create a professional school environment and foster relationships that promote staff and student success and well-being.

6.02(2) Element B: Principals ensure that the school provides an orderly and supportive environment that fosters a sense of safety and well-being.

6.02(3) Element C: Principals commit to an inclusive and positive school environment that meets the needs of all students and promotes the preparation of students to live productively and contribute to the diverse cultural contexts of a global society.

6.02(4) Element D: Principals create and utilize systems to share leadership and support collaborative efforts throughout the school.

6.02(5) Element E: Principals design and/or utilize structures and processes which result in family and community engagement and support.

6.03 Quality Standard III: Principals demonstrate instructional leadership by: aligning curriculum, instruction and assessment; supporting professional learning; conducting observations; providing actionable feedback; and holding staff accountable for student outcomes.

6.03(1) Element A: Principals establish, align and ensure implementation of a district/BOCES plan of instruction, instructional practice, assessments and use of student data that result in academic growth and achievement for all students.

6.03(2) Element B: Principals foster a collaborative culture of job-embedded professional learning.

6.03(3) Element C: Principals demonstrate knowledge of effective instructional practice and provide feedback to promote continuous improvement of teaching and learning.

6.03(4) Element D: Principals hold all staff accountable for setting and achieving measurable student outcomes.

6.04 Quality Standard IV: Principals demonstrate professionalism through ethical conduct, reflection and external leadership.

6.04(1) Element A: Principals demonstrate high standards for professional conduct.

6.04(2) Element B: Principals link professional growth to their professional goals.

6.04(3) Element C: Principals build and sustain productive partnerships with key community stakeholders, including public and private sectors, to promote school improvement, student learning and student well-being.

English Language Learner Quality Standards for Principals

6.05 English Language Learner Principal Quality Standards

In order to ensure that all Colorado school-based leaders are well-equipped and able to support Colorado educators in teaching the state's diverse student population, all principal pre-service programs including approved programs of preparation at Colorado institutions of higher education and individualized alternative principal programs must ensure the standards outlined in sections 5.09 to 5.12 of these rules are fully taught, addressed and practiced in their programs.

Administrator Quality Standards

6.06 Administrator Licensure Standards (Administrator Quality Standards)

An administrator applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education, must have completed an approved administrator program, and must have demonstrated the competencies specified below:

6.06(1) In addition to knowledge of and the ability to demonstrate the requirements in sections 6.01- 6.05 (Principal Quality Standards) of these rules, the following administrator rules describe additional competencies required to lead at the district level.

6.06(1)(a) Administrators demonstrate organizational leadership, including responsibility for:

6.06(1)(a)(i) district/program vision, mission, and strategic plan;

6.06(1)(a)(ii) continual and sustainable district/program improvement;

6.06(1)(a)(iii) recruitment, development, supervision, evaluation, and retention of high-quality personnel;

6.06(1)(a)(iv) district and community partnerships;

6.06(1)(a)(v) communication with internal and external stakeholders;

6.06(1)(a)(vi) fiscal and resource management, as well as resource-development strategies; and

6.06(1)(a)(vii) compliance with policies, laws, rules, and regulations.

6.06(1)(b) Administrators demonstrate inclusive leadership practices and systems that include responsibility for:

6.06(1)(b)(i) coherent systems of teaching, learning, and leading, including curricular and extra-curricular activities;

6.06(1)(b)(ii) positive culture and climate for staff and student success and well-being;

6.06(1)(b)(iii) safe and orderly environments for the protection and welfare of all;

6.06(1)(b)(iv) equitable and inclusive practices to address diverse student populations and needs;

6.06(1)(b)(v) systems for collaborative and distributed leadership; and

6.06(1)(b)(vi) family and community engagement.

6.06(1)(c) Administrators demonstrate instructional leadership that includes responsibility for:

6.06(1)(c)(i) aligned systems of curriculum, instruction, and assessment;

6.06(1)(c)(ii) professional learning for all staff that supports student learning;

6.06(1)(c)(iii) student outcomes for growth, achievement, engagement, and post-secondary and workforce readiness; and

6.06(1)(c)(iv) continuous improvement accountability systems (e.g., goal setting, data-informed decisions, multi-tiered systems of support and research-based practices).

6.06(1)(d) Administrators demonstrate professionalism that includes responsibility for:

6.06(1)(d)(i) ethical behavior and professional norms;

6.06(1)(d)(ii) professional learning, continuous growth and ongoing reflection;

6.06(1)(d)(iii) conflict resolution, problem solving and decision making;

6.06(1)(d)(iv) board-administrator relationships;

6.06(1)(d)(v) partnerships with internal stakeholders and external organizations; and

6.06(1)(d)(vi) democratic and civic participation and advocacy.

English Language Learner Quality Standards for Administrators

6.07 English Language Learner Administrator Standards

In order to ensure that all school-based leaders are well equipped and able to support educators in teaching the state's diverse student population, all administrator pre-service programs, including approved programs of preparation at institutions of higher education, must ensure the standards outlined in sections 5.09-5.12 of these rules are fully taught, addressed, and practiced in their programs.

Standards for Professional Competencies for an Initial Administrator License with a Director of Special Education Endorsement

6.08 Standards for Professional Competencies for an Initial Administrator License with a Director of Special Education Endorsement

In addition to knowledge of and the ability to demonstrate the requirements in section 6.06 of these rules (Administrator Quality Standards), the following standards must be addressed by an accepted institution of higher education's director of special education initial preparation. They are also the standards for the ongoing professional development of these educators. The specific performance indicators for each of these standards must be described in the Department's Performance Indicators for Professional Competency Standards.

6.09 Quality Standard I – Foundations for Leadership: The director of special education must have a solid foundation for leadership by: (a) demonstrating a comprehensive knowledge of special education organization, programs, laws and best practices; and (b) setting high standards and a positive direction for special education consistent with the values, mission, and vision of the state and administrative unit.

6.10 Quality Standard II – Special Education and School Systems: The director of special education must demonstrate knowledge of organizational culture, apply a systems approach to the development of special education programs and processes, and facilitate effective system change.

6.11 Quality Standard III – Law and Policy: The director of special education ~~must be~~is knowledgeable about and able to apply relevant federal and state statutes, regulations, case law, and policies that impact all children, including those with disabilities.

6.12 Quality Standard IV – Instructional Leadership: The director of special education ~~must be~~is able to integrate general education and special education, including curriculum, instructional strategies, assessments, and individualized instruction, in support of academic achievement for all children, including those with disabilities.

6.13 Quality Standard V – Program Planning and Organization: The director of special education ~~must be~~is able to evaluate the efficacy and efficiency of special education programs, facilities, services, and monitoring systems. The director ~~must be~~is able to use the evaluation data to improve the programs and services for all children, including those with disabilities.

6.14 Quality Standard VI – Human Resource Functions: The director of special education must have the knowledge and ability to recruit, retain, and evaluate qualified personnel.

6.15 Quality Standard VII – Parent, Family and Community Engagement: The director of special education ~~must be~~is knowledgeable about and able to facilitate partnerships and engage parents, families, and communities in the implementation of special education programs.

6.16 Quality Standard VIII – Budget and Resources: The director of special education ~~must be~~is knowledgeable about and able to demonstrate school district budgeting and resource allocation, including those related to special education.

Standards for Professional Competencies for an Initial Administrator License with a Director of Gifted Education Endorsement

6.17 Standards for Professional Competencies for an Initial Administrator License with a Director of Gifted Education Endorsement.

In addition to knowledge of and the ability to demonstrate the requirements in section 6.06 (Administrator Quality Standards) of these rules, the following standards must be addressed by the director of gifted education initial preparation program offered by accepted institutions of higher education. They must also guide the ongoing professional development of these educators. The director of gifted education must demonstrate the performance indicators specific to gifted education and the Department's Performance Indicators for Professional Competency Standards.

6.18 Quality Standard I - Foundations for Leadership: The director of gifted education is knowledgeable about professional, ethnical leadership and supports educators, students, family, and community members to effectively address outcomes for gifted learners. The director sets high standards and a positive direction for gifted education consistent with values, mission, and vision of the state and administrative unit.

6.18(1) Element A: The director of gifted education demonstrates methods to develop vision, mission, goals, and design for gifted education programs.

6.18(2) Element B: The director brings together stakeholders to implement general program and gifted-student goals and best practices in gifted education.

6.89(3) Element C: The director implements collaborative decision-making strategies, as appropriate.

6.18(4) Element D: The director applies knowledge of models and practices in change theory for improvement efforts.

6.18(5) Element E: The director is able to define, advocate for, and make changes with regard to issues in gifted education.

6.19 Quality Standard II - Gifted Education and School Systems: The director of gifted education is knowledgeable about organizational culture, applies a systems approach to the development of gifted education programs, and implements processes in order to facilitate effective system change.

6.19(1) Element A: The director of gifted education understands how systems within a district or administrative unit influence gifted-student instruction and performance.

6.19(2) Element B: The director fosters a school and community culture that supports gifted-student programming within and outside the school setting.

6.19(3) Element C: The director applies a systems approach for developing gifted programs to enhance integrated support and service to gifted students and their families.

6.01 Quality Standard III - Law and Policy: The director of gifted education must have comprehensive knowledge and the ability to apply state and federal laws, regulations, case laws, and policies that impact all children, including those with exceptional academic and talent aptitude.

6.01(1) Element A: The director of gifted education demonstrates proficiency in gifted education policy, regulations, case law, and federal programs supporting key instructional needs of gifted students.

6.20(2) Element B: The director identifies needs and recommends and promotes new policies.

6.01(3) Element C: The director clarifies law and regulations for all stakeholders.

6.01(4) ELEMENT D: The director ensures implementation of privacy laws and district confidentiality and privacy policies.

6.20(5) Element E: The director develops, revises, and/or make recommendations to amend school board or administrative unit policy to align with laws and regulations.

6.12 Quality Standard IV - Instructional Leadership: The director of gifted education ~~must be~~is able to blend the resources of general and gifted education for the positive benefit of gifted students. The director ~~must be~~is knowledgeable about best practices for gifted learners, including specialized curriculum, effective instructional strategies, assessments, social-emotional/affective support, and individualized instruction.

6.21(1) Element A: The director of special education demonstrates knowledge of and support for identification methods and procedures.

6.21(2) Element B: The director interprets and shares data to increase the identification of under-identified, underserved populations and aligns professional development initiatives to needs.

6.21(3) Element C: The director understands models of differentiation, acceleration, and research-based instructional practices that support rigor, challenge, depth, and complexity in instruction and assessment for gifted students.

6.21(4) Element D: The director establishes high expectations for all gifted students and families, including underserved populations and twice-exceptional learners.

6.21(5) Element E: The director monitors standards-based advanced learning plans in order to ensure alignment of programming options to gifted students' needs.

6.21(6) Element F: The director blends the instructional needs of gifted students into the school system.

6.21(7) Element G: The director supports and defends gifted education initiatives within the general education setting.

6.22 Quality Standard V - Program Planning and Organization: The director of gifted education evaluates the efficacy and efficiency of gifted education programing, delivery settings, services, and monitoring systems and uses evaluation data to improve the programs and services for all children, including those with exceptional academic and talent aptitude.

6.22(1) Element A: The director of gifted education designs and implements needs-assessments and uses data to inform restructuring or adjustments to gifted programs.

6.22(2) Element B: The director develops and implements action plans for gifted education based upon student outcomes, challenges, root causes, improvement strategies, and benchmarks.

6.22(3) Element C: The director is knowledgeable about effective, research-based gifted education models and practices that have positive impacts on gifted students.

6.22(4) Element D: The director supports and/or builds gifted programs that effectively embed district and alternative pathways to college and career outcomes.

6.23 Quality Standard VI - Human resource functions: The director of gifted education ~~must be~~is able to recruit, retain, supervise, and evaluate qualified personnel.

6.23(1) Element A: The director of gifted education understands educator effectiveness standards in order to observe and evaluate teachers of gifted students.

6.23(2) Element B: The director designs ongoing professional development that increases educators' capacity to understand and address the needs of gifted students.

6.34(3) Element C: The director promotes an understanding and sensitivity toward culture, ethnicity, and diversity of language within staff and student body.

6.23(4) Element D: The director understands the skills and knowledge necessary for educators to meet the specific needs of gifted and talented students.

6.24 Quality Standard VII - Parent, Family and Community Partnership: The director of gifted education is knowledgeable about effective communication, decision-making, problem-solving, and conflict-resolution strategies. The director must be able to facilitate partnerships and engage parents, families, educators, administrators, students, and communities in the implementation of gifted education programs.

6.24(1) Element A: The director of gifted education promotes understanding, resolves conflicts, and builds consensus for improving gifted programs.

6.24(2) Element B: The director develops the infrastructure to include parents, families, and the community in gifted education program.

6.24(3) Element C: The director applies methods and systems to maximize parent and family involvement.

6.45(4) Element D: The director implements family partnership practices that support gifted student achievement and school involvement.

6.24(5) Element D: The director cooperatively develops and shares a vision for the district or administrative unit that supports and promotes gifted education.

6.25 Quality Standard VIII - Budget and Resources: The director of gifted education must be able to budget and allocate resources related to gifted education.

6.56(1) Element A: The director of gifted education develops and manages a gifted education budget. The director facilitates stakeholders' involvement in a collaborative budget development process.

6.25(2) Element B: The director leverages resources for gifted education within school systems.

6.25(3) Element C: The director's gifted education budget addresses state requirements.

6.25(4) Element D: The director conducts research and needs assessments in order to accurately identify specific budget needs and promotes initiatives for gifted education funding through grants and other funding opportunities.

7.00 Renewal of Colorado Licenses

The following must serve as standards for the renewal of initial and professional licenses and master certificates and endorsements thereon.

7.01 Initial Licenses

An initial teacher, special services provider, principal, or administrator license and endorsements may be renewed once for a period of three years for applicants who have not completed the requirements for a professional license as specified in sections 3.05-3.07 of these rules. The State Board of Education may renew the license-holder's initial license for one or more additional three-year periods for good cause if the holder is unable to complete an approved induction program for reasons other than incompetence. A renewal request must include a complete application for renewal, payment of the required fee, and a statement concerning the circumstances related to the applicant's inability to complete the induction program.

7.02 Professional Licenses

A professional teacher, special services provider, principal, or administrator license and endorsements may be renewed for a period of ~~five~~ seven years upon submission of a complete application for renewal, payment of the required fee, and completion of professional development activities that meet the requirements of this section 7.02. To be eligible to renew a professional license, the holder must complete such activities within the period of time for which the professional license is valid or, if expired, within the seven years immediately preceding the date of application. An applicant for renewal must meet the following requirements:

7.02(1) Professional development activities: An educator requesting license renewal must complete professional development activities equivalent to ~~6~~ six semester hours or 90 contact hours. Applicants must electronically submit an affidavit attesting to the completion of applicable professional development. Such activities must be related to increasing the license-holder's competence in his or her existing or potential endorsement area; to increasing the license-

holder's skills and competence in delivery of instruction in his or her existing or potential endorsement area; to evidence-based practices for teaching reading and literacy; or to culturally and linguistically diverse education. Professional development activities may be selected from one or more of the following:

7.02(1)(a) In-service education: A school district or BOCES are approved entities for in-service education programs. One semester hour of credit may be granted for every 15 contact hours of participation.

7.02(1)(b) College or university credit: College or university credit may be earned from accepted institutions of higher education or accepted community, technical, or junior colleges. Courses must be directly related to the standards for professional development as provided in section 7.02 of these rules. Copies of official transcripts may be submitted, in addition to the online affidavit form, as evidence of completion of college/university credit. Though submittal of official transcripts is not required, the Department may audit renewal applications to verify college or university credit.

7.02(1)(c) Educational travel: Educational travel must be directly applicable to the endorsement area of the license-holder as documented by the license-holder and accompanied by supervisor verification. One semester hour of credit may be granted for every 15 contact hours of involvement. Travel time to and from the intended destination must not be included in the hours accumulated.

7.02(1)(d) Involvement in school and/or district initiatives: One semester hour of credit may be granted for every 15 contact hours of participation. When verified by the license-holder's supervisor, activities may include but are not limited to:

7.02(1)(d)(i) membership on school site or district accountability or improvement committee(s);

7.02(1)(d)(ii) curriculum, standards, or assessment development or implementation in the license-holder's endorsement area;

7.02(1)(d)(iii) the implementation of standards;

7.02(1)(d)(iv) the development or implementation of evidence-based practices for teaching reading, literacy, or numeracy; and

7.02(1)(d)(v) professional development in the area of culturally and linguistically diverse education.

7.02(1)(e) Internships/Externships: Advanced field experiences offered as part of graduate study or other professional training and designed to acquire knowledge or enhance the skills of the educator may qualify as an internship. The internship must be directly related to the standards for professional development as provided in section 7.02 of these rules. One semester hour of credit may be accepted for every 15 contact hours of participation. Official transcripts or supervisor verification must be submitted, in addition to the online renewal summary form, as evidence of completion.

7.02(1)(f) Ongoing professional development and training experiences: Online or in-person professional development confirmed by certificate or documentation of completion or instructor verification, attendance or presentation at professional conferences; service on statewide or national educational task forces or boards; professional research and publication; supervision of student teachers or interns; mentorships; and the pursuit of national educator certification.

7.02(2) For renewal of a professional teacher license, at least 10 of the 90 contact hours of professional development activities required must be related to:

7.02(2)(a) behavioral health training that is culturally responsive and trauma- and evidence-informed; and

7.02(2)(b) increasing awareness of laws and practices relating to educating students with disabilities in the classroom.

7.02(2)(c) The behavioral health training required pursuant to section 7.02(2)(a) may include:

7.02(2)(c)(i) mental health first aid training, specific to youth and teens;

7.02(2)(c)(ii) training modules concerning teen suicide prevention;

7.02(2)(c)(iii) training on interconnected systems framework for positive behavioral interventions and supports and mental health;

7.02(2)(c)(iv) training approved or provided by the school district where the teacher is employed;

7.02(2)(c)(v) training concerning students with behavioral concerns or disabilities;

7.02(2)(c)(v) training modules concerning child traumatic stress; and

7.02(2)(c)(vi) any other program or training that meets the requirements of Rule 7.02(2)(a).

7.02(2)(d) The training regarding students with disabilities required pursuant to section 7.02(2)(b) must increase awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to Child Find and inclusive learning environments.

7.02(3) A teacher may obtain the 10 hours required by section 7.02(2) through any combination of courses ~~so~~ as long as that combination includes at least one hour of training in each area. A single professional development course or activity may satisfy both content requirements.

7.02(4) For renewal of a professional special services provider, principal, or administrator license, at least 10 of the 90 contact hours of professional development activities required for renewal must be in professional development activities related to increasing awareness of laws and practices relating to educating students with disabilities in the classroom, as described in section 7.02(2)(b).

7.02(5) Professional license-holders must meet the requirement outlined in this section 7.02(2) or 7.02(4), as applicable, during the term of the license, each ~~five~~seven-year renewal cycle~~,~~ except that a professional license-holder who has less than three years left in the license renewal period on June 30, 2020 has until the end of the following applicable renewal period to satisfy the requirements.

7.02(6) Except for the activities undertaken to satisfy the requirements of Rule 7.02(2) and 7.02(4) above, activities completed for professional license renewal must be directly related to one or more of the following standards:

7.02(6)(a) knowledge of subject matter content and learning, including knowledge and application of the Colorado Academic Standards, special education laws and processes,

post-secondary workforce readiness, career counseling, multi-tiered systems of support, and other appropriate student-based supports;

7.02(6)(b) knowledge of the Teacher and Special Services Provider Quality Standards, Principal Quality Standards, and Administrator Quality Standards as outlined in sections 5.00, 6.00, and 6.06 of these rules;

7.02(6)(c) knowledge of the English Language Learner Educator Standards as outlined in sections 5.09-5.12 of these rules;

7.02(6)(d) knowledge of content area endorsement standards as outlined in 1 CCR 301-101;

7.02(6)(e) knowledge of the standards for preparation of Special Education and Gifted Education as outlined in sections 6.08 and 6.17 of these rules;

7.02(6)(f) knowledge of the Colorado Reading to Ensure Academic Development (READ) Act as outlined in 1 CCR 301-92;

7.02(6)(g) effective organization, leadership and management of human and financial resources to create a safe and effective working and learning environment; ~~and/or~~

7.02(6)(h) awareness of warning signs of dangerous behavior ~~and mental health~~ in youth and situations that present a threat to the health and safety of students~~,~~ and knowledge of the community resources available to enhance the health and safety of students and the school community, youth mental health, safe de-escalation of crisis situations, recognition of signs of poor mental health and substance use, and support of students; ~~.~~

7.02(6)(i) effective teaching of the democratic ideal;

7.02(6)(j) recognition, appreciation, and support for ethnic, cultural, gender, economic, and human diversity to provide fair and equitable treatment and consideration for all;

7.02(6)(k) effective communication with students, colleagues, parents, and the community;

7.02(6)(l) effective modeling of appropriate behaviors to ensure quality learning experiences for students and for colleagues;

7.02(6)(m) consistently ethical behavior and creation of an environment that encourages and develops responsibility, ethics, and citizenship in self and others;

7.06(6)(n) achievement as a continuous learner who encourages and supports personal and professional development of self and others; or

7.06(6)(o) awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to Child Find and inclusive learning environments.

7.02(7) Professional development activities completed by an applicant for license renewal must apply equally to renewal of any professional educator license or endorsement held by the applicant.

7.02(8) Upon completion of the professional development activities and within the six months prior to the expiration of the professional license(s) to be renewed, the applicant must submit:

7.02(8)(a) a complete application for license renewal, including a signed affidavit in which the license-holder affirms under oath that:

7.02(8)(a)(i) the license-holder satisfactorily completed the ongoing professional development activities specified in the affidavit;

7.02(8)(a)(ii) the activities were completed within the term of the professional license; and

7.02(8)(a)(iii) to the best of the license-holder's knowledge, the activities comply with the requirements of section 7.02 of these rules and section 22-60.5-110, C.R.S.;

7.02(8)(b) a statement of how the activities selected aided the license-holder in meeting the standards for professional educators;

7.02(8)(c) the required evaluation fee;

7.02(8)(d) the oath required in section 2.04(2)(f) of these rules; and

7.02(8)(e) a complete set of license-holder's fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or Board of Cooperative Services using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the Colorado Bureau of Investigation, unless the applicant previously submitted a complete and approved set of fingerprints to the Colorado Bureau of Investigation and satisfactory record of this submission is on file with the Department.

7.02(9) The Department will evaluate the application and supporting evidence and renew the license, request additional information or explanation, or recommend denial of the license renewal if the requirements of section 7.02(4) of these rules are not met.

7.02(10) Master certificates. License-holders who hold master certificates in conjunction with professional licenses may renew the master certification by providing evidence that the license-holder continued to engage in professional development and leadership and continued to demonstrate advanced competencies and expertise during the period in which the master certificate was valid. Master certificates are valid for the period of time for which a professional license is valid and are renewable upon expiration of the license. ~~Master certificates and the accompanying professional licenses may be renewed for a period of seven years~~.

7.02(10)(a) Professional development activities for the renewal of master certificates may include but need not be limited to: involvement in school reform efforts; service on state-wide boards or commissions; supervision and mentorship of advanced-level practicum or internship students; advanced study appropriate to standards 5.00 or 6.00 of these rules; and original research and/or publication.

~~7.02(10)(b) Master certificate-holders are highly encouraged to serve as mentors, as members of state-wide boards or commissions, as preparers of educators, or as advanced practicum supervisors.~~

English Language Learner Professional Development

7.02(11) Effective beginning in the 2018-2019 school year and every year thereafter, educators endorsed in elementary, math, science, social studies, or English language arts, and seeking a renewal of their professional license, must complete professional development activities equivalent to 45 contact hours or three semester hours in Culturally and Linguistically Diverse (CLD) Education within the seven~~five~~-year renewal period. The activities must meet or exceed the standards set forth in section 7.02 and in sections 5.09-5.12 of these rules. This requirement

must only be completed once. Professional development activities completed to satisfy this requirement may also be counted toward the requirements in section 7.02(1).

7.02(11)(a) Educators may demonstrate knowledge of the standards outlined in sections 5.09-5.12 of these rules in one or in a combination of the following ways:

7.02(11)(a)(i) through a collection of professional development, in-service credit, college/university credit, and/or work experience that meet the standards as outlined;

7.02(11)(a)(ii) completion of any Department-approved English Language Learner pathway, which may include district, college or university, BOCES, or nonprofit programs;

7.02(11)(a)(ii)(A) ~~———~~Agencies wishing to become an approved pathway ~~can~~ may submit an application for approval of an English Language Learner pathway ~~through~~ to the Department's Educator Talent ~~Unit~~Division. ~~beginning Spring 2018 and ongoing every year thereafter.~~

7.02(11)(a)(ii)(B) ~~———~~Approved pathways will be reviewed every three years to ensure consistency and alignment to the standards as noted.

7.02(11)(a)(iii) completion of a Colorado CLD or a related out-of-state endorsement (such as English as a Second Language) ~~in or outside Colorado~~; and/or

7.02(11)(a)(iv) completion of a Department-facilitated English Language Learner professional development pathway.

7.02(11)(b) A district superintendent ~~may~~ annually may request a waiver from the English language learner professional development requirements for their educators endorsed in elementary, math, science, social studies, or English language arts if the district has had an average of 2% or fewer identified English language learners in the three years immediately preceding such request, as identified in the Department's annual Student October Pupil Enrollment data collection.

7.02(11)(c) The principal of a charter school authorized by the institute ~~may~~ annually may request a waiver from the English language learner professional development requirements for educators in their charter school authorized by the institute endorsed in elementary, math, science, social studies, or English language arts if the charter school has had an average of 2% or fewer identified English language learners in the three years immediately preceding such request as identified in the Department's annual Student October Pupil Enrollment collection.

7.02(11)(d) Upon submission of an application for renewal, license-holders must also submit the superintendent's or institute's notice of request for waiver. The Department will evaluate the waiver request based on the average of the last three years of the English language learner population in the district.

7.03 Appeals Process

An applicant whose application for renewal of any license has been denied by the Department may submit an appeal to the State Board of Education. If the State Board of Education finds that the applicant has met the criteria for license renewal, the Department must approval the license renewal.

7.04 Reinstatement of Expired Licenses or Certificates

An applicant whose previous professional license or certificate was not renewed may reinstate his or her professional license or certificate by:

7.04(1) completing and submitting a renewal application including:

7.04(1)(a) evidence to satisfy the deficiencies that resulted in prior nonrenewal, including but not limited to, evidence of completion of professional development requirements as provided in section 7.02 of these rules. An applicant seeking reinstatement must have completed professional development activities totaling either six semester hours or 90 clock-hours within the ~~five~~seven-year period preceding the application for reinstatement; and

7.04(1)(b) the renewal fee set by the State Board of Education.

7.04(1)(c) In the event that a license or certificate is expired, the applicant must submit new fingerprints to the CBI and ~~transfer~~ the results must be transferred to the Department, as provided by section 2.04(1) of these rules.

8.00 Approved Induction Programs for Teachers, Special Services Providers, and Authorization-Holders.

Initial licenses are valid only in school districts, nonpublic schools, BOCES, or charter schools that provide approved induction programs unless the State Board of Education has waived the induction program requirement as provided in section 15.00 of these rules. Colorado school districts, consortia of districts, BOCES, nonpublic schools, charter schools, the institute, or other educational entities that employ licensed educators may develop induction programs for initial license-holders and holders of authorizations. Induction programs must meet the criteria of these rules and be approved by the Department. The Department may grant initial or continuing approval to induction programs.

8.01 Criteria for Approval and Review of Induction Programs

The following must serve as criteria for the approval of induction programs. The Department must provide technical assistance in the development of induction programs and must disseminate information concerning successful programs.

8.01(1) Effective induction programs must include opportunities ~~for teachers~~ which:

8.01(1)(a) enhance educator performance according to the quality standards prescribed in section 5.00 of these rules by providing, through mentors and other professionals:

8.01(1)(a)(i) demonstrations of high-quality instructional practices;

8.01(1)(a)(ii) improvement of educational experiences for all students; and

8.01(1)(a)(iii) ways to adapt curriculum and instruction to accommodate diverse student populations.

8.01(1)(b) encourage professionalism and educator development by:

8.01(1)(b)(i) building a foundation for the continued study of teaching;

8.01(1)(b)(ii) encouraging collaborative relationships among administrators and teachers and partnerships between districts and universities;

8.01(1)(b)(iii) providing an orientation for new teachers to the culture of the school system, the district, the community, and the teaching profession;

8.01(1)(b)(iv) providing a thorough orientation to the district's educator effectiveness evaluation model; and

8.01(1)(b)(v) providing opportunities for professional growth and ongoing professional development and training, including ethics, for both new teachers and mentors.

8.01(2) Effective induction programs must:

8.01(2)(a) formalize the profiles of a successful educator at various career stages;

8.01(2)(b) provide training of site administrators in the Colorado Academic Standards and in the Teacher, Special Services Provider, and Principal Quality Standards and the educator induction process;

8.01(2)(c) establish standards for the selection, training, and release of mentors who work with new teachers and special services providers;

8.01(2)(d) establish an assessment model to review, evaluate, and guide the induction program;

8.01(2)(e) establish a process for the selection and training of mentors and for the matching of mentors with inductees;

8.01(2)(f) establish the primary role of the mentor as ~~teacher,~~ coach, advocate, support, guide, and nurturer of new educators ~~teachers~~; and

8.01(2)(g) state whether mentors will be included in the evaluation of inductees. If mentors are to be involved in such evaluations, policies must state the specific roles and responsibilities of the mentor in evaluations.

8.01(3) Effective induction programs must include professional support for inductees that includes:

8.01(3)(a) information relating to the Colorado Academic Standards and Teacher~~-~~, Special Services Provider and/or Principal Quality Standards;

8.01(3)(b) detailed information regarding the educator effectiveness evaluation model;

8.01(3)(c) information related to school and district policies and procedures;

8.01(3)(d) local district goals and local content standards;

8.01(3)(e) educator roles and responsibilities (including moral and ethical conduct);

8.01(3)(f) information about the school community;

8.01(3)(g) substantive feedback to the inductee about performance; and

8.01(3)(h) provisions for the extension of the induction program if deemed necessary by the district.

8.01(4) Effective induction programs should consider implementing the following recommendations:

8.01(4)(a) Develop plans and policies to encourage collaboration between higher education institutions, charter schools, the institute, school districts, and nonpublic schools in induction programs; provide release time for both mentors and inductees; and provide some form of compensation for mentors;

8.01(4)(b) Formalize commitments to:

8.01(4)(b)(i) place new educators in settings where they are likely to succeed;

8.01(4)(b)(ii) provide inductees with supervisors and mentors skilled in helping new employees;

8.01(4)(b)(iii) provide sufficient planning time for inductees; and

8.01(4)(b)(iv) clarify expectations for inductees and mentors.

8.01(4)(c) Adopt guidelines for mentor selection that include:

8.01(4)(c)(i) the mentor agrees to serve as a mentor;

8.01(4)(c)(ii) the mentor is an experienced professional who consistently models the quality standards as reflected in section 5.00 of these rules and who has demonstrated excellence in practice as measured by the district's educator effectiveness system;

8.01(4)(c)(iii) the mentor works well with adults and is sensitive to the viewpoints of others; and

8.01(4)(c)(iv) the mentor is an active and open learner and competent in interpersonal and public relations skills.

8.01(4)(d) Adopt guidelines for mentor assignment that include:

8.01(4)(d)(i) the mentor be closely matched to the inductee in terms of assignment;

8.01(4)(d)(ii) the mentor be located, when possible, in close proximity to the inductee; and

8.01(4)(d)(iii) the mentor and the inductee styles are not in conflict.

8.01(5) Effective induction programs should adopt best practices, including:

8.01(5)(a) promoting purposeful learning by inductees rather than learning through trial and error;

8.01(5)(b) encouraging the retention of capable, talented professionals;

8.01(5)(c) strengthening teacher leadership and enhancing the working conditions and job satisfaction of professionals to increase student learning;

8.01(5)(d) ensuring mentors are carefully selected and given release time to mentor their new educator and are provided with strong professional development and support for their mentoring activities;

8.01(5)(e) ensuring that mentors model professionalism and ethics, high academic standards, and high-quality teaching;

8.01(5)(f) providing a safe, risk-taking environment and a collegial atmosphere for teaching and learning; and

8.01(5)(g) promoting systemic change and continuous improvement.

8.02 Program Evaluation

Each induction program must conduct a self-evaluation every five years. The evaluation information must be submitted to the Department for use in evaluating renewal of the induction program. The Department may conduct visits to induction sites and survey participants regarding the effectiveness of the program.

9.00 Induction Programs for Principals and Administrators.

Initial licenses are valid only in school districts, nonpublic schools, BOCES, or charter schools which provide approved induction programs, unless the State Board of Education has waived the induction program requirements as provided in section 15.00 of these rules.

9.00(1) Induction programs for principals and/or administrators must be designed to meet four purposes: orientation, socialization and transition, technical skill development, and continuous formative assessment.

9.00(2) Induction programs must assign mentors to all initial license-holders. Mentors may be selected from a variety of sources, including school district personnel or personnel from other districts.

9.00(2)(a) Selection: Mentors must have experience as a school principal or district administrator, as appropriate, and should be regarded as effective by their peers:

9.00(2)(a)(i) mentors should be selected to match the experience of the inductee; and

9.00(2)(a)(ii) mentors must have demonstrated:

9.00(2)(a)(ii)(A) commitment to the quality standards prescribed in section 6.00 for principals or administrators, as appropriate;

9.00(2)(a)(ii)(B) well-developed interpersonal skills including the ability to listen and question effectively, explore multiple solutions to problems, and empathize with others;

9.00(2)(a)(ii)(C) effective oral and written communication skills; and

9.00(2)(a)(ii)(D) an awareness of the political, social, and practical context of the inductee.

9.00(2)(b) Induction programs must include a staff development program for mentors which includes, but is not limited to, orientation to mentoring; development of the knowledge and skills contained in the standards for principals or administrators, as appropriate; cognitive coaching; and writing professional growth and improvement plans.

9.00(2)(c) At the inception of the induction period, the mentor and inductee must jointly develop a professional growth plan in consultation with the inductee's supervisor. The plan is to be based on the inductee's pre-service portfolio, the assessments required for the initial license, the Principal or Administrator Quality Standards, and other applicable

data. Each inductee must maintain a portfolio of induction activities. The professional development plan may be modified and adjusted based on ongoing feedback from the mentor and supervisor and the inductee's personal analysis and reflection.

9.00(2)(d) Induction programs must include summative performance evaluations of inductees. The induction program must specify the role of the mentor in evaluation, such as conducting the evaluation, providing input to the evaluation, or having no involvement in the evaluation. ~~The evaluations~~ Each evaluation must be designed to document growth and performance in relation to the inductee's assignment.

9.00(2)(e) The induction program must define a process for determining when an inductee has successfully completed the program. In no case must an induction program exceed three years.

9.00(2)(f) The district, districts, charter school, nonpublic school, or institute, or BOCES delivering the induction program must recommend an inductee for a professional license based on performance evaluations and ongoing evaluation of the candidate's capability for meeting the Principal or Administrator Quality Standards. Criteria for recommendation must include, but are not limited to, mentor and supervisor recommendation, summative evaluations, and growth documented by formative evaluations.

9.00(2)(g) Each induction program must conduct a self-evaluation every five years. The Department may conduct visits to induction sites and survey participants regarding the effectiveness of the program.

10.00 Denial, Suspension, Revocation, or Annulment of Licenses and School District Reporting Requirements

This section establishes a procedure for processing adverse information, which may result in the State Board seeking ~~c~~ denial, suspension, revocation, or annulment of licenses, including lifetime certificates, endorsements and authorizations. It establishes standards against which said adverse information may be judged. This section also provides due process protections for license-holders and applicants and specifies requirements for school districts' reports to the Department on employee misconduct. For the purpose of this section, "license" means any license, certificate, authorization, or endorsement issued by the Department on or after July 1, 1994, pursuant to section 22-60.5-101, C.R.S., and any certificate, letter of authorization, or endorsement issued by the Department on or before June 30, 1994, pursuant to section 22-60-101, C.R.S.

10.00(1) A license may be denied, annulled, suspended, or revoked by the State Board of Education in accordance with the State Administrative Procedures Act, sections 24-4-101 through 107, C.R.S., in the following circumstances:

10.00(1)(a) If the applicant obtained or attempts to obtain the license through misrepresentation, fraud, misleading information, or an untruthful statement submitted with the intent to misrepresent, mislead, or conceal the truth;

10.00(1)(b) If the Department mistakenly issued the license and it is subsequently determined that the holder is not entitled to the license due to a failure to meet educational or non-educational requirements in effect when the license was issued;

10.00(1)(c) When the applicant or holder is or has ever been convicted of, pleads or has ever pled nolo contendere to, or receives or has ever received a deferred sentence for a violation of any one of the following offenses:

10.00(1)(c)(i) contributing to the delinquency of a minor, as described in section 18-6-701, C.R.S.;

10.00(1)(c)(ii) a misdemeanor, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-800.3 (1), C.R.S., and the conviction is a second or subsequent conviction for the same offense;

10.00(1)(c)(iii) misdemeanor sexual assault, as described in section 18-3-402, C.R.S.;

10.00(1)(c)(iv) misdemeanor unlawful sexual conduct, as described in section 18-3-404, C.R.S.;

10.00(1)(c)(v) misdemeanor sexual assault on a client by a psychotherapist, as described in section 18-3-405.5, C.R.S.;

10.00(1)(c)(vi) misdemeanor child abuse, as described in section 18-6-401, C.R.S.;

10.00(1)(c)(vii) a crime under the laws of the United States, another state, a municipality of this state or another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to one of the offenses described in this paragraph (d); or

10.00(1)(c)(viii) a misdemeanor committed under the laws of the United States, another state, a municipality of another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to sexual exploitation of children as described in section 18-6-403(3)(b.5), C.R.S.;

10.00(1)(d) When the applicant or holder is or has ever been found guilty of, or pleads or has ever pled guilty or nolo contendere to, a misdemeanor violation of any law of this state or another state, any municipality of this state or another state, or the United States or any territory subject to the jurisdiction of the United States involving the illegal sale of controlled substances, as defined in section 18-18-102(5), C.R.S.;

10.00(1)(e) When the applicant or holder is or has ever been found guilty of a felony, other than a felony described in section 10.00(2) of these rules, or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a felony, other than a felony described in section 10.00(2) of these rules, in this state or under the laws of any other state, the United States or any territory subject to the jurisdiction of the United States, of a crime which, if committed within this state, would be a felony, other than a felony described in section 10.00(2) of these rules, when the commission of said felony, in the judgment of the State Board of Education, renders the applicant or holder unfit to perform the services authorized by his or her license;

10.00(1)(f) When the applicant or holder has ever received a disposition or an adjudication for an offense involving what would constitute a physical assault, a battery, or a drug-related offense if committed by an adult and if the offense was committed within the 10 years preceding the date of the license application;

10.00(1)(g) When the applicant or holder is or was charged with having committed a felony or misdemeanor and forfeits or has ever forfeited any bail, bond, or other security deposited to secure his or her appearance; pays or has ever paid a fine; enters or has ever entered a plea of nolo contendere; or receives or has ever received a deferred or suspended sentence imposed by the court for any offense described in sections 10.00(2)(a), (b), or (d) of these rules;

10.00(1)(h) Notwithstanding any provision of section 10.00(2) of these rules to the contrary, when the State Board of Education determines an applicant or holder who held a license prior to June 6, 1991, has ever been convicted of an offense described in sections 10.00(2)(a)-(c) of these rules, unless the applicant or holder was previously afforded the rights set forth in section 22-60.5-108, C.R.S., with respect to the offense and the applicant or holder received or retained his or her license as a result;

10.00(1)(i) When the holder, without good cause, resigns or abandons his or her contracted position with a school district without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the succeeding academic year at least 30 days prior to the commencement of the succeeding academic year or the commencement of services under his or her employment contract or without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the current academic year at least 30 days prior to the date he or she intends to stop performing the services required by the employment contract. In this case, the license may be suspended;

10.00(1)(j) When the State Board of Education finds and determines that the applicant or holder is or has ever been professionally incompetent as described in section 10.01 of these rules;

10.00(1)(k) When the State Board of Education finds and determines that the applicant or holder is or has ever been guilty of unethical behavior as described in section 10.02 of these rules; or

10.00(1)(l) When the State Board of Education finds and determines that the license-holder knowingly and intentionally failed to protect student data pursuant to section 22-1-123, C.R.S. In this case, the license may be suspended or revoked for a period not less than 90 days.

10.00(2) A license must be denied, annulled, suspended, or revoked by the State Board of Education in accordance with the State Administrative Procedures Act, sections 24-4-101 through 107, C.R.S., in the following circumstances:

10.00(2)(a) A license must be denied, suspended, or revoked when the applicant or holder is or has ever been convicted by a jury verdict, by entry of a verdict, by acceptance of a guilty plea or a plea of nolo contendere by a court of:

10.00(2)(a)(i) felony child abuse, as specified in section 18-6-401, C.R.S.;

10.00(2)(a)(ii) a crime of violence, as defined in section 18-1.3-406, C.R.S.;

10.00(2)(a)(iii) a felony offense involving unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S.;

10.00(2)(a)(iv) a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

10.00(2)(a)(iv)(A) This ground for mandatory denial, suspension, or revocation of a license only applies for a period of five years following the date the offense was committed, provided the applicant or holder has successfully completed any domestic violence treatment required by the court; or

10.00(2)(a)(v) a felony offense in another state, the United States, or territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the elements of one of the offenses described in this section 10.00(2)(a).

10.00(2)(b) A license must be denied, suspended, or revoked when the applicant or holder is or has ever been convicted by a jury verdict, by entry of a verdict, or by acceptance of a guilty plea or a plea of nolo contendere by a court of indecent exposure, as described in section 18-7-302, C.R.S., or of a crime under the laws of another state, a municipality of this or another state, the United States, or a territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the offense of indecent exposure described in this section 10.00(2)(b).

10.00(2)(c) A license must be denied, suspended, or revoked when the applicant or holder receives or has ever received a disposition or an adjudication for an offense that would constitute felony unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S., if committed by an adult.

10.00(2)(d) A license must be denied, suspended, or revoked if the applicant or holder is or has ever been convicted by a jury verdict, by entry of a verdict, or by acceptance of a guilty plea or a plea of nolo contendere by a court of a felony drug offense described in section 18-18-401, et seq., C.R.S., and committed on or after August 25, 2012, or is convicted of an offense under the laws of another state, the United States, or any territory subject to the jurisdiction of the United States, committed on or after June 11, 2021, ~~of its territories,~~ the elements of which are substantially similar to a felony drug offense described in part 4 of article 18 of title 18, C.R.S. ~~18-18-401, et. Seq, C.R.S~~.

10.00(2)(d)(i) This requirement for denial, suspension or revocation of a license only applies for a period of five years following the date the offense was committed.

10.00(2)(e) A license must be denied, suspended, or revoked when the applicant or holder fails to submit his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or Board of Cooperative Services using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the Colorado Bureau of Investigation to the Department within 30 days after receipt of the Department's written request for fingerprints, which fingerprint submission the Department required upon finding probable cause to believe that the applicant or holder had been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to his or her licensure.

10.00(2)(f) A license must be denied, suspended, or revoked when the applicant or holder is determined to be mentally incompetent by a court of competent jurisdiction and a court enters, pursuant to section 15-14-301, et seq.; 15-14-401, et seq.; 27-65-109(4); or 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that the applicant or holder is incapable of continuing to perform his or her job. In this circumstance, no hearing is required to deny, annul, suspend, or revoke the license, notwithstanding section 22-60.5-108, C.R.S.; denial, annulment, suspension, or revocation happens by operation of law after the Department gives reasonable notice to the applicant or license-holder.

10.00(3) The State Board of Education may take immediate action to deny, annul, or suspend a license without a hearing, notwithstanding the provisions of section 22-60.5-108, C.R.S., upon receipt of a certified copy of the judgment of conviction, a deferred sentence, or the acceptance of a guilty plea or a plea of nolo contendere for any violation of sections 10.00(1)(c)-(e) of these

rules or upon receipt of a certified copy of the judgment of conviction or the acceptance of a guilty plea or a plea of nolo contendere for any violation of sections 10.00(2)(a)-(d) of these rules. The State Board of Education may revoke a suspended license based on a violation of sections 10.00(1)(c)-(e) of these rules and must revoke a suspended license based on a violation of sections 10.00(2)(a)-(d) of these rules without a hearing and without any further action after the exhaustion of all appeals, if any, or after the time for seeking an appeal has elapsed and upon the entry of a final judgment. A certified copy of the judgment of a court of competent jurisdiction of a conviction, a deferred sentence, or the acceptance of a guilty plea or a plea of nolo contendere is conclusive evidence of such conviction or plea for the purposes of sections 10.00(1)(c)-(e) of these rules. A certified copy of the judgment of a court of competent jurisdiction of a conviction or the acceptance of a guilty plea or a plea of nolo contendere is conclusive evidence of such conviction or plea for the purposes of sections 10.00(2)(a)-(d) of these rules.

10.00(4) In cases where the State Board of Education deems summary suspension is appropriate, pursuant to section 24-4-104(4), C.R.S., proceedings for suspension or revocation may be instituted upon the Board's own motion without a proceeding pursuant to these regulations. The holder is entitled to a post-deprivation hearing consistent with section 24-4-105, C.R.S. At such hearing, the burden of proof rests with the license-holder.

10.01 Standards of Professional Incompetence

The following serve as standards against which charges of professional incompetence will be judged. To warrant denial, annulment, suspension, or revocation of the license, violations must be found to be substantial or continued, as well as related to services rendered within the scope of the license. It is considered professional incompetence for a license-holder or applicant to:

10.01(1) willfully depart or to have ever willfully departed from the quality standards described in sections 5.00 or 6.00 of these rules;

10.01(2) willfully fail or to have ever willfully failed to practice with reasonable skill and safety;

10.01(3) act or to have ever acted in a manner evidencing a clear and substantial lack of knowledge, ability, or fitness to perform the services rendered within the scope of the license;

10.01(4) refuse or to have ever refused to perform duties required by federal and state law and regulation;

10.01(5) recklessly disregard or to have ever recklessly disregarded duties required by federal and state law and regulation;

10.01(6) have or to have ever had a mental of physical condition, as diagnosed by a professional competent to make such a diagnosis, that results in the license-holder’s or applicant’s inability to satisfactorily perform required duties, subject to the American with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and other nondiscrimination law; or

10.01(7) habitually abuse or to have ever habitually abused alcoholic, narcotic, hypnotic, or other substances, the abuse of which results in the license-holder’s or applicant’s inability to satisfactorily perform required duties, subject to the American with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and other nondiscrimination law.

10.02 Standards of Unethical Behavior

The following serve as standards against which charges of unethical behavior will be judged. To warrant denial, annulment, suspension, or revocation of the license, violations must be found to be substantial or continued. It is considered unethical behavior for a license-holder or applicant to:

10.02(1) fail or to have ever failed to make reasonable effort to protect a minor from conditions harmful to health and safety;

10.02(2) provide or to have ever provided professional services in a discriminatory manner regarding age, gender, gender identity, sexual orientation, national origin, race, ethnicity, color, creed, religion, language, disability, socio-economic status, or marriage status;

10.02(3) fail or to have ever failed to keep in confidence information obtained in the course of professional services, unless disclosure serves to protect the child, other children, or school personnel or is required by law;

10.02(4) direct or to have ever directed a person to carry out professional responsibilities knowing that such person is not qualified for the responsibility given, except for assignments of short duration in emergency situations;

10.02(5) deliberately distort or suppress or to have ever deliberately distorted or suppressed curricular materials or educational information in order to promote their own personal view, interest, or goal;

10.02(6) falsify or misrepresent or to have ever falsified or misrepresented records or facts relating to the license-holder or applicant's qualifications, another educator's qualifications, or a student's records;

10.02(7) make or to have ever made false or malicious statements about students or school personnel;

10.02(8) using one's position for personal gain

10.02(9) fail or to have ever failed to conduct financial transactions relating to the school program in a manner consistent with applicable law, rule, or regulation;

10.02(10) engage or to have ever engaged in immoral conduct that affects the health, safety, or welfare of children; conduct that offends the morals of the community; or conduct that sets an inappropriate example for children or youth whose ideals the educator is expected to foster and elevate; ~~or~~

10.02(11) engage or to have ever engaged in unlawful distribution or sale of dangerous or unauthorized prescription drugs or other dangerous nonprescription substances, alcohol, or tobacco.; or

10.02.(12) engage or to have ever engaged in a sexual act, meaning sexual contact, sexual intrusion, or sexual penetration as defined in section 18-3-401, C.R.S., with a student enrolled at the school where the license-holder or applicant is or was employed at the time of the sexual act, including a student who is eighteen years of age or older, regardless of whether the student consented to the sexual act.

10.03 Filing of Adverse Information Regarding an Educator License

10.03(1) Filing of external complaints:

10.03(1)(a) A complaint regarding an educator is a formal statement, filed by an aggrieved party or a party in interest against an individual who holds or has applied for an educator license, of an alleged violation of conditions that, if found to be substantial or continued, and if found to be true, becomes grounds for denying, annulling, revoking, or suspending the license. The Department must supply necessary complaint forms and information for the filing of adverse information.

10.03(1)(b) The complainant must personally deliver, send by mail, or send in a secured electronic environment the complaint to the Department. The complainant must sign and swear to the complaint, regardless of delivery method. The complaint must allege actions serving as the basis of the complaint, and the alleged actions must be substantial or continued. The complaint must specify the statutory and regulatory violations.

10.03(2) Filing of notification by public district/school:

10.03(2)(a) The local board of education, charter school, BOCES, or its designee must notify the Department pursuant to the requirements of section 10.05 of these rules.

10.03(3) Conducting investigations and pursuing formal action by the State Board of Education:

10.03(3)(a) The Department conducts background investigations upon receipt of any adverse information. The purpose of this inquiry is to determine if there is probable cause to seek annulment, revocation, or suspension of the license or denial of the application. If the Department determines probable cause exists, the Department may ask the State Board of Education to direct the initiation of formal proceedings against the license-holder pursuant to section 22-60.5-108, C.R.S., or to deny the application pursuant to section 24-4-104(8), C.R.S.

10.03(3)(b) Except in cases of summary suspension, the Department must provide the license-holder or applicant notice of the allegations against him or her and an opportunity to respond prior to asking the State Board of Education to deny an application or initiate formal proceedings. The Department must provide such opportunity by sending a formal written letter of inquiry by first-class mail to the applicant or license holder, explaining the allegations, requesting a response within 20 days, and notifying them of their right to return a response within 20 days. If the Department knows that the person is an employee of a Colorado charter school, BOCES, or school district, the Department must notify the charter school, BOCES, or school district of the inquiry.

10.03(3)(c) After the expiration of the 20-day response period or upon receipt of the response, whichever is sooner, the Department will review the allegations and response and determine whether to pursue the charges for denial, revocation, or annulment of the license. In any case where, based on the response, the Department determines probable cause does not exist, the Department must withdraw or dismiss the complaint and notify the person complained against and the school district, charter school, or BOCES of the Department's action. Any handling of the complaint must be consistent with the laws on confidentiality unless contrary to statute.

10.03(3)(d) The Department is authorized to grant extensions to any of the processing deadline dates in sections 10.03(3)-(4) of these rules, based upon sufficient cause shown.

10.03(3)(e) The Department will present its findings and recommendations to the State Board of Education for action.

10.03(3)(e)(i) If the Department recommends revocation or annulment and the State Board of Education accepts that recommendation, the Board must refer the matter for a hearing in accordance with section 24-4-105, C.R.S. The Department must notify by first-class mail the person charged of the State Board of Education's decision to refer the matter for a hearing. If the State Board of Education rejects the Department's recommendation, the Department must dismiss the complaint and notify the person complained against and the complainant of the Department's action. Any handling of the complaint must be consistent with the laws on confidentiality unless contrary to statute.

10.03(3)(e)(ii) if the Department recommends denial and the State Board of Education accepts that recommendation, the Department must notify by first-class mail the applicant of the denial and the applicant's right to request a hearing conducted in accordance with section 24-4-105, C.R.S. If the State Board of Education rejects the Department's recommendation, the Department must clear the application and issue the credential to the applicant.

10.03(3)(f) If the State Board of Education refers the matter for a hearing and if the Department knows that the person charged is a current employee of a Colorado charter school, BOCES, or school district, the Department must notify such school, BOCES, or school district of the State Board of Education's decision.

10.03(3)(g) If the State Board of Education refers the matter for a hearing, or if the applicant timely requests a hearing concerning the Board's denial of his or her application, the hearing and subsequent proceedings must be conducted by an administrative law judge appointed by the Colorado Division of Administrative Hearings in accordance with section 24-4-105(3), C.R.S..

10.03(3)(h) Pursuant to section 24-4-105(14), C.R.S., the decision of the administrative law judge must include a statement of findings and conclusions and the appropriate order, sanction, relief, or denial thereof. If the administrative law judge sustains the charge, the decision must result in revocation or denial of the license.

10.04 Application for License Following Suspension, Revocation, Annulment, or Denial

10.04(1) A license-holder whose license has been suspended or revoked may submit an application for a new license, the renewal of the expired license, or the reinstatement of the license to the Department and for review by the State Board of Education. The application must include justification for license issuance, renewal, or reinstatement, with evidence as to rehabilitation appropriate to the basis for the prior suspension or revocation. The application must demonstrate the current fitness of the applicant to resume educational duties, in accordance with all laws and rules. The burden of proof rests with the applicant.

10.04(1)(a) The reinstated license will bear the same expiration date as had been originally issued.

10.04(1)(b) In the event the original license expired during the period of suspension or revocation, the applicant will be required to meet all requirements for the renewal of the license.

10.04(2) An applicant whose license application has been denied or annulled by the State Board of Education may apply for a license to the Department and for review by the State Board. The application will include justification for issuance, with appropriate supporting documentation as to the current fitness of the applicant to resume educational duties, in accordance with all laws and rules. The burden of proof must rest with the applicant.

10.05 Mandatory Reporting of Misconduct

10.05(1) The local board of education, charter school, BOCES, or designee must notify the Department within 10 business days of any employee's dismissal or resignation if the dismissal or resignation is based on an allegation of unlawful behavior involving a child, including unlawful sexual behavior or allegation of a sexual act (meaning sexual contact, sexual intrusion, or sexual penetration as those terms are defined in section 18-3-401, C.R.S.) involving a student who is eighteen~~18~~ years of age or older, regardless of whether the student consented to the sexual act, that is supported by a preponderance of the evidence. The local board, charter school, BOCES, or designee must provide any information requested by the Department concerning the circumstances of the dismissal or resignation.

10.05(2) The local board of education, charter school, BOCES, or designee must immediately notify the Department when any employee's resignation or dismissal is based upon a conviction, guilty plea, plea of nolo contendere, or deferred sentence as set forth in sections 10.00(1)(d)-(g) and 10.00(2)(a)-(c) of these rules. The local board, charter school, BOCES, or designee must provide any information requested by the Department concerning the circumstances of the employee's dismissal or resignation.

10.05(3) The local board of education, charter school, BOCES, or designee must notify the Department when the county department of social services or local law enforcement agency reasonably believes that an incident of abuse or neglect has occurred and an employee of the district, charter school, or BOCES is the suspected perpetrator and was acting in his or her official capacity as an employee. The local board, charter school, BOCES, or its designee must provide any information requested by the Department concerning the employee's alleged abuse or neglect.

10.05(4) The local board of education, charter school, BOCES, or designee must notify the Department when it reasonably believes that one of its employees is guilty of unethical behavior or professional incompetence as set forth in sections 10.01 and 10.02 of these rules. The local board, charter school, BOCES or its designee must provide any information requested by the Department concerning the employee's behavior or competence.

10.05(5) The local board of education, charter school, BOCES, or designee must notify the Department when it learns from a source other than the Department that a current or past employee has been convicted of, has pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children.

10.06 Mandatory Disclosure of Attempts to Seal Criminal Records

10.06(1) An applicant or license-holder who files a petition to seal a criminal record under § 24-72-701, et seq., C.R.S., must notify the Department of the pending petition to seal. The Department may inquire into the facts of the criminal offense(s) for which the petition to seal is pending under § 24-72-703(2)(d)(III), C.R.S. The applicant or license-holder does not have any right to privilege or privilege that justifies refusal to answer the Department's questions about the criminal offense(s) at issue in the petition to seal.

11.00 Standards for the Approval of Educator Preparation Programs

The Department will work with the Colorado Department of Higher Education to review and approve educator preparation programs at Colorado public, private, and proprietary institutions of higher education based on the identified requirements for approval under section 23-1-121(2) & (3), C.R.S.

Pursuant to 22-2-109, C.R.S and the standards set forth in sections 5.00 and 6.00 of these rules and sections 4.00 through 7.00 of 1 CCR 301-101, ~~The~~ the State Board of Education will review the content of educator preparation programs. Such review will evaluate the program's content, delivery, and outcomes, including whether the program effectively enables a candidate to meet the requirements for licensure. For educator preparation programs located at institutions of higher education, t~~T~~he State Board will recommend to the Colorado commission on higher education that a program will be approved, be placed on conditional approval, probation, or not be approved. ~~submit its recommendation on the approval of an educator preparation program to the Colorado Commission on Higher Education (CCHE) under section 22-2-109(5), C.R.S. The State Board's recommendation will be is based on whether or not the State Board approves of the program's content, delivery and outcomes.~~

Authorization of alternative teacher programs, ~~and~~ alternative principal programs, and individualized alternative principal programs~~'s~~ is solely the Department's responsibility as outlined in sections 22-60.5-205(3), ~~(b)(i)~~ 22-60.5-305.5(6), and 22-60.5-111(14), C.R.S. Section 12.00 of these rules provides the requirements for these programs. ~~Providers of alternative programs (also known as designated agencies) will be approved under the requirements outlined in section 12.00 of these rules.~~

11.01 Design of the Educator Preparation Programs

The Department's Educator Talent Division promotes high-quality programs that meet the ~~se~~ requirements, policies, and the best practices identified by Colorado Commission of Higher Education, Department of Higher Education, and Department of Education pursuant to sections 22-2-109, C.R.S. and 23-78-104, C.R.S.

~~The Department's Educator Talent Division promotes high-quality programs that are based on the State Board of Education-approved standards in sections 5.00 and 6.00 of these rules and sections 4.00 through 7.00 of 1 CCR 301-101. Effective educator preparation programs integrate the best practices identified by the Department of Higher Education and Department of Education pursuant to sections 23-1-121(2)(c.7), 23-1-121(2)(d.5), and 23-78-104(1), C.R.S.., in "Best in Class: Five Principles of Effective Educator Preparation" (January 2020). The best practices and principles in that report are incorporated herein. The report is available at https://highered.colorado.gov or at 201 East Colfax Avenue, Denver, Colorado, during regular business hours. Later amendments to the principles are not incorporated into these rules.~~

11.01(1) Endorsement standards in sections 5.00 and 6.00 of these rules and sections 4.00 through 7.00 of 1 CCR 301-101 outline the competencies candidates need to attain during preparation. In addition, each program's instructional content must include the following components:

11.01(1)(a) for all teacher candidates in elementary, early childhood and all special education programs, concentrated focus on foundational reading skills—specifically phonemic awareness, phonics, vocabulary, fluency, and comprehension, per 23-1-121(2)(c.5), C.R.S.;

11.01(1)(b) for all teacher candidates in an initial licensure program, behavioral health training including culturally responsive and trauma-informed practices.

11.01(1)(c) for all educator candidates, education and training on federal and state regulations and policies related to students with exceptional needs, including, but not limited to, Americans With Disabilities Act of 1990, Rehabilitation Act of 1973, and Individuals With Disabilities Education Act; and

11.01(1)(d) for all educator candidates, pedagogical instruction in high-quality practices for face-to-face, blended and online learning.

11.02 Program Review by the ~~The~~ Department's Educator Talent Division~~, Office of Educator Preparation and Support Office~~

The Department's Educator Talent Division will evaluate all new and established educator preparation programs for consistency with these rules and with the State Board of Education-approved rules ~~at~~ 1 CCR 301-101. The Division will assess the content of th~~eo~~se programs based on ~~section~~ sections 22-2-109(5) and 23-1-121, C.R.S. ~~. It will provide recommendations to the State Board of Education as to whether the Board should recommend to CCHE approval, probation, conditional approval, or termination of such programs. Evaluations will occur no more than once every five years.~~

The purpose of the~~se~~ evaluation~~s~~ and approval process is to assure the public that educators who complete ~~their~~ educator preparation programs in the state of Colorado are well-prepared to educate ~~public education~~PreK-12 students according to the Colorado Revised Statutes, the rules set forth by the State Board of Education, and the Colorado Academic Standards. ~~To measure accomplish this, all~~ Educator preparation programs must prepare candidates to meet or exceed the standards for licensure ~~that are~~ specified in sections 5.00 and 6.00 of these rules and the corresponding standards in sections 4.00 through 7.00 of 1 CCR 301-101, including any approved content tests required by state board rule.

11.02(1) The Educator Talent Division's review of p~~P~~rogram content must ensure that each program is ~~must be reviewed for program~~ designed and implement~~edation~~ in a manner that will enable a candidate to meet licensure and endorsement requirements.

11.02(2) For the reauthorization of educator preparation programs at public, private, or proprietary postsecondary institutions of higher education recognized by the Colorado Department of Higher Education, t~~T~~he Educator Talent Division will provide the State Board of Education information for its consideration as to whether the Board should recommend to CCHE approval, conditional approval, probation or termination..11.02(3) For alternative teacher programs and alternative principal programs, tThe State Board of Education will determine full reauthorization, conditional reauthorization, probationary reauthorization, or termination of the program.

11.02(3)(a) An on-site eEvaluation for the reauthorization of alternative prepa~~r~~ation programs will occur no more frequently than once every five years.

11.02(3)(b) An initial s~~i~~te visit and review will be conducted 12 to 24 months after approval for all newly authorized alternative preparation programs.

12.00 Alternative Teacher ~~Preparation~~ Programs~~: One-Year and Two-Year Programs~~

The following must serve as standards for the initial and continuing approval of alternative teacher preparation programs. School districts, BOCES, accepted institutions of higher education, ~~a~~ non-profit ~~agencies~~organizations, nonpublic schools, charter schools, the institute~~.~~ or any combination thereof may apply to the State Board of Education for approval as a designated agency of an alternative teacher ~~preparation~~ program under section 22-60.5-205, C.R.S.

12.00(1) An alternative teacher ~~preparation~~ program must:

12.00(1)(a) be a one-year or two-year teacher preparation program for persons of demonstrated knowledge and ability who hold an alternative teacher license:

12.00(1)(a)(i) a one-year program shall be designed to be completed in one year. The program may be extended for one additional year based on documentation of unforeseen circumstances, as demonstrated by the applicant and the designated agency and approved by the Department;

12.00(1)(a)(ii) a two-year program shall be designed to be completed in two years; ~~and~~

12.00(1)(a)(iii) for the purpose of preparing a special education generalist, an alternative preparation program may be designed to be completed in a maximum of three years.

12.00(1)(b) be the responsibility of a designated agency. The agency's duties include the organization, management, and operation of the program as follows:

12.00(1)(b)(i) the designated agency must establish an advisory council, which must include, at a minimum, representatives from participating school districts, charter schools, nonpublic schools, the institute, or BOCES; at least one qualified mentor teacher; and a representative from any accepted institution of higher education cooperating with the designated agency, if applicable. Representatives on the advisory council must reflect the geographic make-up of the designated agency if the agency is composed on more than one entity.

12.00(1)(c) require alternative teachers to be employed by or have a clinical agreement in place with a school district, a licensed nonpublic ~~child care~~childcare ~~facility~~ or~~,~~ other preschool facility, charter school, the Charter School Institute, nonpublic school, or BOCES to teach, receive training, and be supervised by a qualified mentor teacher and an appropriate support team as follows:

12.00(1)(c)(i) alternative teachers must demonstrate competency in their subject area endorsement and/or assignment pursuant to section 3.00 of these rules including:

12.00(1)(c)(i)(A) if the alternative teacher is asked to teach in any content area(s) outside of his/her assessed content area, the school or school district is required to keep on file documented evidence that the alternatively licensed teacher has completed 24 semester hours of applicable coursework in the additional content area(s) or the equivalent thereof, or has passed the related approved content area test(s);

12.00(1)(c)(ii) training of alternative teachers must include 225 clock-hours of planned instruction, and activities must include, but not be limited to, teacher preparation courses that meet the Teacher Quality Standards and English Language Learner Quality Standards.

12.00(1)(c)(ii)(A) The 225-clock-hours must, at a minimum, include professional development that addresses dropout prevention and the standards as outlined in section 5.00 of these rules;

12.00(1)(c)(ii)(B) The hours of required instruction and activities may be modified by the alternative teacher's support team, but only after a documented and performance-based evaluation of the candidate's proficiency determines that one or more of the program's requirements has already been met by the alternative teacher's proven knowledge or past experience;

12.00(1)(c)(ii)(C) Evaluations of alternative teachers must be conducted and documented in accordance with section 22-9-106, C.R.S.;

12.00(1)(c)(ii)(D) Early childhood education programs must align to the standards outlined in section 4.01 of 1 CCR 301-101, and elementary and special

education programs must align to the standards outlined in section 4.02 of 1 CCR 301-101; and

12.00(1)(c)(ii)(E) The training must address special education regulations as outlined in 22-60.5-205, C.R.S.

12.00(2) Proposals submitted by entities for authorization as designated agencies of alternative teacher preparation must include, but not be limited to:

12.00(2)(a) demonstrated evidence of a need for the proposed program;

12.00(2)(b) evidence of the establishment of an advisory council by the designated agency;

12.00(2)(c) a listing of the advisory council's duties, which must include but need not be limited to: providing the designated agency with information regarding the organization and management and operation of the approved alternative teacher program;

12.00(2)(d) criteria for the selection of mentor teachers which must include but need not be limited to: evidence of exemplary teaching and school leadership; the ability to model and counsel the alternative teacher; relevant coursework; and a valid license and endorsement in the alternatively-licensed teacher's content area if available. A mentor teacher endorsement is not required.;

12.00(2)(d)(i) Mentor teachers may evaluate alternative teachers if trained in accordance with 22-9-106(4), C.R.S., except that mentor teachers are not required to hold a principal or administrator license.

12.00(2)(d)(ii) If a mentor teacher is not available, the designated agency may submit a plan for mentor support that provides that same level of mentorship to the alternative teacher.

12.00(2)(e) an articulated, mandatory, and intensive supervision training program for mentors that provides direction with regard to structured guidance, the provision of regular ongoing support to new teachers, and teacher performance evaluation;

12.00(2)(f) identification of the duties of the mentor teacher including: serving as a member of the support team; providing ongoing observation, counseling and supervision of the alternative teacher; and representing the support team for purposes of making recommendations about the alternative teacher's licensing;

12.00(2)(g) a checklist of the duties of the mentor teacher and the time required of that teacher to mentor the alternative teacher. The designated agency must keep this checklist on file.

12.00(2)(h) provisions made by the designated agency to assist the mentor teacher in properly discharging his/her regular duties. Such provisions may include:

12.00(2)(h)(i) providing a substitute teacher for the mentor teacher, as necessary and appropriate; and

12.00(2)(h)(ii) allowing for adequate compensatory time and/or other compensation for the mentor teacher's required planning and observation schedule and ongoing regular conferences with the alternative teacher.

12.00(2)(i) the composition of an alternative teacher's support team. The team must include, at a minimum, the alternative teacher's mentor ~~teacher~~, the building principal, and a representative of the approved ~~institution of higher education or~~ designated agency;

12.00(2)(j) identification of the duties of the support team including:

12.00(2)(j)(i) meeting on a regular schedule with an agenda. Documentation of such regularly scheduled meetings must include evidence of the alternative teacher's progress toward meeting the program's objectives;

12.00(2)(j)(ii) evaluating the related prior education and experience of the alternative teacher to determine the appropriate program elements which will prepare the candidate for full licensure;

12.00(2)(j)(iii) developing the instruction plans and activities for the alternative teacher's preparation. The programming must meet the State Board of Education-approved standards, as prescribed in section 5.00 of these rules; and

12.00(2)(j)(iv) prior to the beginning of the program, providing the alternative teacher with an orientation to the school, its student population, the policies and procedures which affect teaching, classroom management strategies, and the teacher's responsibilities, as prescribed by section 12.00(1)(c) of these rules.

12.00(2)(k) an assurance that the major portion of the alternative teacher's assignment will be in the content area in which the alternative teacher has been approved by the state under section 3.12(1)(c);

12.00(2)(l) explanation of how the entity employing the alternative teacher meets the requirements in section 12.00(1)(c)(i)(A) of these rules if it asks the alternative teacher to teach outside of his/her approved content area;

12.00(2)(m) the method of evaluation of the alternative teacher's proficiencies using performance evaluations, as based on the Teacher Quality Standards and as prescribed by section 5.00 of these rules;12.00(2)(n) an inventory of Teacher Quality Standards for each alternative teacher in its program that documents how the alternative teacher demonstrates proficient knowledge and understanding of the standards and the English Language Leader Quality Standards;

12.00(2)(o) a schedule of mentor and principal observations, including a minimum of four alternative teacher observations by program leaders;

12.00(2)(p) the process by which performance evaluations of alternative teachers will be conducted, which must be consistent with the provisions of section 22-9-106, C.R.S.; and

12.00(2)(q) measurable objectives for the alternative teacher's preparation program.

12.00(3) When an entity is approved and offers a new educator preparation program, the D~~d~~epartment may review the new educator preparation program no sooner than twelve months but not more than twenty-four months after the new preparation program is initially approved. The alternative teacher ~~preparation~~ program may be approved for up to five years. An onsite evaluation will be conducted no more than once every five years for purposes of reauthorization.

~~12.01 Alternative Teacher Licenses~~

~~For the purposes of issuing an alternative teacher license pursuant to section 22-60.5-201(1)(a), C.R.S., applicants must provide the following to the Department within 30 days of the candidate's employment and/or acceptance into an alternative educator preparation program:~~

~~12.01(1) a statement of assurance, with signatures from the designated agency representative, human resources officer, or designee of the participating entity and the applicant. The statement must verify that the applicant is enrolled in an approved alternative teacher program, employed as a teacher of record or participating in a clinical experience, and placed in the approved endorsement area.~~

13.00 Individualized Alternative Principal Programs and Alternative Principal Programs

The following will serve as standards for the initial and continuing approval of individualized alternative principal programs and alternative principal programs.

13.01 In designing an individualized alternative principal program, the school district, charter school, or nonpublic school shall, at a minimum, submit to the State Board:

13.01(1) documentation of the coursework, practicum and other educational requirements identified by the school district, charter school, or nonpublic school that will comprise the individualized alternative principal program plan and that will be completed while the applicant is employed under the principal authorization; and

13.01(2) a letter from the district, charter school, or nonpublic school stating its intention to employ the applicant as a principal or assistant principal upon issuance of the principal authorization;

13.01(3) At a minimum, an individualized alternative principal program must ensure that:

13.01(3)(a) the applicant will attain the information, experience, training, and skills comparable to those possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301(1)(a), C.R.S.;

13.01(3)(b) upon completion, the candidate will be able to provide documented evidence of having met or surpassed the Principal Quality Standards cited in section 6.00 of these rules;

13.01(3)(c) the candidate will receive coaching and mentoring from one or more licensed principals and administrators, as well as continuing performance-based assessment of the candidate's skills development;

13.01(3)(d) except that, if the candidate participates in a nonpublic school's individualized alternative principal program approved by the State Board of Education, the candidate must receive coaching and mentoring from one or more principals and administrators who have three or more years of experience in a nonpublic school;

13.01(3)(e) the candidate demonstrates professional competencies using the assessment of quality standard measures in subject matter areas as specified by rule of the State Board pursuant to section 22-60.5-303, C.R.S.; and

13.01(3)(f) the candidate receives information and training on special education laws and regulations, as outlined in section 22-60.5-111(14)(c)(IV), C.R.S.~~4.17(4).~~

13.02 A school district or districts, BOCES, accepted institution of higher education, nonprofit organization, charter school, the institute, nonpublic school, or any combination thereof may apply to the State Board for approval as a designated agency of alternative principal programs under section 22-60.5-305.5, C.R.S.

13.02(2) In designing an alternative principal program, the designated agency must, at a minimum, demonstrate that:

13.02(2)(a) the applicant will attain the information, experience, training, and skills comparable to those possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301(1)(a), C.R.S.;

13.02(2)(b) the program content meets or exceeds the Principal Quality Standards cited in section 6.00 of these rules;

13.02(2)(c) training of alternative principals will include a minimum of 225 clock-hours of planned instruction, and activities must include, but not be limited to, principal preparation courses that meet the Principal Quality Standards and English Language Learner Quality Standards.

13.02(2)(d) the candidate will receive coaching and mentoring from one or more licensed principals and administrators, as well as continuing performance-based assessment of the candidate's skills development;

13.02(2)(e) the candidate will be required to demonstrate professional competencies using the assessment of quality standard measures in subject matter areas as specified by rule of the State Board pursuant to section 22-60.5-303, C.R.S.;

13.02(2)(f) the candidate will receive information and training on special education laws and regulations, as outlined in section 22-60.5-111(14)(c)(IV), C.R.S.;

13.02(2)(g) the alternative principal program will be designed to be completed in three years or less..

13.02(2)(f)(i) School districts may only employ a person under a principal authorization for three years, after which time, the person must obtain an initial or professional license in order to continue working as a principal.

13.02(3) Proposals submitted by entities for authorization as designated agencies of alternative principal programs must include, but not be limited to:

13.02(3)(a) demonstrated evidence of a need for the proposed program;

13.02(3)(b) evidence of the establishment of an advisory council by the designated agency;

13.02(3)(c) a listing of the advisory council's duties, which must include but need not be limited to: providing the designated agency with information regarding the organization, management, and operation of the approved alternative principal program;

13.02(3)(d) criteria for the selection of mentor principals which must include but need not be limited to: evidence of exemplary school leadership; the ability to model and counsel the alternative principal; relevant coursework; and a valid license and endorsement as a professional principal.

13.02(4) When a new designated agency is approved to offer a new alternative principal program, the department may review the new program no sooner than twelve months but not more than twenty-four months after the new program is initially approved. The designated agency that operates an alternative principal program will be reauthorized not more than once every five years.

134.00 Colorado Teacher of the Year Program

143.01 Administration

143.01(1) The Colorado Teacher of the Year is selected in accordance with the National Teacher of the Year selection criteria as articulated by the Council of Chief State School Officers.

143.01(2) The Department may reward the ~~award recipient~~educator with gifts, services, and opportunities that may include:

143.01(2)(a) a sabbatical from teaching responsibilities that includes moneys awarded to the recipient's employer for the purpose of hiring a substitute teacher during the award recipient's sabbatical;

143.01(2)(b) a cash gift;

143.01(2)(c) travel and lodging expenses;

143.01(2)(d) a computer;

143.01(2)(e) supplies and equipment for the award recipient's classroom or school; and

143.01(2)(f) the opportunity to receive additional training or education.

143.01(3) During tenure as Colorado Teacher of the Year, the award recipient may participate in activities such as:

143.01(3)(a) attending local, regional, and national events related to the award recipient's designation as Colorado Teacher of the Year;

143.01(3)(b) promoting the teaching profession;

143.01(3)(c) teaching best practices to other teachers;

143.01(3)(d) teaching temporarily in other public schools or school districts;

143.01(3)(e) mentoring students in teacher preparation programs and supporting newer teachers in Colorado;

143.01(3)(f) collaborating with institutions of higher education in scholarly research and teaching; and

143.01(3)(g) participating in special projects relating to education that are important to the award recipient.

154.00 Inactive Status of Licenses

154.00(1) Holders of professional licenses may choose to ~~convert~~ place their licenses ~~to~~ in inactive status by:

154.00(1)(a) notifying the Department, via an online application, of their intent to place ~~the~~ a professional license on inactive status~~; and~~.

~~14.00(1)(b) simultaneously transferring, either in person or by first-class mail, the professional license certificate to the Department. If the license is in electronic format, the license-holder may upload a copy of it to the application.~~

154.00(2) While on inactive status, the expiration date of a professional license is suspended and the individual is deemed as not holding the credential.~~. The person does not hold a professional license while on inactive status.~~

154.00(3) A person may return ~~return~~ a professional license to active status ~~to active status~~ at any time upon application. ~~by applying to the Department.~~

154.00(4) Upon application to return to active status, the Department must reissue the professional license with a new expiration date reflecting the period remaining on the professional license as of the date the license-holder placed the license in ~~converted to~~ inactive status.

154.00(4)(a) The Department may, upon request of a license-holder, and with evidence of the license-holder's active military service, reissue the license with a new expiration date reflecting the amount of time which remained on the license prior to the license-holder's active military service, plus the amount of time during which the license-holder served in active military service.

154.00(5) Renewal of licenses previously inactive:

154.00(5)(a) Any person who placed a license on inactive status may, but is not required, to complete professional development activities which meet the requirements of section 7.02 of these rules. Such activities completed while on inactive status must apply to renewal of the person's professional license after the person returns to active status.

154.00(5)(b) At the time of renewal, the license-holder must provide to the Department evidence of completion of the professional development activities which meet the requirements for license renewal as provided in section 7.02 of these rules and which were completed within the ~~five~~ seven years preceding the date on which the professional license will expire after its return to active status.

16~~5~~.00 Waivers

165.01 A written request for a waiver must be received by the State Board of Education at least 120 days prior to proposed implementation. The State Board is authorized to waive any requirement regarding alternative teacher programs or approved induction programs. Waiver applications must include:

165.01(1) the specific portion of these rules to be waived;

165.01(2) the rationale for the request;

165.01(3) detailed information on the innovative programs or plans to be instituted;

165.01(4) financial impact of the proposed waiver, if applicable;

165.01(5) reasons why these innovative programs or plans cannot be implemented under the applicable rule; and

165.01(6) a detailed plan for the evaluation of the innovative programs or plans to show their effectiveness in improving the quality of the affected educators.

Editor's Notes

History

Rules 2260.5-R-1.00, 15.00, 15.05 emer. rules eff. 08/14/2008.

Rules 2260.5-R-1.00, 15.00, 15.05 eff. 10/31/2008.

Rules 2260.5-R-1.16, 4.04 eff. 10/30/2009.

Rules 2260.5-R-1.00-2.04, 3.01, 3.03, 3.12, 4.03, 4.12, 4.17, 7.02, 13.00, 18.00-19.00 eff. 07/30/2010.

Rules 2260.5-R-1.19, 4.11, 4.14(11)(d-e) emer. rules eff. 09/16/2010.

Rules 2260.5-R-1.17, 4.11, 6.13, 10.05 eff. 12/31/2010.

Rules 2260.5-R-1.20, 8.22-8.23 eff. 01/31/2011.

Rules 2260.5-R-1.21, 4.16, 15.00-15.00(5) eff. 09/30/2012.

Rules 2260.5-R-2.01, 2.03, 3.01, 3.03, 3.05-3.07, 3.12, 4.02-4.04, 4.11, 4.13, 4.17, 8.02, 8.04, 8.14, 12.02,

15.03, 18.00, 23.01 eff. 01/30/2013.

Rules 2260.5-R-1.23, 3.01(2)(e)(ii)(3), 3.06(1), 3.12(3)(b)(i), 4.13(3), 4.13(5), 4.17 eff. 05/15/2014.

Rule 2260.5-R-8.20 eff. 07/30/2014.

Rule 2260.5-R-4.18 eff. 08/14/2014.

Entire rule eff. 03/30/2016.

Rules 2260.5-R-1.24, 2.01(26), 3.02(1), 3.05-3.07, 4.02(1), 4.09, 4.12-4.14, 4.17, 4.18, 7.02(1), 8.14, 9.01, 9.05-9.07, 10.02, 10.04-10.06, 11.09, 12.00, 12.02, 13.00, 13.01, 15.00, 15.01 eff. 06/14/2017.

Rules 2260.5-R-1.25, 2.01, 12.02(1), 13.00, 15.00, 18.00, 18.01 eff. 01/30/2018.

Entire rule eff. 08/14/2018.

Entire rule eff. 05/30/2019.

Entire rule eff. 07/30/2020.

Entire rule eff. 04/30/2021.

Annotations

Introductory paragraph of Rule 2260.5-R-23.00 (adopted 11/10/2005) was not extended by House Bill 07-1167 and therefore expired 05/15/2007.

Rules 2260.5-R-3.03(2)(a), 3.06(1)(a), 3.06(1)(c), 3.07(1)(d), 4.13(4)(c), 4.17(7), 15.00(2)(d), 15.00(2)(j) (adopted 12/14/2006) were not extended by Senate Bill 08-075 and therefore expired 05/15/2008.

Rules 2260.5-R-3.07(1), 4.17(1), 4.17(2), 4.17(3) were repealed by Senate Bill 08-075, eff. 05/15/2008.

Rules 4.11(6)-4.11(6)(d) (adopted 08/08/2012) were not extended by Senate Bill 13-079 and therefore expired 05/15/2013.

Rule 4.04 (adopted 12/05/2012) was not extended by Senate Bill 15-100 and therefore expired 05/15/2015.

Notice of Proposed Rulemaking

Tracking number

2021-00612

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-113

Rule title

RULES FOR THE ADMINISTRATION OF THE EDUCATOR RECRUITMENT AND RETENTION PROGRAM

Rulemaking Hearing

Date

11/10/2021

Time

09:00 AM

Location

201 E. Colfax, State Board Room or Webinar

Subjects and issues involved

This is a new rule set as a result of 2021 legislation, SB21-185. These rules are intended to support the transition of members of the armed forces into a second career to serve as educators across the state, support nonmilitary-affiliated educator candidates preparing to serve as educators across the state, and fill educator positions in geographic and subject areas affected by the educator workforce shortage.

Statutory authority

section 22-60.3-202(5), C.R.S

Contact information

Name

Angela Maramba

Title

Director of State Board Relations

Telephone

720-822-4803

Email

Maramba_A@cde.state.co.us

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE EDUCATOR RECRUITMENT AND RETENTION PROGRAM

1 CCR 301-113

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

1.0 STATEMENT AND BASIS OF PURPOSE

Section 22-60.3-202, et seq. C.R.S., creates the Educator Recruitment and Retention Program. The purpose of the program is to provide support to members of the armed forces, nonmilitary-affiliated educator candidates, and local education providers to recruit, select, train, and retain highly qualified educators across the state.

The statutory authority for these rules is found in section 22-60.3-202(5), C.R.S., which permits the State Board to adopt rules as necessary to implement the program.

2.0 DEFINITIONS

2.1 "Alternative teacher" means a teacher who has been issued an alternative teacher license as defined in 22-605.5-201(a).

2.2 "CTE credential" means Career and Technical Education authorization as defined in 22-60.5-111(9) C.R.S.

2.3 "Department" means the Department of Education created and existing pursuant to section 24-1-115, C.R.S.

2.4 "Educator preparation program" means an approved program of preparation, as defined in section 22-60.5-102(8), or an alternative teacher program, as defined in section 22-60.5-102(5), or other organization that provides educator preparation for a qualified program participant and is approved by the Department.

2.5 "Program" means the Educator Recruitment and Retention Program created in section 22-60.3-202, C.R.S.

2.6 "Local Education Provider" means a school district, a charter school authorized by a school district pursuant to part 1 of article 30.5 of title 22, a charter school authorized by the State Charter School Institute pursuant to part 5 of article 30.5 of title 22, or a Board of Cooperative Services created and operating pursuant to article 5 of title 22 that operates one or more public schools.

2.7 "Member of the armed forces" means a member of the Army, Air Force, Navy, Marine Corps, Coast Guard, Space Force, or any of the armed forces' active reserve components, or of the National Guard.

2.8 "Qualified program participant" means an individual who meets the program criteria and is either a member of the armed forces or a nonmilitary-affiliated educator candidate.

2.9 "Rural School District" means a school district in Colorado that the Department determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and the total student enrollment is six thousand five hundred or fewer students.

2.10 "Separation" means honorable discharge, release from active duty, release from custody and control of the armed forces, or a similar change in active or reserve status.

2.11 "Small rural school district" means a school district in Colorado that the Department determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and that enrolls fewer than one thousand students in pre-kindergarten through twelfth grade.

2.12 "State Board" means the State Board of Education created and existing pursuant to section 1 of article IX of the state constitution.

2.13 "Temporary educator eligibility (TEE) educator" means an educator who has been issued a temporary educator eligibility authorization as defined in 22-60.5-11(5).

3.0 FINANCIAL ASSISTANCE

3.01 A member of the armed forces with honorable discharge status or currently serving, or a nonmilitary-affiliated educator candidate may apply to the program to receive financial assistance of up to $10,000 for the tuition cost of an educator preparation program in which the applicant is enrolled.

3.02 The department shall review each application and determine whether the applicant meets the following criteria for participation in the program:

3.02(1) Is enrolled in a Colorado-approved traditional or alternative educator preparation program or institute of higher education for applicants pursuing a CTE credential;

3.02(2) Meets one of the following:

3.02(2)(a) Has earned bachelor's or higher degree from a regionally accredited college or university and has secured employment as an alternative teacher or temporary educator eligibility (TEE) educator in a rural or small rural district; or

3.02(2)(b) Is currently employed as a paraprofessional in a school district, charter school or BOCES and is working toward a baccalaureate degree as required to pursue a professional teaching license; or

3.02(2)(c) Has secured a position as a CTE instructor in a rural or small rural district and meets state CTE requirements:

3.02(3)(c)(i) as outlined in 23-60-304(3)(a) and section 4.04 of 1 CCR 301-37; or

3.02(3)(c)(ii) has the equivalent of eighteen (18) semester hours of postsecondary enrollment and six (6) years of military experience that are applicable to a CTE credential.

3.03 Subject to available appropriations, upon determination of qualification, the Department shall provide to the educator preparation program in which the qualified program participant is enrolled one-time financial assistance of up to $10,000 for the tuition cost of the educator preparation program.

3.03(1) As a condition of receiving financial assistance, applicants must agree to serve for a minimum of three years in a rural or small rural district.

.

3.03(1)(c) For programs that are more than one year in length, payments may be made to the Educator Preparation Program in multiple installments throughout the duration of the program.

3.03(1)(c)(i) The Department will enter into a memorandum of understanding (MOU) with any educator preparation program that is not part of an institute of higher education and an inter-agency agreement with any institute of higher education that is not an approved Educator Preparation Program, such as those community colleges who may provide required courses for applicants seeking a CTE credential and teaching position.

3.04 If the qualified program participant does not fulfill the service condition outlined in Rule 3.03(1), and without documentation of good cause (such as illness, death, spouse military transfer, etc.), the participant shall repay the awarded financial assistance to the Department within 90 days of leaving their employment in a rural or small rural school district.

3.04(1) Program participants must sign an agreement acknowledging the commitment to teach in a rural or small rural district for three years as a condition of funding and agreeing to pay back the funds if they do not complete the service obligation.

3.04(2) Program participants must also annually certify their continued employment in a rural or small rural district for the entire three-year service period.

4.0 APPLICATIONS

Qualified program participants who wish to receive financial assistance must submit an application to the Department.

4.1 Application timeline

4.01(1) The Department will make the application form available to applicants by February 1, 2022, and annually every year after that.

4.01(2) Applications will be accepted on a rolling basis.

4.01(3) The Department will notify applicants of the decision on their application within 30 days of receipt of the application.

4.2 Application contents

4.02(1) The Department will develop a program application form. Each application, at a minimum, must specify:

4.02(1)(a) Applicant name

4.02(1)(b) Race

4.02(1)(c) Gender

4.02(1)(d) Educator preparation program in which the applicant is currently enrolled

4.02(1)(e) Military status

4.02(1)(f) Highest level of education attained

4.02(1)(g) Applicable employment as a paraprofessional

4.02(1)(h) Documentation of relevant coursework, military experience, or other professional experience which meets the eligibility criteria for a CTE credential

4.02(1)(i) Relevant employment documentation:

4.02(1)(i)(i) Current verification of employment as a CTE instructor, alternative teacher, or paraprofessional; or

4.02(1)(i)(ii) Executed intent to hire form

4.02(1)(k) Agreement to teach for three years in a rural or small rural school district and agreement to provide the Department with annual certification of such employment on a form provided by the Department.

Notice of Proposed Rulemaking

Tracking number

2021-00627

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 405-1

Rule title

CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00628

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 405-7

Rule title

CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00617

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

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER W-0 - GENERAL PROVISIONS - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00618

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-1

Rule title

CHAPTER W-1 - FISHING

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER W-1 - FISHING - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00619

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-2

Rule title

CHAPTER W-2 - BIG GAME

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER W-2 - BIG GAME - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00620

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-3

Rule title

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

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER W-3 - FURBEARERS AND SMALL GAME, EXCEPT MIGRATORY BIRDS - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00621

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-9

Rule title

CHAPTER W-9 - WILDLIFE PROPERTIES

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER W-9 - WILDLIFE PROPERTIES - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00622

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-10

Rule title

CHAPTER W-10 - NONGAME WILDLIFE

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

Section #1000.A of Chapter W-10 - Nongame Wildlife 2 CCR 406-10 and those related provisions of Chapter W-10 (Nongame Wildlife 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00624

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-11

Rule title

CHAPTER W-11 - WILDLIFE PARKS AND UNREGULATED WILDLIFE

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER W-11 - WILDLIFE PARKS AND UNREGULATED WILDLIFE - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00625

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-15

Rule title

CHAPTER W-15 - DIVISION AGENTS

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER W-15 - DIVISION AGENTS - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00626

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-16

Rule title

CHAPTER W-16 - PARKS AND WILDLIFE PROCEDURAL RULES

Rulemaking Hearing

Date

11/18/2021

Time

08:00 AM

Location

Lamar Community College, 2401 S Main St, Lamar, CO 81052

Subjects and issues involved

CHAPTER W-16 - PARKS AND WILDLIFE PROCEDURAL RULES - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

Name

Jonathan Boydston

Title

Acting Regulations Manager

Telephone

303-291-7624

Email

jonathan.boydston@state.co.us

September 30, 2021

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
November 18-19, 2021

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 **November 18-19, 2021. The Parks and Wildlife Commission meeting will be held at Lamar Community College, 2401 S Main St, Lamar, CO 81052. For up-to-date information on the meeting, please refer to the Parks and Wildlife Commission website: https://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx. The public is encouraged to comment before the meeting by submitting written comments to the Commission's email address at: dnr_cpwcommission@state.co.us.**

Comment deadlines: Written comments will be accepted at any time. 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:**

November 4, 2021, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **November 5, 2021.**

Comments received by the Division between noon on **November 4, 2021** and noon on **November 12, 2021,** will be provided to the Commission two business days before the meeting. Comments received after noon on **November 12, 2021** will be held and shared with the Commission as part of the subsequent meeting mailing.

More information on submitting public comments is available at: https://cpw.state.co.us/aboutus/Pages/Submit-Public-Comments.aspx.

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, 33-1-105, 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 – **November 18-19, 2021,** beginning **at 8:00 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the November 2021 Parks and Wildlife Commission meeting: January 1, 2022, unless otherwise noted.

FINAL REGULATIONS

PARK REGULATIONS

Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

**Please reference the Commission agenda, to be posted on or after November 8, 2021, 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.*

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

- Changing the replacement fee for an additional Aspen Leaf annual vehicle pass to half the cost of the original pass, if proof of eligible replacement need is not provided.

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11), Chapter W-15 ("Division Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

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

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state. Specific considerations include, but are not limited to, the following:

- Removing the prohibition on fishing on the South Prong of Hayden Creek.
- Removing the Wakara Lease property from regulations pertaining to the White River in Rio Blanco County.

These Chapter W-1 - Fishing regulations will become effective April 1, 2022.

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

Open for annual review and final consideration of regulations regarding turkey hunting, including but not limited to, license areas, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for consideration of regulations including, but not limited to, modifying general refund procedures, the restoration of preference points, and the Director's disaster relief authority.

These Chapter W-16 - Park and Wildlife Procedural Rules regulations will become effective February 1, 2022.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-9 - "Wildlife Properties" 2 CCR 406-9

Open for consideration of regulations including, but not limited to, generally applicable and property-specific requirements for, or restrictions on use of wildlife properties controlled by the Division of Parks and Wildlife, including State Trust Lands leased by the Division. This includes regulations related to the requirements to access State Wildlife Areas and State Trust Lands leased by the Division.

ISSUES IDENTIFICATION

PARK REGULATIONS

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

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

- Requiring reservations for big game and small game hunting in the Jefferson County portion of Golden Gate Canyon State Park where hunting is permitted.
- Permitting kiteboarding at Navajo State Park.

WILDLIFE REGULATIONS

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

Open for annual review of the entire chapter, including but not limited to, Game Management Unit boundary modifications, regulations relating to fish management, health, importation, prohibited species, and other annual changes.

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

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

- Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, bighorn sheep, mountain goat, mountain lion, and bear.
- Annual changes to limited license application and drawing processes.

Section #1000.A of Chapter W-10 - "Nongame Wildlife" 2 CCR 406-10 and those related provisions of Chapter W-10 ("Nongame Wildlife" 2 CCR 406-10) necessary to accommodate changes to or ensure consistency with Section #1000.A

Open for consideration of new and amended regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock.

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

Viewing of Proposed Rules: copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection online at

https://cpw.state.co.us/aboutus/pages/commission.aspx and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Jonathan Boydston at jonathan.boydston@state.co.us 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.

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, if time permits, at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be 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 can be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **November 8, 2021**.

Notice of Proposed Rulemaking

Tracking number

2021-00640

Department

500,1008,2500 - Department of Human Services

Agency

502 - Behavioral Health

CCR number

2 CCR 502-1

Rule title

BEHAVIORAL HEALTH

Rulemaking Hearing

Date

11/05/2021

Time

08:30 AM

Location

Location Pending State's Response to COVID-19. Anticipated to be held entirely online

Subjects and issues involved

Pursuant to the Colorado Licensing of Controlled Substances Act, in Part 2 of Article 80 of Title 27, C.R.S. (2021), a substance use disorder (SUD) program that compounds, administers, or dispenses a controlled substance must annually obtain a controlled substance license from the Office of Behavioral Health (OBH). On January 6, 2021 a Controlled Substance Licensing rule update was adopted by the State Board of Human Service. After the adopted rules went into effect, the Office of Behavioral Health and the State Board of Human Services received stakeholder feedback expressing concern with the new Controlled Substance Licensing rule updates. This rule update is a follow-up to the rules adopted January 6, 2021 and is specifically designed to better align Controlled Substance Licensing and Opioid Treatment Program (OTP) rules with Federal Controlled Substance Licensing/OTP requirements; address licensing procedures as required by the Office of Legislative Legal Services; and promote better access to medication assisted treatment services throughout Colorado.

NOTE: Due to the ongoing COVID-19 situation, it is anticipated that this meeting will take place entirely online. Please check here for any updates on location/connection: https://cdhs.colorado.gov/sbhs

Statutory authority

26-1-107, C.R.S. (2021); 26-1-109, C.R.S. (2021); 26-1-111, C.R.S. (2021); 18-18-301, C.R.S. (2021); 27-80-204, C.R.S. (2021); 27-80-213, C.R.S. (2021); 42 C.F.R. § 8.11 (2021)

Contact information

Name

Ryan Templeton

Title

Policy Advisor

Telephone

303.827.8667

Email

ryan.templeton@state.co.us

Title of Proposed Rule:	**Follow-Up Updates To Controlled Substance Licensing**	
CDHS Tracking #:	**21-09-29-01**	
Office, Division, & Program: OBH, Division of Community Behavioral Health	Rule Author: Ryan Templeton	Phone: 303-827-8667 E-Mail: ryan.templeton@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [X] Board [ ] Executive Director

b. [X] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[X] AG Initial Review [X] Initial Board Reading [ ] AG 2nd Review [ ] Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
18	Amended Rules
2	New Rules
0	Repealed Rules
28	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	November 2021

What date is being requested for this rule to be effective?	February 1, 2022
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION
Comments:

Estimated Dates: 1st Board 11/5/2021 2nd Board 12/3/2021 Effective Date 2/1/2022

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. ***1500 Char max***

Pursuant to the Colorado Licensing of Controlled Substances Act, in Part 2 of Article 80 of Title 27, C.R.S. (2021), a substance use disorder (SUD) program that compounds, administers, or dispenses a controlled substance must annually obtain a controlled substance license from the Office of Behavioral

Title of Proposed Rule:	**Follow-Up Updates To Controlled Substance Licensing**	
CDHS Tracking #:	**21-09-29-01**	
Office, Division, & Program: OBH, Division of Community Behavioral Health	Rule Author: Ryan Templeton	Phone: 303-827-8667 E-Mail: ryan.templeton@state.co.us

Health (OBH). On January 6, 2021 a Controlled Substance Licensing rule update was adopted by the State Board of Human Service. After the adopted rules went into effect, the Office of Behavioral Health and the State Board of Human Services received stakeholder feedback expressing concern with the new Controlled Substance Licensing rule updates. This rule update is a follow-up to the rules adopted January 6, 2021 and is specifically designed to better align Controlled Substance Licensing and Opioid Treatment Program (OTP) rules with Federal Controlled Substance Licensing/OTP requirements; address licensing procedures as required by the Office of Legislative Legal Services; and promote better access to medication assisted treatment services throughout Colorado.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- [ ] to comply with state/federal law and/or
- [ ] to preserve public health, safety and welfare

Justification for emergency:

Not applicable

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2021)	State Board to promulgate rules
26-1-109, C.R.S. (2021)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2021)	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
18-18-301, C.R.S. (2021)	The Department (CDHS) may adopt rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.
27-80-204, C.R.S. (2021)	Substance use disorder treatment programs that compound, administer, or dispense a controlled substance shall annually obtain a license issued by the Department (CDHS).
27-80-213, C.R.S. (2021)	The Department (CDHS) shall promulgate rules to implement Part 2 of Article 80 of Title 27, C.R.S.
42 C.F.R. § 8.11 (2021)	Opioid treatment programs shall comply with all pertinent State laws and regulations. Nothing in this part is intended to limit the authority of State and, as appropriate, local governmental entities to regulate the use of opioid drugs in the treatment of opioid use disorder.

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. ***21.320.2:*** incorporation by reference for the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).

Title of Proposed Rule:	**Follow-Up Updates To Controlled Substance Licensing**	
CDHS Tracking #:	**21-09-29-01**	
Office, Division, & Program: OBH, Division of Community Behavioral Health	Rule Author: Ryan Templeton	Phone: 303-827-8667 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?

Individuals in need of or receiving substance use disorder (SUD) treatment using controlled substances and families of individuals in need of or receiving SUD services, and the entities responsible for the payment of SUD services should benefit from this rule update.
Providers of SUD services using controlled substances will bear the burden of this rule update.

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?

Individuals in need of or receiving SUD services using controlled substances and families of individuals in need of or receiving SUD services should benefit from this rule update as SUD programs using controlled substances will be required to comply with these updated standards. The entities responsible for the payment of SUD services using controlled substances should also benefit from the update, as SUD providers with a controlled substance license whose services are being purchased will be required to meet the rule updates that align with national standards.
Currently, 51 substance use disorder programs have a controlled substance license from the Office of Behavioral Health.

3. Fiscal Impact

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

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

The fiscal impact to the state regarding this rule update is expected to be minimal, as the Office of Behavioral Health (OBH) currently licenses SUD providers that treat individuals who use controlled substances.

County Fiscal Impact

County fiscal impact is not expected because the Office of Behavioral Health licenses and contracts with individual providers and not Counties.

Federal Fiscal Impact

The federal government requires state controlled substance licensing to align with the federal Controlled Substance Licensing Act. OBH works closely with the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Drug Enforcement Administration (DEA) regarding how Colorado licenses and regulates substance use disorder programs that use controlled substances. No federal fiscal impact is expected.

Title of Proposed Rule:	**Follow-Up Updates To Controlled Substance Licensing**	
CDHS Tracking #:	**21-09-29-01**	
Office, Division, & Program: OBH, Division of Community Behavioral Health	Rule Author: Ryan Templeton	Phone: 303-827-8667 E-Mail: ryan.templeton@state.co.us

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

Updates will impact substance use disorder providers that are licensed to provide treatment services using controlled substances, as these updates must be implemented by providers.

4. Data Description

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

OBH also worked closely with stakeholders, the Substance Abuse and Mental Health Services Administration (SAMHSA), and the Drug Enforcement Administration (DEA) to ensure the proposed updates to OBH-controlled substance licensing standards align with the federal standards regulating how controlled substances may be used to treat substance use disorders.

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…"**

The Office of Behavioral Health considered moving forward with the recently updated Controlled Substance Licensing rules. Through meetings with stakeholders and the State Board of Human Services, it was determined that the best course of action would be to pursue additional regulatory updates.

Title of Proposed Rule: **Follow-Up Updates To Controlled Substance Licensing**

CDHS Tracking #: **21-09-29-01**

Office, Division, & Program: OBH, Division of Community Behavioral Health

Rule Author: Ryan Templeton

Phone: 303-827-8667

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
7.000	*Incorrect Statutory Reference*	*Section 26.5.103 C.R.S.*	*Section 26.5-101(3) C.R.S.*		
21.300.1	"dispenser" not used in rule section	"Dispenser" means a practitioner who dispenses.	not applicable	Remove "dispenser" definition as "dispenser not used in rule section.	No
21.300.22	Unclear initial licensing requirements.	D. Initial applicants that are in full compliance shall be granted a six (6) month provisional license while they receive Drug Enforcement Administration (DEA) registration and Substance Abuse and Mental Health Services Administration (SAMHSA) certification. E. After the first provisional license, a second six (6) month provisional license may be granted if substantial progress continues to be made, and it is likely compliance can be achieved by the date of expiration of the second provisional license. F. Upon an agency receiving their DEA registration, SAMHSA certification and having enrolled individuals into services, The Office of Behavioral Health shall conduct a site visit to determine compliance with all applicable state and federal laws and regulations. If an agency demonstrates compliance, a full controlled substance license shall be issued.	D. Initial applicants that have submitted satisfactory policies and procedures and other required documentation shall be granted a six (6) month provisional license. E. If after the first provisional license an agency has not demonstrated full compliance, a second six (6) month provisional license may be granted if substantial progress continues to be made, and it is likely compliance can be achieved by the date of expiration of the second provisional license. F. The Office of Behavioral Health shall conduct a site visit to determine compliance with all applicable state and federal laws and regulations. If an agency demonstrates compliance, a full controlled substance license shall be issued.	Establishes clear expectations for receiving an initial license.	No
21.300.23	Policies do not need to be submitted with each renewal application. (G) does not allow for probationary status to come into compliance.	A. Agencies wishing to continue their controlled substance license shall submit a license renewal application affirmed and signed by a physician to the Department thirty (30) days prior to the expiration date of their current controlled substance license	A. Agencies wishing to continue their controlled substance license shall submit a license renewal application to the Department thirty (30) days prior to the expiration date of their current controlled substance license along with the required fee of five hundred dollars	Establish clear licensing renewal expectations.	No

		along with the required fee of five hundred dollars ($500). A copy of the licensee's current controlled substance policies and procedures shall also be submitted with each annual renewal application. G. Licensees not in full compliance shall have their applications for renewal of their controlled substance license denied. The licensee shall receive by certified mail written notification as to why the license was denied and notification that their current controlled substance license is no longer in effect as of ten (10) days from the date the denial letter was mailed. If an applicant disagrees with the decision, s/he may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for an initial license in accordance with Section 21.300 of these rules.	($500). A copy of the licensee's dea narcotic treatment program registration and samhsa accreditation or certification as applicable shall also be submitted with each annual renewal application for this program type.		
21.300.24 (NEW)	No probationary license section	None	A. At the Department's discretion, a probationary license may be granted to an agency out of compliance with applicable department, state or federal regulations prior to issuance of a renewal license or during a current license term. The agency will be notified in writing of non-compliance areas and the need for a plan of action (see Section 21.120.6). B. A probationary license will replace the current license for a period not to exceed ninety (90) calendar days. C. Administrative and treatment activities may be limited by a probationary license while the agency addresses corrective actions. D. A probationary license may be re-issued for a period not to exceed ninety (90) calendar days if substantial progress continues to be made and it is likely that compliance can be achieved by the date of expiration of the second probationary license. E. If the licensee fails to comply with or complete a plan of action in the time or manner specified, or	Establishes probationary licensing standards.	No

			is unwilling to consent to the probationary license, the modification to a probationary license shall be treated as a revocation of the licensee and s/he shall be notified by certified mail that the probationary license is no longer in effect as of ten (10) days from the date the letter was mailed. if an applicant disagrees with the decision, s/he may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for an initial license in accordance with section 21.120.2 of these rules.		
21.300.24	Re-number current section 21.300.24	21.300.24 License Denial, Revocation, or Suspension	21.300.25 License Denial, Revocation, or Suspension	New Section 21.300.25 that contains the current 21.300.24 requirements	No
21.300.9	Rules do not align with federal screening requirements.	C. How all individuals entering medication assisted treatment shall provide a toxicology screen at time of admission and then at least one random toxicology screen per month which test for the presence of all substances of abuse, including alcohol and marijuana. D. How a licensee shall address an individual having illicit substances in a toxicology screen, including unauthorized prescription medication: E. How the licensee will have the ability to observe sample collection by appropriate personnel to help minimize falsification.	C. How all individuals entering medication assisted treatment shall provide a toxicology screen at time of admission and then as clinically indicated throughout the treatment episode. D. How a licensee shall address an individual having illicit substances in a toxicology screen, including unauthorized prescription medication:	Updates toxicology screening requirements to align with federal requirements.	No
21.320.1	Definitions need updating	“Administrative Discharge” means a process where it has been determined that a person in OTP is unsafe and needs to be discharged immediately. The timeframe for this typically involves a taper at a rate set forth by the program. “Courtesy Dosing” is known nationally as “Guest Dosing”, which means a process where a person in OTP may be able to dose at another clinic; either in the state, or out of state to maintain the continuity of care for their OTP. “Special Exception Requests” are requests that must be sent to the state controlled	“Administrative Discharge” means a process where it has been determined that a person in an OTP needs to be discharged immediately for reasons including but not limited to non-payment of fees, disruptive conduct or behavior, violent conduct or threatening behaviors, or incarceration or other confinement that does not permit continuation of an individual's medication-assisted treatment. The timeframe for this typically involves a taper at a rate set forth by the program. “Authorized OTP practitioner” means a physician or advanced practice registered nurse, nurse practitioner, physician assistant, or pharmacist	Update definitions to align with federal definition	

		administrator for final approval. These requests are for take home bottles above and beyond what is allowed for the person who is on Methadone at the time of the request. "Take-Out Bottle" is a prescription of individually labeled bottle or bottles of Methadone that is determined to be allowed for each particular phase of treatment. Each bottle or bottles is labeled with proper required DEA information.	clinician with approval from samhsa and the state to operate within their scope of practice within an OTP. "Guest dosing", which means a process where a person in OTP may be able to dose at another clinic; either in the state, or out of state to maintain the continuity of care for their OTP. "Special Exception Requests" are requests that must be sent to the state authority for final approval. These requests are for take home bottles above and beyond what is allowed for the person who is on Methadone at the time of the request. "Take-Home Bottle" is a prescription of individually labeled bottle or bottles of Methadone that is determined to be allowed for each particular phase of treatment. Each bottle or bottles is labeled with proper required DEA information.		
21.320.2	Grammar issues and needed approval clarification	A. Opioid Treatment Programs (OTP) shall be provided to individuals meeting criteria for opioid use disorder according to the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013), which is hereby incorporated by reference. No later editions or amendments are incorporated. You may obtain a copy of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013) from the American Psychiatric Association, 1000 Wilson Boulevard, Arlington, VA 22209-3901. You may inspect a copy of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013) at the Colorado Department of Human Services, Office of Behavioral Health, 3824 W. Princeton Circle, Denver, CO 80236, during regular business hours. B. Agencies applying to be licensed as an OTP shall have the following: 1. Controlled substance license;	A. Opioid Treatment Programs (OTP) shall provide treatment to individuals meeting criteria for opioid use disorder according to the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013), which is hereby incorporated by reference. No later editions or amendments are incorporated. You may obtain a copy of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013) from the American Psychiatric Association, 1000 Wilson Boulevard, Arlington, VA 22209-3901. You may inspect a copy of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013) at the Colorado Department of Human Services, Office of Behavioral Health, 3824 W. Princeton Circle, Denver, CO 80236, during regular business hours. B. Agencies applying to be licensed as an OTP shall have the following: 1. Controlled substance license; 2. Drug Enforcement Administration (DEA) registration;	Clarifies that an OTP provides treatment rather than a program be provided to an individual and aligns what an OTP needs to operate.	No

		2. Federal accreditation; 3. Drug Enforcement Administration (DEA) registration; and, 4. Substance Use and Mental Health Services Administration (SAMHSA) certification;	3. Substance Use and Mental Health Services Administration (SAMHSA) certification; AND, 4. Federal accreditation, when applicable.		
21.320.21	Rules do not address mobile OTP units.	None	A. OTPs utilizing mobile units shall follow the procedures put forth in Title 21, Food and Drugs, Chapter II, Code of Federal Regulations Section 1300, 1301, and 1304. B. OTP's shall develop the following plans for mobile units: 1. Staffing plan; 2. Security plan; 3. Contingency plans for mobile unit closure including but not limited to, adverse weather events, human-induced disasters, and unit breakdown; and, 4. Vehicle maintenance plan. C. Mobile units shall comply with reporting requirements determined by the Department.	Establishes base standards for an OTP Mobile Unit	No
21.320.31	Individual to counselor ratio is causing OTP access issues	OTP sponsors are responsible for the following: A. Overall operation of the program including, but not limited to: 1. Compliance with all applicable state and federal laws, rules, and regulations; 2. Medical and counseling personnel are qualified to provide opioid replacement treatment; 3. Individuals are enrolled on their own volition; 4. Full disclosure is made to individuals about opioids and their use in treatment. 5. Written, informed consents for opioid replacement treatment are signed by individuals eighteen (18) years of age and older; 6. Written, informed consents for all	OTP sponsors are responsible for the following: A. Overall operation of the program including, but not limited to: 1. Compliance with all applicable state and federal laws, rules, and regulations; 2. Medical and counseling personnel are qualified to provide opioid replacement treatment; 3. Individuals are enrolled on their own volition; 4. Full disclosure is made to individuals about opioids and their use in treatment. 5. Written, informed consents for opioid replacement treatment are signed by individuals eighteen (18) years of age and older; 6. Written, informed consents for all aspects of opioid replacement treatment are signed by parents, legal guardians or other responsible adults designated by appropriate state authorities for individuals	Removes individual to counselor ratio to allow for better access to OTP services.	No

		aspects of opioid replacement treatment are signed by parents, legal guardians or other responsible adults designated by appropriate state authorities for individuals under age eighteen (18) years old; 7. Individual/counselor ratios do not exceed fifty to one (50:1) for full-time counseling staff, forty (40) hours per week, and twenty five to one (25:1) for half-time counseling staff, twenty (20) hours per week; 8. Written (OTP) policies and procedures are developed, implemented and maintained that are based on and in compliance with Department rules; 9. All reasonable and clinically indicated efforts are made to coordinate treatment with other healthcare and behavioral health providers. Documentation includes obtaining individuals' consent to release information to communicate with those practitioners. 10. Methadone and other controlled substances are disposed of in accordance with the federal regulations. 11. Printed acknowledgements are signed by patients and kept in patient records stating that they have been informed of the United States Department of Transportation regulation against the use of OTP prescribed methadone by commercial drivers and the possible loss of commercial driver's license if taking methadone for an opioid use disorder is discovered. B. Training 1. Training for new (OTP) staff is	under age eighteen (18) years old; 7. Written (OTP) policies and procedures are developed, implemented and maintained that are based on and in compliance with Department rules; 8. All reasonable and clinically indicated efforts are made to coordinate treatment with other healthcare and behavioral health providers. Documentation includes obtaining individuals' consent to release information to communicate with those practitioners. 9. Methadone and other controlled substances are disposed of in accordance with the federal regulations. 10. Printed acknowledgements are signed by patients and kept in patient records stating that they have been informed of the United States Department of Transportation regulation against the use of OTP prescribed methadone by commercial drivers and the possible loss of commercial driver's license if taking methadone for an opioid use disorder is discovered. B. Training 1. Training for new (OTP) staff is documented in personnel records including, but not limited to provisions of Section 21.160.1, A, 3, and: a. Federal opioid treatment program regulations; b. OTP treatment rules; c. OTP policies and procedures; d. Clinical practices including, but not limited to: 1) Protocols around special exception requests; 2) Phase level requests; and 3) Any take-home protocol such as holiday dosing, weekend dosing, hold doses, hospitalization of individuals, incarceration, nursing		

		documented in personnel records including, but not limited to provisions of Section 21.160.1, A, 3, and: a. Federal Opioid Medication Assisted Treatment regulations; b. OTP treatment rules; c. OTP policies and procedures; d. Clinical practices including, but not limited to: 1) Protocols around special exception requests; 2) Phase level requests; and 3) Any take-home protocol such as holiday dosing, weekend dosing, hold doses, hospitalization of individuals, incarceration, nursing home stays, and courtesy dosing. e. Pharmacology of methadone including, but not limited to, loss of tolerance to opioids, dangerous drug or alcohol interactions, signs and symptoms of overdose, purpose of its use.	home stays, and guest dosing. e. Pharmacology of methadone including, but not limited to, loss of tolerance to opioids, dangerous drug or alcohol interactions, signs and symptoms of overdose, purpose of its use.		
21.320.32	40% of medical director's time at a program causes access issues	A. Agencies shall have designated medical directors who shall authorize and oversee other physicians, other appropriately licensed and/or certified medical personnel and all medical services provided. B. Each OTP shall have at least one medical director per program location. These site-level medical directors shall be physically present at the OTP at least forty percent (40%) of the time that the program administers or dispenses medication. Site-level medical directors may serve in their same capacity at additional sites as long as they are physically present at the ancillary opioid treatment programs at least forty percent (40%) of the time that the program administers or dispenses medication and	A. Agencies shall have designated medical directors who shall authorize and oversee other physicians, other appropriately licensed and/or certified medical personnel and all medical services provided. B. Each OTP shall have at least one medical director per program. These medical directors shall be available to the OTP for service provision or consultation. C. Medical directors and other medical healthcare providers shall currently possess and maintain licenses to practice medicine/nursing in compliance with the credentialing requirements of their own profession in Colorado as provided by Article 240, Title 12, C.R.S. OTP medical directors shall assure appropriate credentials and training for other OTP physicians and other	Updates OTP medical director requirements	No

		can satisfactorily discharge all of their duties for each program. C. Medical directors and other medical healthcare providers shall currently possess and maintain licenses to practice medicine/nursing in compliance with the credentialing requirements of their own profession in Colorado as provided by Article 240, Title 12, C.R.S. OTP medical directors shall assure appropriate credentials and training for other OTP physicians and other qualified health care providers to dispense, compound or administer a controlled substance in an OTP. D. Medical directors shall ensure that the OTP agency is in compliance with all state and federal rules and regulations regarding medical treatment for opioid use disorder. E. OTP medical directors, other OTP physicians and authorized OTP medical personnel shall ensure the following: 1. Medical evaluations including evidence of current physiological dependence and/or history of opioid use or exceptions to admission criteria that are documented prior to initial dosing; 2. These medical evaluations are done at admission prior to initial dose. 3. The physical examinations and all appropriate laboratory tests are performed and reviewed within fourteen (14) calendar days following treatment admission; 4. All medical professionals shall educate individuals regarding risks and benefits of OTP and document that individuals are entering voluntarily. 5. All medical orders are properly signed or countersigned including initial orders for approved controlled substances	qualified health care providers to dispense, compound or administer a controlled substance in an OTP. D. Medical directors shall complete an annual review of federal and state guidelines and rules to ensure that the OTP agency is in compliance with all state and federal rules and regulations regarding medical treatment for opioid use disorder. E. Medical directors shall sign an acknowledgment of review of all controlled substance licensing violations. F. OTPs shall have a mid-level practitioner's plan that at minimum: 1. Identifies all practitioners with prescriptive authority; 2. Ensures mid-level practitioners with prescriptive authority have a SAMHSA approved mid-level exemption (mle); 3. Identifies the number of hours practitioners with prescriptive authority are onsite weekly; 4. Establishes mid-level practitioner supervision requirements; and, 5. Addresses consultation requirements for when medical directors are not onsite. G. OTP medical directors, other OTP physicians and authorized OTP medical personnel shall ensure the following: 1. Medical evaluations including evidence of current physiological dependence and/or history of opioid use or exceptions to admission criteria that are documented prior to initial dosing; 2. These medical evaluations are done at admission prior to initial dose. 3. The physical examinations and all appropriate laboratory tests are performed and reviewed within fourteen (14) calendar days following treatment admission; 4. All medical professionals shall educate individuals regarding risks and benefits of		

		and other medications, subsequent dose increases or decreases, changes in take-home dose privileges, emergency situations and other special circumstances by the medical director. F. Medical directors or other physicians shall review, countersign and date intake evaluations written by authorized medical personnel before initial doses may be administered to individuals. When medical directors and other physicians are not available on-site to review, countersign and date evaluations for admission written by medical personnel, required physician reviews may be conducted by telephone and initial doses may be administered to individuals on physicians' verbal or standing orders. In such cases, medical personnel shall document in individual records that no physicians were available on site and that physician reviews were conducted by telephone. Medical directors or other physicians shall review and countersign authorizations. G. Medical directors and other qualified health care professionals shall utilize the information obtained from the Colorado State Board of Pharmacy's electronic Prescription Drug Monitoring Program (PDMP), developed pursuant to 12-280-403, C.R.S., as clinically appropriate upon intake.	OTP and document that individuals are entering voluntarily. 5. All medical orders are properly signed or countersigned including initial orders for approved controlled substances and other medications, subsequent dose increases or decreases, changes in take-home dose privileges, emergency situations and other special circumstances by the medical director. H. Medical directors and other qualified health care professionals shall utilize the information obtained from the Colorado State Board of Pharmacy's electronic Prescription Drug Monitoring Program (PDMP), developed pursuant to 12-280-403, C.R.S., as clinically appropriate upon intake.		
21.320.41	Limits OTP personnel able to complete admissions	B. Individuals shall be admitted to opioid medication assisted treatment if OTP medical directors or other OTP physicians-determine, and subsequently document in individual records, that such individuals are currently physiologically dependent on opioid drugs or were physiologically dependent on opioid drugs, continuously or episodically for most of the year	B. Individuals shall be admitted to opioid medication assisted treatment if OTP medical directors or authorized OTP practitioners determine, and subsequently document in individual records, that such individuals are currently physiologically dependent on opioid drugs or were physiologically dependent on opioid drugs, continuously or episodically for most of the year immediately preceding	Aligns rules for admission personnel with Federal standards.	No

		immediately preceding admission. C. In the case of individuals for whom the exact date on which physiological dependence began cannot be ascertained, OTP medical directors or other OTP physicians may, using reasonable clinical judgment, admit such individuals to opioid replacement treatment if from the evidence presented and recorded in individual records it is reasonable to conclude that such individuals were physiologically dependent on opioid drugs approximately one year prior to admission. D. OTP medical directors or other OTP physicians may waive the one-year history of opioid use requirement, if clinically appropriate, for the following: 1. Persons released from penal institutions if admitted to treatment within six (6) consecutive months following release; 2. Pregnant individuals, if OTP physicians certify pregnancy; or 3. Former persons receiving treatment for up to two (2) consecutive years after discharge. E. Persons under age eighteen (18) shall have at least two unsuccessful attempts at short-term detoxification or drug-free treatment documented within a twelve-month period. F. OTPs offering short-term or long-term detoxification treatment shall follow all applicable state and federal laws, rules and regulations regarding admission criteria. G. OTPs shall not admit persons for more than two (2) detoxification treatment episodes per year. H. At time of admission, individuals shall be oriented to OTP policies and procedures including, but not limited to:	admission. C. In the case of individuals for whom the exact date on which physiological dependence began cannot be ascertained, OTP medical directors or authorized OTP practitioners may, using reasonable clinical judgment, admit such individuals to opioid replacement treatment if from the evidence presented and recorded in individual records it is reasonable to conclude that such individuals were physiologically dependent on opioid drugs approximately one year prior to admission. D. OTP medical directors or authorized OTP practitioners may waive the one-year history of opioid use requirement, if clinically appropriate, for the following: 1. Persons released from penal institutions if admitted to treatment within six (6) consecutive months following release; 2. Pregnant individuals, if OTP physicians certify pregnancy; or 3. Former persons receiving treatment for up to two (2) consecutive years after discharge. E. Persons under age eighteen (18) shall have at least two unsuccessful attempts at short-term detoxification or drug-free treatment documented within a twelve-month period. F. OTPs offering short-term or long-term detoxification treatment shall follow all applicable state and federal laws, rules and regulations regarding admission criteria. G. OTPs shall not admit persons for more than two (2) detoxification treatment episodes per year. H. At time of admission, individuals shall be oriented to OTP policies and procedures including, but not limited to: 1. Benefits and risks of opioid replacement treatment. 2. Fee structure and payment options. This policy shall include written		

		1. Benefits and risks of opioid replacement treatment. 2. Fee structure and payment options. This policy shall include written acknowledgement of understanding from the individual. The individual will be provided with a copy of this document and a copy will be placed in the clinical record. 3. Conditions for dosing, counseling and toxicology sample collection. The policy shall include provisions for holding doses, evaluation of the "impaired" individual, treatment stipulations and agreements, "refusal" or "inability" to provide specimens for toxicology testing and unacceptable/unsafe behavior that limits the individual's ability to participate in OTP. 4. Take-home dose privilege phase system. 5. Special privilege exception requests. 6. Consequences for violating policies; and, 7. Written procedures and signed acknowledgements around the following shall include, but not be limited to: a. Behavioral agreements; b. Office treatment lock-in; c. Office treatment lock-out; d. Reductions in take-home dose privileges; e. Administrative discharges; f. Administrative transfers; g. Courtesy dosing; h. OTP transfer policy; i. Taper protocol for any and all circumstances including inability to pay;	acknowledgement of understanding from the individual. The individual will be provided with a copy of this document and a copy will be placed in the clinical record. 3. Conditions for dosing, counseling and toxicology sample collection. The policy shall include provisions for holding doses, evaluation of the "impaired" individual, treatment stipulations and agreements, "refusal" or "inability" to provide specimens for toxicology testing and unacceptable/unsafe behavior that limits the individual's ability to participate in OTP. 4. Take-home dose privilege phase system. 5. Special privilege exception requests. 6. Consequences for violating policies; and, 7. Written procedures and signed acknowledgements around the following shall include, but not be limited to: a. Behavioral agreements; b. Office treatment lock-in; c. Office treatment lock-out; d. Reductions in take-home dose privileges; e. Administrative discharges; f. Administrative transfers; g. Courtesy dosing; h. OTP transfer policy; i. Taper protocol for any and all circumstances including inability to pay; j. Hospitalization while in OTP instructions including, clinic after hours information; k. Emergency procedures in case of a natural disaster, human-induced disaster, or emergent closing of the clinic; l. Use of Prescription Drug Monitoring Program in treatment; m. Use of other prescription medications in treatment; and,		

		j. Hospitalization while in OTP instructions including, clinic after hours information; k. Emergency procedures in case of a natural disaster, or emergent closing of the clinic; l. Use of Prescription Drug Monitoring Program in treatment; m. Use of other prescription medications in treatment; and, n. Provisions around conditions for dosing.	n. Provisions around conditions for dosing.		
21.320.5	Limits OTP personnel able to prescribe, dispense and administer medications.	A. OTP medical directors or other OTP physicians shall order approved controlled substances and document orders in individual records.	A. OTP medical directors or an authorized OTP practitioner shall order approved controlled substances and document orders in individual records.	Aligns rules for prescribing, dispensing and administering medications with Federal standards.	No
21.320.61	Limits OTP personnel able to complete evaluations and assessments.	A. Individuals re-admitted to treatment following treatment absences of six (6) months or more shall undergo medical evaluations, physical examinations, and/or laboratory tests as deemed appropriate by OTP medical directors or other healthcare providers. B. Other medical concerns shall be addressed by OTPs or referred to other medical agencies when appropriate as determined by OTP medical directors or other health care providers.	A. Individuals re-admitted to treatment following treatment absences of six (6) months or more shall undergo medical evaluations, physical examinations, and/or laboratory tests as deemed appropriate by OTP medical directors or authorized OTP practitioners. B. Other medical concerns shall be addressed by OTPs or referred to other medical agencies when appropriate as determined by OTP medical directors or authorized OTP practitioners.	Aligns rules for personnel able to complete evaluations and assessments with Federal standards.	No
21.320.62	Clarify list of who can do a medical evaluation	Individuals admitted to OTPs shall have medical evaluations conducted by medical directors, other OTP physicians, nurse practitioners, or physician assistants prior to the first dose. Medical evaluations shall include, at minimum, the following: A. Past medical history, past substance abuse history including required opioid use and dependence chronologies, choice of opioid and route of administration; B. Evidence of current physiological dependence; and C. Cardiovascular assessment for the risk of	Individuals admitted to OTPs shall have medical evaluations conducted by medical directors, authorized OTP practitioners, nurse practitioners, or physician assistants prior to the first dose. Medical evaluations shall include, at minimum, the following: A. Past medical history, past substance abuse history including required opioid use and dependence chronologies, choice of opioid and route of administration; B. Evidence of current physiological dependence; C. Cardiovascular assessment for the risk of Torsades de Pointe; and,	Updated who can do medical evaluations and what needs to be addressed	No

		Torsades de Pointe.	D. Common co-occurring conditions.		
21.320.63	Clarify list of who can do a physical examination	A. Thorough physical examinations shall be conducted, evaluated and documented in individual records by medical directors or other OTP qualified healthcare professionals practicing within their scope, within fourteen (14) consecutive calendar days following treatment admission and every two (2) consecutive years from date of admission.	A. Thorough physical examinations shall be conducted, evaluated and documented in individual records by medical directors or authorized OTP practitioners practicing within their scope, within fourteen (14) consecutive calendar days following treatment admission and every two (2) consecutive years from date of admission.	Changed other OTP qualified healthcare professional with authorized OTP practitioners	No
21.320.64	Not all lab tests are required	A. Admission laboratory tests shall be conducted with individual consent either on-site or through referral, and results shall be evaluated and documented in individual records within fourteen (14) consecutive calendar days following treatment. Admission laboratory tests shall include: 1. Serological test for syphilis; 2. Tuberculin skin test and/or other tests for tuberculosis when clinically indicated; 3. Urine toxicology or other tests to determine current drug use; 4. Complete blood count and differential, as clinically indicated; 5. Routine and microscopic urinalysis, as clinically indicated; 6. Liver function tests; 7. Test for Hepatitis B, C, and Delta when clinically indicated; 8. Test for HIV/AIDS when clinically indicated. B. The following laboratory tests shall be conducted with consent, every two (2) consecutive years from date of admission. 1. Tuberculin skin test and/or other tests for tuberculosis when clinically indicated. 2. Complete blood count and differential, as clinically indicated. 3. Liver function profile, as clinically	A. Admission laboratory tests shall be conducted with individual consent either on-site or through referral, and results shall be evaluated and documented in individual records within fourteen (14) consecutive calendar days following treatment. B. Screening for the following shall be documented and laboratory tests shall be completed when clinically indicated: 1. Serological test for syphilis; 2. Tuberculin skin test and/or other tests for tuberculosis; 3. Urine toxicology or other tests to determine current substance use; 4. Complete blood count and differential; 5. Routine and microscopic urinalysis; 6. Liver function tests; 7. Test for Hepatitis B, C, and Delta; 8. Test for HIV/AIDS. C. The following laboratory tests shall be conducted with consent, every two (2) consecutive years from date of admission. 1. Tuberculin skin test and/or other tests for tuberculosis when clinically indicated. 2. Complete blood count and differential, as clinically indicated. 3. Liver function profile, as clinically indicated.	Base lab tests “as clinically indicated” off of a required screening.	No

		indicated.			
21.320.7	No provision for if/when new drug trends may emerge.	None	G. The State Authority will monitor drug trends and may require testing for additional substances that pose a risk to health and safety.	Adds a provision allowing OBH to require additional testing based on drug trends.	No
21.320.81	Qualifications for individual dosing privileges are repetitive or unneeded.	A. Individuals may qualify to self-administer methadone doses at locations other than OTPs if they meet all the criteria for each of six (6) phases of take-home dose privileges. Individuals shall qualify for each phase sequentially and must have the following, at minimum, in addition to length of time for each phase: 1. Most recent toxicology screen is negative; 2. Clinical assessments completed; 3. Minimum of one (1) hour of counseling per month; 4. No unexcused dosing absences; 5. No unexcused counseling absences; 6. Compliance with OTP policies and procedures; 7. No known recent criminal activity; 8. No alcohol abuse; 9. Competent to safely handle take-home doses; 10. Responsible behavior; 11. Stable living environments; 12. Stable social relationships; 13. Adherence to service plans; and, 14. Compliance with on-site dosing schedules; and, 15. Prescription drug monitoring shall be used upon increase of each phase and documented in the chart. a. In addition to items 1-15, above, Phase 1 permits a take-home dose for Sunday and one (1) additional take-home dose per week on or after the first ninety (90) consecutive calendar days of	A. Individuals may qualify to self-administer methadone doses at locations other than OTPs if they meet all the criteria for each of six (6) phases of take-home dose privileges. Individuals shall qualify for each phase sequentially and must have the following, at minimum, in addition to length of time for each phase: 1. Most recent toxicology screen is negative; 2. Regular clinic attendance; 3. Compliance with OTP policies and procedures; 4. No known recent criminal activity; 5. Competent to safely handle take-home doses; 6. Absence of serious behavioral problems at the clinic; 7. Stable living environments; 8. Stable social relationships; 9. Rehabilitative benefit the patient derives from decreasing the frequency of clinic attendance outweighs the potential risk of diversion; and; 10. Prescription drug monitoring shall be used upon increase of each phase and documented in the chart. a. In addition to items 1-10, above, Phase 1 permits a take-home dose for Sunday and one (1) additional take-home dose per week on or after the first ninety (90) consecutive calendar days of treatment. b. In addition to items 1-10(a), Phase 2 permits a take-home dose for Sunday and two (2) additional take-home doses per week when the individual has completed four (4) or more consecutive months in treatment, and the most	Establishes individual requirements rather than lists requirements out of an individual's control.	No

		treatment. b. In addition to items 1-15(a), Phase 2 permits a take-home dose for Sunday and two (2) additional take-home doses per week when the individual has completed four (4) or more consecutive months in treatment, and the most recent two (2) consecutive urine screens are negative. Individuals shall receive no more than two (2) consecutive calendar days of take-home doses. c. In addition to items 1-15(a) through (b), Phase 3 permits a take-home dose for Sunday and three (3) additional take-home doses per week when the individual has completed six (6) or more consecutive months in treatment, and the most recent three (3) consecutive urine drug screens are negative. Individuals shall receive no more than two (2) consecutive days of take-home doses. d. Individuals may qualify for Phase 4 when, in addition to items 1-15(a) through (c), an individual has completed nine (9) or more months in treatment and the most recent four (4) consecutive toxicology screens are negative. Phase 4 permits a take-home dose for Sunday and five (5) additional take-home doses per week. e. Phase 5 permits thirteen (13) take-home doses per two-week period. Individuals may qualify for Phase 5 when, in addition to items	recent two (2) consecutive urine screens are negative. Individuals shall receive no more than two (2) consecutive calendar days of take-home doses. c. In addition to items 1-10(a) through (b), Phase 3 permits a take-home dose for Sunday and three (3) additional take-home doses per week when the individual has completed six (6) or more consecutive months in treatment, and the most recent three (3) consecutive urine drug screens are negative. Individuals shall receive no more than two (2) consecutive days of take-home doses. d. Individuals may qualify for Phase 4 when, in addition to items 1-10(a) through (c), an individual has completed nine (9) or more months in treatment and the most recent four (4) consecutive toxicology screens are negative. Phase 4 permits a take-home dose for Sunday and five (5) additional take-home doses per week. e. Phase 5 permits thirteen (13) take-home doses per two-week period. Individuals may qualify for Phase 5 when, in addition to items 1-10(a) through (d), the individual has completed one (1) or more years in treatment, AND the most recent eight (8) consecutive toxicology screens are negative. f. Phase 6 permits twenty-eight (28) to thirty (30) take-home doses per month. Individuals may qualify for Phase 6 when, in addition to the above, the following criteria are met: 1) Completed two (2) or more years in treatment;		

		1-15(a) through (d), the individual has completed one (1) or more years in treatment, AND the most recent eight (8) consecutive toxicology screens are negative. f. Phase 6 permits twenty-eight (28) to thirty (30) take-home doses per month. Individuals may qualify for Phase 6 when, in addition to the above, the following criteria are met: 1) Completed two (2) or more years in treatment; 2) Most recent eight (8) consecutive toxicology screens are negative. B. Individuals transferring from out of state must meet the Colorado state requirements for the take-out phase they are requesting. L. OTPs shall submit and obtain Department approval for the following: 1. Split doses with the exception of pregnant individuals; 2. Take-home doses for individual detoxification lasting less than thirty (30) consecutive calendar days; 3. Take-home doses that do not conform to take-home dose phase requirements; 4. Take-home medication doses for individuals with unacceptable urine drug screen results within the last ninety (90) calendar days; 5. Take-home doses for OTP individuals admitted to extended health care agencies or licensed residential substance use disorder agencies; 6. Phase 5 take-home doses.	2) Most recent eight (8) consecutive toxicology screens are negative. B. Individuals transferring from out of state must meet the Colorado state requirements for the take-home phase they are requesting. L. OTPs shall submit and obtain Department approval for the following: 1. Split doses with the exception of pregnant individuals; 2. Take-home doses for individual detoxification lasting less than thirty (30) consecutive calendar days; 3. Take-home doses that do not conform to take-home dose phase requirements; 4. Take-home medication doses for individuals with unacceptable urine drug screen results within the last ninety (90) calendar days; 5. Take-home doses for OTP individuals admitted to extended health care agencies or licensed residential substance use disorder agencies.		

Title of Proposed Rule:	**Follow-Up Updates To Controlled Substance Licensing**	
CDHS Tracking #:	**21-09-29-01**	
Office, Division, & Program: OBH, Division of Community Behavioral Health	Rule Author: Ryan Templeton	Phone: 303-827-8667 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 OBH staff member serving as Colorado's State Opioid Treatment Authority was the driving force behind the rule updates, along with the stakeholders concerned with the controlled substance licensing rules update adopted in January 2021. Each substance use disorder program with an OBH-issued controlled substance license has participated in the development of the rule update.

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 proposed rule draft, along with a feedback survey, was posted on the 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 who receive the monthly newsletter include: Colorado Behavioral Healthcare Council; Colorado Hospital Association; Mental Health Colorado; Behavioral Health Planning and Advisory Council; Department of Public Health and Environment; Department of Regulatory Agencies; Department of Health Care Policy and Financing; Department of Public Safety; substance use disorder providers; community mental health centers; community mental health clinics; hospitals; patient advocacy agencies; individuals and families with lived experience; and law enforcement.

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?

Title of Proposed Rule:	**Follow-Up Updates To Controlled Substance Licensing**	
CDHS Tracking #:	**21-09-29-01**	
Office, Division, & Program: OBH, Division of Community Behavioral Health	Rule Author: Ryan Templeton	Phone: 303-827-8667 E-Mail: ryan.templeton@state.co.us

☐ Yes ☒ 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		

PAC

Have these rules been approved by PAC?

☐ Yes ☒ No

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.	Pursuant to PAC Bylaws, Office of Behavioral Health rules are not required to go through PAC.		

Other Comments

Comments were received from stakeholders on the proposed rules:

☐ Yes ☒ No

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

The rule updates are currently posted for an opportunity for stakeholder review and feedback.

(2 CCR 502-1)

21.300 LICENSING OF SUBSTANCE USE DISORDER PROGRAMS USING CONTROLLED SUBSTANCES

21.300.1 DEFINITIONS

~~"Dispenser" means a practitioner who dispenses.~~

****

21.300.22 Initial License

D. Initial applicants that HAVE SUBMITTED SATISFACTORY POLICIES AND PROCEDURES AND OTHER REQUIRED DOCUMENTATION ~~are in full compliance~~ shall be granted a six (6) month provisional license. ~~while they receive Drug Enforcement Administration (DEA) registration and Substance Abuse and Mental Health Services Administration (SAMHSA) certification.~~

E. IF after the first provisional license AN AGENCY HAS NOT DEMONSTRATED FULL COMPLIANCE, a second six (6) month provisional license may be granted if substantial progress continues to be made, and it is likely compliance can be achieved by the date of expiration of the second provisional license.

F. ~~Upon an agency receiving their DEA registration, SAMHSA certification and having enrolled individuals into services,~~ The Office of Behavioral Health shall conduct a site visit to determine compliance with all applicable state and federal laws and regulations. If an agency demonstrates compliance, a full controlled substance license shall be issued.

21.300.23 License Renewal

A controlled substance license shall expire one year from the date the license is granted.

A. Agencies wishing to continue their controlled substance license shall submit a license renewal application ~~affirmed and signed by a physician~~ to the Department thirty (30) days prior to the expiration date of their current controlled substance license along with the required fee of five hundred dollars ($500). ~~A copy of the licensee's current controlled substance policies and procedures shall also be submitted with each annual renewal application.~~ A COPY OF THE LICENSEE'S DEA NARCOTIC TREATMENT PROGRAM REGISTRATION AND SAMHSA ACCREDITATION OR CERTIFICATION AS APPLICABLE SHALL ALSO BE SUBMITTED WITH EACH ANNUAL RENEWAL APPLICATION FOR THIS PROGRAM TYPE.

B. Any treatment facility that currently has a controlled substance license issued by the Department may not apply for renewal more than sixty days before the expiration date of the current controlled substance license.

C. A controlled substance license renewal application that is received by the Department fewer than thirty (30) calendar days prior to the expiration of their existing license may fail to receive their new license prior to the expiration of their existing license. An agency

that submits its renewal application fewer than thirty (30) days prior to the expiration of the current license and does not receive a new license prior to the current license expiration may reapply for an initial license in accordance with section 21.300 of these rules.

D. A controlled substance license renewal application that is received by the Department after the current license expiration date shall be returned by certified mail with written notification that the license is no longer in effect. Applicants may reapply for an initial license in accordance with section 21.300 of these rules.

E. If the Governor or local government declares an emergency or disaster the department has discretion to modify the requirement for on-site inspections. If the department modifies the requirement for on-site inspections, the requirement shall only be modified as necessary because of circumstances related to the disaster or emergency.

F. A licensee that is in full compliance shall be granted renewal of their annual controlled substance license that shall be effective for one year from the prior license's expiration date.

~~G. Licensees not in full compliance shall have their applications for renewal of their controlled substance license denied. The licensee shall receive by certified mail written notification as to why the license was denied and notification that their current controlled substance license is no longer in effect as of ten (10) days from the date the denial letter was mailed. If an applicant disagrees with the decision, s/he may appeal (see Section 21.105); or upon remedying the noted deficiencies, may re-apply for an initial license in accordance with Section 21.300 of these rules.~~

21.300.24 PROBATIONARY LICENSE

A. AT THE DEPARTMENT'S DISCRETION, A PROBATIONARY LICENSE MAY BE GRANTED TO AN AGENCY OUT OF COMPLIANCE WITH APPLICABLE DEPARTMENT, STATE OR FEDERAL REGULATIONS PRIOR TO ISSUANCE OF A RENEWAL LICENSE OR DURING A CURRENT LICENSE TERM. THE AGENCY WILL BE NOTIFIED IN WRITING OF NON-COMPLIANCE AREAS AND THE NEED FOR A PLAN OF ACTION (SEE SECTION 21.120.6).

B. A PROBATIONARY LICENSE WILL REPLACE THE CURRENT LICENSE FOR A PERIOD NOT TO EXCEED NINETY (90) CALENDAR DAYS.

C. ADMINISTRATIVE AND TREATMENT ACTIVITIES MAY BE LIMITED BY A PROBATIONARY LICENSE WHILE THE AGENCY ADDRESSES CORRECTIVE ACTIONS.

D. A PROBATIONARY LICENSE MAY BE RE-ISSUED FOR A PERIOD NOT TO EXCEED NINETY (90) CALENDAR DAYS IF SUBSTANTIAL PROGRESS CONTINUES TO BE MADE AND IT IS LIKELY THAT COMPLIANCE CAN BE ACHIEVED BY THE DATE OF EXPIRATION OF THE SECOND PROBATIONARY LICENSE.

E. IF THE LICENSEE FAILS TO COMPLY WITH OR COMPLETE A PLAN OF ACTION IN THE TIME OR MANNER SPECIFIED, OR IS UNWILLING TO CONSENT TO THE PROBATIONARY LICENSE, THE MODIFICATION TO A PROBATIONARY LICENSE SHALL BE TREATED AS A REVOCATION OF THE LICENSEE AND S/HE SHALL BE NOTIFIED BY CERTIFIED MAIL THAT THE PROBATIONARY LICENSE IS NO LONGER IN EFFECT AS OF TEN (10) DAYS FROM THE DATE THE LETTER WAS MAILED. IF AN APPLICANT DISAGREES WITH THE DECISION, S/HE MAY APPEAL (SEE SECTION 21.105); OR UPON REMEDYING THE NOTED DEFICIENCIES, MAY RE-APPLY FOR AN INITIAL LICENSE IN ACCORDANCE WITH SECTION 21.120.2 OF THESE RULES.

21.300.25 ~~21.300.24~~ License Denial, Revocation, or Suspension

****

21.300.9 TOXICOLOGY SCREENING REQUIREMENTS

Licensees shall develop and implement toxicology screen policies and procedures that specify a random sample collection protocol and these policies shall include, but not be limited to:

A. How appropriate and approved samples for drug testing shall be collected and analyzed in accordance with applicable state and federal statutes and regulations.

B. How toxicology screens shall be used to detect the presence of the approved controlled substance, that is being dispensed, and its metabolite, for which laboratory analyses are available.

C. How all individuals entering medication assisted treatment shall provide a toxicology screen at time of admission and then AS CLINICALLY INDICATED THROUGHOUT THE TREATMENT EPISODE. ~~at least one random toxicology screen per month which test for the presence of all substances of abuse, including alcohol and marijuana.~~

D. How a licensee shall address an individual having illicit substances in a toxicology screen, including unauthorized prescription medication:

~~E. How the licensee will have the ability to observe sample collection by appropriate personnel to help minimize falsification.~~

****

21.320 OPIOID TREATMENT PROGRAMS (OTP)

21.320.1 DEFINITIONS

“Administrative Discharge” means a process where it has been determined that a person in AN OTP ~~is unsafe and~~ needs to be discharged immediately FOR REASONS INCLUDING BUT NOT LIMITED TO NON-PAYMENT OF FEES, DISRUPTIVE CONDUCT OR BEHAVIOR, VIOLENT CONDUCT OR THREATENING BEHAVIORS, OR INCARCERATION OR OTHER CONFINEMENT THAT DOES NOT PERMIT CONTINUATION OF AN INDIVIDUAL'S

MEDICATION-ASSISTED TREATMENT . The timeframe for this typically involves a taper at a rate set forth by the program.

“Administrative Transfer” means a process whereby a person in OTP is determined unsafe or has violated a behavioral agreement and a program is looking to transfer to another clinic of the person’s choice. This person is to be transferred at a time frame that is determined by agreement with the other programs.

“AUTHORIZED OTP PRACTITIONER” MEANS A PHYSICIAN OR ADVANCED PRACTICE REGISTERED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHARMACIST CLINICIAN WITH APPROVAL FROM SAMHSA AND THE STATE TO OPERATE WITHIN THEIR SCOPE OF PRACTICE WITHIN AN OTP.

~~“Courtesy Dosing” is known nationally as “Guest Dosing”, which means a process where a person in OTP may be able to dose at another clinic; either in the state, or out of state to maintain the continuity of care for their OTP.~~

“Dilute Urinalysis” for the purposes of these rules means a creatinine level less than twenty (20) milligrams.

“GUEST DOSING”, WHICH MEANS A PROCESS WHERE A PERSON IN OTP MAY BE ABLE TO DOSE AT ANOTHER CLINIC; EITHER IN THE STATE, OR OUT OF STATE TO MAINTAIN THE CONTINUITY OF CARE FOR THEIR OTP.

“Lock In” means a process where a program along with the State authority determine that a person is best served clinically at one program. This determines where the person is to go for their OTP.

“Lock Out” means a process where a program along with the State authority determine that it is in a person's best interest to be locked out of a program due to concerns of this person not being safe to themselves or others in a program and/or could be a threat to that program due to diversion or other items.

“OTP” means opioid treatment program.

“Special Exception Requests” are requests that must be sent to the STATE AUTHORITY ~~state controlled administrator~~ for final approval. These requests are for take home bottles above and beyond what is allowed for the person who is on Methadone at the time of the request.

“Take-HOME ~~Out~~ Bottle” is a prescription of individually labeled bottle or bottles of Methadone that is determined to be allowed for each particular phase of treatment. Each bottle or bottles is labeled with proper required DEA information.

“Taper” refers to when an individual is being reduced on his/her dose for any reason either of their own accord or due to concerns that the medical director raises. Tapers are started with a medical order and monitored by the medical staff.

'Torsades de Pointe” or simply Torsades, is a French term that literally means “twisting of the spikes.” It refers to a specific, rare variety of ventricular tachycardia that exhibits distinct characteristics on the electrocardiogram (ECG).

“Transfer” is when an individual transfers from one program to another without a break in treatment.

21.320.2 GENERAL PROVISIONS

A. Opioid Treatment Programs (OTP) shall ~~be~~ provide~~d~~ TREATMENT to individuals meeting criteria for opioid use disorder according to the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013), which is hereby incorporated by reference. No later editions or amendments are incorporated. You may obtain a copy of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013) from the American Psychiatric Association, 1000 Wilson Boulevard, Arlington, VA 22209-3901. You may inspect a copy of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) (2013) at the Colorado Department of Human Services, Office of Behavioral Health, 3824 W. Princeton Circle, Denver, CO 80236, during regular business hours.

B. Agencies applying to be licensed as an OTP shall have the following:

1. Controlled substance license;

~~2. Federal accreditation;~~

2.~~3.~~ Drug Enforcement Administration (DEA) registration; ~~and,~~

3.~~4.~~ Substance Use and Mental Health Services Administration (SAMHSA) certification; AND,~~.~~

4. FEDERAL ACCREDITATION, WHEN APPLICABLE.

21.320.21 MOBILE UNITS

A. OTP’S UTILIZING MOBILE UNITS SHALL FOLLOW THE PROCEDURES PUT FORTH IN TITLE 21, FOOD AND DRUGS, CHAPTER II, CODE OF FEDERAL REGULATIONS SECTION 1300, 1301, and 1304.

B. OTP’S SHALL DEVELOP THE FOLLOWING PLANS FOR MOBILE UNITS:

1. STAFFING PLAN;

2. SECURITY PLAN;

3. CONTINGENCY PLANS FOR MOBILE UNIT CLOSURE INCLUDING BUT NOT LIMITED TO, ADVERSE WEATHER EVENTS, HUMAN-INDUCED DISASTERS, AND UNIT BREAKDOWN; AND,

4. VEHICLE MAINTENANCE PLAN.

C. MOBILE UNITS SHALL COMPLY WITH REPORTING REQUIREMENTS DETERMINED BY THE DEPARTMENT.

21.320.3 ADMINISTRATIVE AND MEDICAL RESPONSIBILITY

21.320.31 OTP Sponsors

OTP sponsors are responsible for the following:

A. Overall operation of the program including, but not limited to:

1. Compliance with all applicable state and federal laws, rules, and regulations;

2. Medical and counseling personnel are qualified to provide opioid replacement treatment;

3. Individuals are enrolled on their own volition;

4. Full disclosure is made to individuals about opioids and their use in treatment.

5. Written, informed consents for opioid replacement treatment are signed by individuals eighteen (18) years of age and older;

6. Written, informed consents for all aspects of opioid replacement treatment are signed by parents, legal guardians or other responsible adults designated by appropriate state authorities for individuals under age eighteen (18) years old;

~~7. Individual/counselor ratios do not exceed fifty to one (50:1) for full-time counseling staff, forty (40) hours per week, and twenty five to one (25:1) for half-time counseling staff, twenty (20) hours per week;~~

7.~~8.~~ Written (OTP) policies and procedures are developed, implemented and maintained that are based on and in compliance with Department rules;

8.~~9.~~ All reasonable and clinically indicated efforts are made to coordinate treatment with other healthcare and behavioral health providers. Documentation includes obtaining individuals' consent to release information to communicate with those practitioners.

9.~~10.~~ Methadone and other controlled substances are disposed of in accordance with the federal regulations.

10.~~11~~. Printed acknowledgements are signed by patients and kept in patient records stating that they have been informed of the United States Department of Transportation regulation against the use of OTP prescribed methadone by commercial drivers and the possible loss of commercial driver's license if taking methadone for an opioid use disorder is discovered.

B. Training

1. Training for new (OTP) staff is documented in personnel records including, but not limited to provisions of Section 21.160.1, A, 3, and:

a. Federal OPIOID TREATMENT PROGRAM ~~Opioid Medication Assisted Treatment~~ regulations;

b. OTP treatment rules;

c. OTP policies and procedures;

d. Clinical practices including, but not limited to:

1) Protocols around special exception requests;

2) Phase level requests; and

3) Any take-home protocol such as holiday dosing, weekend dosing, hold doses, hospitalization of individuals, incarceration, nursing home stays, and GUEST~~courtesy~~ dosing.

e. Pharmacology of methadone including, but not limited to, loss of tolerance to opioids, dangerous drug or alcohol interactions, signs and symptoms of overdose, purpose of its use.

2. Annual training for OTP staff including, but not limited to:

a. Most current pharmacology of medications used, and clinical practices applicable to OTP, including problems with interactions of medications.

b. Review of federal and state regulations and rules.

c. Review of current OTP policies and procedures.

d. Infectious disease risks and screening.

21.320.32 OTP Medical Directors

A. Agencies shall have designated medical directors who shall authorize and oversee other physicians, other appropriately licensed and/or certified medical personnel and all medical services provided.

B. Each OTP shall have at least one medical director per program ~~location~~. These ~~site-level~~ medical directors shall be AVAILABLE TO THE OTP FOR SERVICE PROVISION OR CONSULTATION. ~~physically present at the OTP at least forty percent (40%) of the time that the program administers or dispenses medication. Site-level medical directors may serve in their same capacity at additional sites as long as they are physically present at the ancillary opioid treatment programs at least forty percent (40%) of the time that the program administers or dispenses medication and can satisfactorily discharge all of their duties for each program.~~

C. Medical directors and other medical healthcare providers shall currently possess and maintain licenses to practice medicine/nursing in compliance with the credentialing requirements of their own profession in Colorado as provided by Article 240, Title 12, C.R.S. OTP medical directors shall assure appropriate credentials and training for other

OTP physicians and other qualified health care providers to dispense, compound or administer a controlled substance in an OTP.

D. Medical directors shall COMPLETE AN ANNUAL REVIEW OF FEDERAL AND STATE GUIDELINES AND RULES TO ensure that the OTP agency is in compliance with all state and federal rules and regulations regarding medical treatment for opioid use disorder.

E. MEDICAL DIRECTORS SHALL SIGN AN ACKNOWLEDGMENT OF REVIEW OF ALL CONTROLLED SUBSTANCE LICENSING VIOLATIONS.

F. OTPS SHALL HAVE A MID-LEVEL PRACTITIONER'S PLAN THAT AT MINIMUM:

1. IDENTIFIES ALL PRACTITIONERS WITH PRESCRIPTIVE AUTHORITY;

2. ENSURES MID-LEVEL PRACTITIONERS WITH PRESCRIPTIVE AUTHORITY HAVE A SAMHSA APPROVED MID-LEVEL EXEMPTION (MLE);

3. IDENTIFIES THE NUMBER OF HOURS PRACTITIONERS WITH PRESCRIPTIVE AUTHORITY ARE ONSITE WEEKLY;

4. ESTABLISHES MID-LEVEL PRACTITIONER SUPERVISION REQUIREMENTS; AND,

5. ADDRESSES CONSULTATION REQUIREMENTS FOR WHEN MEDICAL DIRECTORS ARE NOT ONSITE.

G.~~E.~~ OTP medical directors, other OTP physicians and authorized OTP medical personnel shall ensure the following:

1. Medical evaluations including evidence of current physiological dependence and/or history of opioid use or exceptions to admission criteria that are documented prior to initial dosing;

2. These medical evaluations are done at admission prior to initial dose.

3. The physical examinations and all appropriate laboratory tests are performed and reviewed within fourteen (14) calendar days following treatment admission;

4. All medical professionals shall educate individuals regarding risks and benefits of OTP and document that individuals are entering voluntarily.

5. All medical orders are properly signed or countersigned including initial orders for approved controlled substances and other medications, subsequent dose increases or decreases, changes in take-home dose privileges, emergency situations and other special circumstances by the medical director.

~~F. Medical directors or other physicians shall review, countersign and date intake evaluations written by authorized medical personnel before initial doses may be administered to individuals. When medical directors and other physicians are not available on-site to review, countersign and date evaluations for admission written by~~

~~medical personnel, required physician reviews may be conducted by telephone and initial doses may be administered to individuals on physicians' verbal or standing orders. In such cases, medical personnel shall document in individual records that no physicians were available on site and that physician reviews were conducted by telephone. Medical directors or other physicians shall review and countersign authorizations.~~

H.~~G.~~ Medical directors and other qualified health care professionals shall utilize the information obtained from the Colorado State Board of Pharmacy's electronic Prescription Drug Monitoring Program (PDMP), developed pursuant to 12-280-403, C.R.S., as clinically appropriate upon intake.

21.320.4 INDIVIDUAL PLACEMENTS

21.320.41 Admission Criteria and Procedures

B. Individuals shall be admitted to opioid medication assisted treatment if OTP medical directors or AUTHORIZED OTP PRACTITIONERS ~~other OTP physicians~~ determine, and subsequently document in individual records, that such individuals are currently physiologically dependent on opioid drugs or were physiologically dependent on opioid drugs, continuously or episodically for most of the year immediately preceding admission.

C. In the case of individuals for whom the exact date on which physiological dependence began cannot be ascertained, OTP medical directors or AUTHORIZED OTP PRACTITIONERS ~~other OTP physicians~~ may, using reasonable clinical judgment, admit such individuals to opioid replacement treatment if from the evidence presented and recorded in individual records it is reasonable to conclude that such individuals were physiologically dependent on opioid drugs approximately one year prior to admission.

D. OTP medical directors or AUTHORIZED OTP PRACTITIONERS ~~other OTP physicians~~ may waive the one-year history of opioid use requirement, if clinically appropriate, for the following:

1. Persons released from penal institutions if admitted to treatment within six (6) consecutive months following release;

2. Pregnant individuals, if OTP physicians certify pregnancy; or

3. Former persons receiving treatment for up to two (2) consecutive years after discharge.

E. Persons under age eighteen (18) shall have at least two unsuccessful attempts at short-term detoxification or drug-free treatment documented within a twelve-month period.

F. OTPs offering short-term or long-term detoxification treatment shall follow all applicable state and federal laws, rules and regulations regarding admission criteria.

G. OTPs shall not admit persons for more than two (2) detoxification treatment episodes per year.

H. At time of admission, individuals shall be oriented to OTP policies and procedures including, but not limited to:

1. Benefits and risks of opioid replacement treatment.

2. Fee structure and payment options. This policy shall include written acknowledgement of understanding from the individual. The individual will be provided with a copy of this document and a copy will be placed in the clinical record.

3. Conditions for dosing, counseling and toxicology sample collection. The policy shall include provisions for holding doses, evaluation of the “impaired” individual, treatment stipulations and agreements, “refusal” or “inability” to provide specimens for toxicology testing and unacceptable/unsafe behavior that limits the individual's ability to participate in OTP.

4. Take-home dose privilege phase system.

5. Special privilege exception requests.

6. Consequences for violating policies; and,

7. Written procedures and signed acknowledgements around the following shall include, but not be limited to:

   a. Behavioral agreements;

   b. Office treatment lock-in;

   c. Office treatment lock-out;

   d. Reductions in take-home dose privileges;

   e. Administrative discharges;

   f. Administrative transfers;

   g. Courtesy dosing;

   h. OTP transfer policy;

   i. Taper protocol for any and all circumstances including inability to pay;

   j. Hospitalization while in OTP instructions including, clinic after hours information;

   k. Emergency procedures in case of a natural disaster, HUMAN-INDUCED DISASTER, or emergent closing of the clinic;

   l. Use of Prescription Drug Monitoring Program in treatment;

   m. Use of other prescription medications in treatment; and,

n. Provisions around conditions for dosing.

****

21.320.5 PRESCRIBING, DISPENSING, AND ADMINISTERING APPROVED CONTROLLED SUBSTANCES

A. OTP medical directors or AN AUTHORIZED OTP PRACTITIONER~~other OTP physicians~~ shall order approved controlled substances and document orders in individual records.

21.320.6 EVALUATIONS AND ASSESSMENTS

21.320.61 General Provisions

A. Individuals re-admitted to treatment following treatment absences of six (6) months or more shall undergo medical evaluations, physical examinations, and/or laboratory tests as deemed appropriate by OTP medical directors or AUTHORIZED OTP PRACTITIONERS. ~~other healthcare providers.~~

B. Other medical concerns shall be addressed by OTPs or referred to other medical agencies when appropriate as determined by OTP medical directors or AUTHORIZED OTP PRACTITIONERS. ~~other health care providers.~~

21.320.62 Medical Evaluations

Individuals admitted to OTPs shall have medical evaluations conducted by medical directors, AUTHORIZED OTP PRACTITIONERS~~other OTP physicians~~, nurse practitioners, or physician assistants prior to the first dose. Medical evaluations shall include, at minimum, the following:

A. Past medical history, past substance abuse history including required opioid use and dependence chronologies, choice of opioid and route of administration;

B. Evidence of current physiological dependence; ~~and~~

C. Cardiovascular assessment for the risk of Torsades de Pointe; AND, ~~.~~

D. COMMON CO-OCCURRING CONDITIONS.

21.320.63 Physical Examinations

A. Thorough physical examinations shall be conducted, evaluated and documented in individual records by medical directors or AUTHORIZED OTP PRACTITIONERS~~other OTP qualified healthcare professionals~~ practicing within their scope, within fourteen (14) consecutive calendar days following treatment admission and every two (2) consecutive years from date of admission.

21.320.64 Laboratory Tests

A. Admission laboratory tests shall be conducted with individual consent either on-site or through referral, and results shall be evaluated and documented in individual records within fourteen (14) consecutive calendar days following treatment.

B. SCREENING FOR THE FOLLOWING SHALL BE DOCUMENTED AND ~~Admission~~ laboratory tests shall ~~include~~ BE COMPLETED WHEN CLINICALLY INDICATED:

1. Serological test for syphilis;

2. Tuberculin skin test and/or other tests for tuberculosis ~~when clinically indicated~~;

3. Urine toxicology or other tests to determine current ~~drug use~~SUBSTANCE USE;

4. Complete blood count and differential~~, as clinically indicated~~;

5. Routine and microscopic urinalysis~~, as clinically indicated~~;

6. Liver function tests;

7. Test for Hepatitis B, C, and Delta ~~when clinically indicated~~;

8. Test for HIV/AIDS ~~when clinically indicated~~.

C. ~~B.~~ The following laboratory tests shall be conducted with consent, every two (2) consecutive years from date of admission.

1. Tuberculin skin test and/or other tests for tuberculosis when clinically indicated.

2. Complete blood count and differential, as clinically indicated.

3. Liver function profile, as clinically indicated.

21.320.7 TOXICOLOGY SCREENS/URINE DRUG SCREENS

G. THE STATE AUTHORITY WILL MONITOR DRUG TRENDS AND MAY REQUIRE TESTING FOR ADDITIONAL SUBSTANCES THAT POSE A RISK TO HEALTH AND SAFETY.

21.320.8 TAKE-HOME DOSE PRIVILEGES

21.320.81 Take-Home Dose Protocols

A. Individuals may qualify to self-administer methadone doses at locations other than OTPs if they meet all the criteria for each of six (6) phases of take-home dose privileges. Individuals shall qualify for each phase sequentially and must have the following, at minimum, in addition to length of time for each phase:

1. Most recent toxicology screen is negative;

~~2. Clinical assessments completed;~~

~~3. Minimum of one (1) hour of counseling per month;~~

~~4. No unexcused dosing absences;~~

~~5. No unexcused counseling absences;~~

2. REGULAR CLINIC ATTENDANCE;

3. ~~6~~. Compliance with OTP policies and procedures;

4. ~~7.~~ No known recent criminal activity;

~~8. No alcohol abuse;~~

5. ~~9.~~ Competent to safely handle take-home doses;

6. ~~10~~. ABSENCE OF SERIOUS BEHAVIORAL PROBLEMS AT THE CLINIC;~~Responsible behavior;~~

7. ~~11~~. Stable living environments;

8. ~~12.~~ Stable social relationships;

9. ~~13.~~ REHABILITATIVE BENEFIT THE PATIENT DERIVES FROM DECREASING THE FREQUENCY OF CLINIC ATTENDANCE OUTWEIGHS THE POTENTIAL RISK OF DIVERSION; ~~Adherence to service plans;~~ and,

~~14. Compliance with on-site dosing schedules; and,~~

10. ~~15.~~ Prescription drug monitoring shall be used upon increase of each phase and documented in the chart.

    a. In addition to items ~~1-15~~ 1-10, above, Phase 1 permits a take-home dose for Sunday and one (1) additional take-home dose per week on or after the first ninety (90) consecutive calendar days of treatment.

    b. In addition to items ~~1-15~~ 1-10(a), Phase 2 permits a take-home dose for Sunday and two (2) additional take-home doses per week when the individual has completed four (4) or more consecutive months in treatment, and the most recent two (2) consecutive urine screens are negative. Individuals shall receive no more than two (2) consecutive calendar days of take-home doses.

    c. In addition to items ~~1-15~~ 1-10(a) through (b), Phase 3 permits a take-home dose for Sunday and three (3) additional take-home doses per week when the individual has completed six (6) or more consecutive months in treatment, and the most recent three (3) consecutive urine drug screens are negative. Individuals shall receive no more than two (2) consecutive days of take-home doses.

    d. Individuals may qualify for Phase 4 when, in addition to items ~~1-15~~ 1-10(a) through (c), an individual has completed nine (9) or more months in treatment and the most recent four (4) consecutive toxicology screens are negative. Phase 4 permits a take-home dose for Sunday and five (5) additional take-home doses per week.

e. Phase 5 permits thirteen (13) take-home doses per two-week period. Individuals may qualify for Phase 5 when, in addition to items 1-15(a) through (d), the individual has completed one (1) or more years in treatment, AND the most recent eight (8) consecutive toxicology screens are negative.

f. Phase 6 permits twenty-eight (28) to thirty (30) take-home doses per month. Individuals may qualify for Phase 6 when, in addition to the above, the following criteria are met:

1) Completed two (2) or more years in treatment;

2) Most recent eight (8) consecutive toxicology screens are negative.

B. Individuals transferring from out of state must meet the Colorado state requirements for the take-HOME ~~out~~ phase they are requesting.

C. All phases must receive special state approval for take-outs beyond their approved week schedule.

D. Take-home doses may be approved by OTPs for days clinics are closed, including Sundays and state and federal holidays.

E. Take-home doses shall not be approved for individuals undergoing short-term detoxification.

F. Written agreements shall be developed and implemented for individuals approved for take-home doses. Agreements shall be part of the service plan and shall explain the rationale for approving take-home dose privilege phases, stipulate dose amounts and set consequences for violating agreement conditions.

G. Take-home doses shall be dispensed in medication containers that conform to state and federal poison prevention packaging requirements, including childproof lids.

H. Labels shall be affixed to containers with the following information:

1. OTP names, addresses, and telephone numbers;

2. Individual names;

3. Drug types;

4. Dose amounts, if not physician-authorized blind doses;

5. Directions for use.

I. Take-home doses numbering six (6) or less shall be transported in a discrete and secure manner agreed upon by OTPs and individuals.

J. Take-home doses numbering seven (7) or more shall be transported in locked containers constructed of rigid materials that resist tampering.

K. Take-home doses shall be securely and discretely stored where individuals reside, in a manner that reduces the risk for access by children and unauthorized individuals.

L. OTPs shall submit and obtain Department approval for the following:

1. Split doses with the exception of pregnant individuals;

2. Take-home doses for individual detoxification lasting less than thirty (30) consecutive calendar days;

3. Take-home doses that do not conform to take-home dose phase requirements;

4. Take-home medication doses for individuals with unacceptable urine drug screen results within the last ninety (90) calendar days;

5. Take-home doses for OTP individuals admitted to extended health care agencies or licensed residential substance use disorder agencies.~~;~~

~~6. Phase 5 take-home doses.~~

****

Notice of Proposed Rulemaking

Tracking number

2021-00630

Department

700 - Department of Regulatory Agencies

Agency

702 - Division of Insurance

CCR number

3 CCR 702-3

Rule title

FINANCIAL ISSUES

Rulemaking Hearing

Date

11/02/2021

Time

10:00 AM

Location

Webinar or 1560 Broadway, STE 850, Denver CO 80202

Subjects and issues involved

The purpose of this regulation is to set forth rules and procedural requirements that the Commissioner deems necessary to carry out the provisions of the Section 10-3-701 et. seq., C.R.S., regarding the conditions and circumstances under which a domestic insurer may reduce their liabilities, or establish an asset associated with risks reinsured. The actions and information required by this regulation are declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state. This regulation addresses credit for reinsurance associated with a valid reinsurance contract. The criteria as to what constitutes a valid reinsurance agreement, limitations on the amount of credit that can be claimed and other requirements as regards financial reporting are addressed in Colorado Insurance Regulations 3-3-4 and 3-3-5.

This regulation is being amended to align with changes to the National Association of Insurance Commissioners' (NAIC) Credit for Reinsurance Model Regulation, and in accordance with House Bill 21-1063, which was signed by the Governor on April 19, 2021.

Statutory authority

Sections 10-1-109(1), 10-3-529(4), 10-3-705, 10-6-129, 10-14-505 and 10-16-109, and provides standards regarding reinsurance agreements under Sections 10-3-701 et. seq., 10-6-122, 10-11-113, 10-14-304, 8-44-204, 8-44-205, 8-45-117, 24-10-115.5, and 29-13-102, C.R.S.

Contact information

Name

Christine Gonzales-Ferrer

Title

Compliance Specialist

Telephone

303-894-2157

Email

christine.gonzales-ferrer@state.co.us

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-3

FINANCIAL ISSUES

DRAFT Proposed Amended ~~Repealed and Repromulgated~~ Regulation 3-3-3

CREDIT FOR REINSURANCE

Section 1 Authority

This regulation is promulgated pursuant to the authority granted by Sections 10-1-109(1), 10-3-529(4), 10-3-705, 10-6-129, 10-14-505 and 10-16-109, and provides standards regarding reinsurance agreements under Sections 10-3-701 et. seq., 10-6-122, 10-11-113, 10-14-304, 8-44-204, 8-44-205, 8-45-117, 24-10-115.5, and 29-13-102, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to set forth rules and procedural requirements that the Commissioner deems necessary to carry out the provisions of the Section 10-3-701 et. seq., C.R.S., regarding the conditions and circumstances under which a domestic insurer may reduce their liabilities, or establish an asset associated with risks reinsured. The actions and information required by this regulation are declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state. This regulation addresses credit for reinsurance associated with a valid reinsurance

contract. The criteria as to what constitutes a valid reinsurance agreement, limitations on the amount of credit that can be claimed and other requirements as regards financial reporting are addressed in Colorado Insurance Regulations 3-3-4 and 3-3-5.

Section 3 Applicability

This regulation shall apply to all licensed insurers, as well as to each domestic group captive insurer, fraternal benefit society, health maintenance organization, licensed self-insurance pool, prepaid dental care plan organization, non-profit hospital, medical-surgical and health service corporation, Pinnacol Assurance, interinsurance exchange/reciprocal exchange and title insurance company.

Section 4 Credit for Reinsurance—Reinsurer Licensed in this State

Pursuant to Section 10-3-702(2), C.R.S., the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that was licensed in this state as of any date on which statutory financial statement credit for reinsurance is claimed.

Section 5 Credit for Reinsurance—Accredited Reinsurers

A. Pursuant to Section 10-3-702(3), C.R.S., the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in this state as of the date on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer must:

1. File a properly executed Form AR-1 (attached as an exhibit to this regulation) as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records;

2. File with the Commissioner a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

3. File annually with the Commissioner a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and

4. Maintain a surplus as regards policyholders in an amount not less than $20,000,000, or obtain the affirmative approval of the Commissioner upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

B. If the Commissioner determines that the assuming insurer has failed to meet or maintain any of these qualifications, the Commissioner may upon written notice and opportunity for hearing, suspend or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer under this section if the assuming insurer's accreditation has been revoked by the Commissioner, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the Commissioner.

Section 6 Credit for Reinsurance—Reinsurer Domiciled in Another State

A. Pursuant to Section 10-3-702(4), C.R.S., the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that as of any date on which statutory financial statement credit for reinsurance is claimed:

1. Is domiciled in (or, in the case of a U.S. branch of an alien assuming insurer, is entered through) a state that employs standards regarding credit for reinsurance substantially similar to those applicable under Section 10-3-701, et, seq., and this regulation;

2. Maintains a surplus as regards policyholders in an amount not less than $20,000,000; and

3. Files a properly executed Form AR-1 with the Commissioner as evidence of its submission to this state's authority to examine its books and records.

B. The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, "substantially similar" standards means credit for reinsurance standards that the Commissioner determines equal or exceed the standards of Section 10-3-701, et. seq., and this regulation.

Section 7 Credit for Reinsurance—Reinsurers Maintaining Trust Funds

A. Pursuant to Section 10-3-702(5), C.R.S., the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified U.S. financial institution as defined in Section 10-3-704(2), C.R.S., for the payment of the valid claims of its U.S. domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Commissioner substantially the same information as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by licensed insurers, to enable the Commissioner to determine the sufficiency of the trust fund.

B. The following requirements apply to the following categories of assuming insurer:

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by U.S. domiciled insurers, and in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20,000,000, except as provided in Paragraph (2) of this subsection.

2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.

3. The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:

a. For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group;

b. For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this regulation, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

c. In addition to these trusts, the group shall maintain a trusteed surplus of which $100,000,000 shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account.

4. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the Commissioner:

a. An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or

b. If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.

5. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of $10,000,000,000 (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and *Accounting Practices and Procedures Manual* of the NAIC) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall:

a. Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group;

b. Maintain a joint trusteed surplus of which $100,000,000 shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and

c, File a properly executed Form AR-1 as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

6. Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the Commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.

C. Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the Commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled.

1. The trust instrument shall provide that:

a. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States;

b. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's U.S. ceding insurers, their assigns and successors in interest;

c. The trust shall be subject to examination as determined by the Commissioner;

d. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and

e. No later than February 28 of each year the trustee of the trust shall report to the Commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year-end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the following December 31.

2. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

a. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

b. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

c. The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

D. For purposes of this section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, shall include:

1. For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:

    a. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;

    b. Reserves for losses reported and outstanding;

    c. Reserves for losses incurred but not reported;

    d. Reserves for allocated loss expenses; and

    e. Unearned premiums.

2. For business ceded by domestic insurers authorized to write life, health and annuity insurance:

    a. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;

    b. Aggregate reserves for accident and health policies;

    c. Deposit funds and other liabilities without life or disability contingencies; and

    d. Liabilities for policy and contract claims.

E. Assets deposited in trusts established pursuant to Section 10-3-702, C.R.S., and this section shall be valued according to their current fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in Section 10-3-704(1), C.R.S., clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in Section 10-3-704(1), C.R.S., and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed five percent (5%) of total investments. No more than twenty percent (20%) of the total of the investments in the trust may be foreign investments authorized under Paragraphs (1)(e), (3), (6)(b) or (7) of this subsection, and no more than ten percent (10%) of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of Section 10-3-702, C.R.S. shall be invested only as follows:

1. Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed or guaranteed by:

    a. The United States or by any agency or instrumentality of the United States;

    b. A state of the United States;

    c. A territory, possession or other governmental unit of the United States;

    d. An agency or instrumentality of a governmental unit referred to in Subparagraphs (b) and (c) of this paragraph if the obligations shall be by law (statutory ~~of~~or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise

appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements; or

e. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

2. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:

a. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;

b. Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or

c. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;

3. Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

4. An investment made pursuant to the provisions of Paragraph (1), (2) or (3) of this subsection shall be subject to the following additional limitations:

a. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed five percent (5%) of the assets of the trust;

b. An investment in any one mortgage-related security shall not exceed five percent (5%) of the assets of the trust;

c. The aggregate total investment in mortgage-related securities shall not exceed twenty- five percent (25%) of the assets of the trust; and

d. Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution’s obligations are eligible as investments under Paragraphs (2)(a) and (2)(c) of this subsection, but shall not exceed two percent (2%) of the assets of the trust.

5. As used in this regulation:

a. "Mortgage-related security" means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:

(1) Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that:

(a) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C.~~A.~~ Section 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and

(b) Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.~~A~~. Sections 1709 and 1715b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.~~A.~~ Section 1703; or

(2) Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of Items (i)(I) and (i)(II) of this subsection;

b. "Promissory note," when used in connection with a manufactured home, shall also include a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument.

6. Equity interests

a. Investments in common shares or partnership interests of a solvent U.S. institution are permissible if:

(1) Its obligations and preferred shares, if any, are eligible as investments under this subsection; and

(2) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a to 78kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity

interests under this paragraph an amount exceeding one percent (1%) of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

b. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:

(1) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and

(2) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;

c. An investment in or loan upon any one institution's outstanding equity interests shall not exceed one percent (1%) of the assets of the trust. The cost of an investment in equity interests made pursuant to this paragraph, when added to the aggregate cost of other investments in equity interests then held pursuant to this paragraph, shall not exceed ten percent (10%) of the assets in the trust;

7. Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

8. Investment companies

a. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. § 80a, are permissible investments if the investment company:

(1) Invests at least ninety percent (90%) of its assets in the types of securities that qualify as an investment under Paragraph (1), (2) or (3) of this subsection or invests in securities that are determined by the Commissioner to be substantively similar to the types of securities set forth in Paragraph (1), (2) or (3) of this subsection; or

(2) Invests at least ninety percent (90%) of its assets in the types of equity interests that qualify as an investment under Paragraph (6)(a) of this subsection;

b. Investments made by a trust in investment companies under this paragraph shall not exceed the following limitations:

(1) An investment in an investment company qualifying under Subparagraph (a)(i) of this paragraph shall not exceed ten percent (10%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed twenty-five percent (25%) of the assets in the trust; and

(2) Investments in an investment company qualifying under Subparagraph (a)(ii) of this paragraph shall not exceed five percent (5%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible

aggregate value of equity interests pursuant to Paragraph (6)(a) of this subsection.

9. Letters of Credit

a. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

b. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to Section ~~9~~11 of this regulation shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section.

Section 8 Credit for Reinsurance—Certified Reinsurers

A. Pursuant to Section 10-3-702(6), C.R.S., the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the Commissioner. The security shall be in a form consistent with the provisions of Section 10-3-702(6), C.R.S., and Section 10-3-703, et. seq., and Sections ~~11, 12, or 13~~ 12,13,or 14 of this regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

1.

Ratings	Security Required
Secure – 1	0%
Secure – 2	10%
Secure – 3	20%
Secure – 4	50%
Secure – 5	75%
Vulnerable – 6	100%

2. Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

3. The Commissioner shall require the certified reinsurer to post one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

4. In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the Commissioner. The one year

deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

a. Line 1: Fire

b. Line 2: Allied Lines

c. Line 3: Farmowners multiple peril

d. Line 4: Homeowners multiple peril

e. Line 5: Commercial multiple peril

f. Line 9: Inland Marine

g. Line 12: Earthquake

h. Line 21: Auto physical damage

5. Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

6. Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

B. Certification Procedure.

1. The Commissioner shall post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The Commissioner may not take final action on the application until at least thirty (30) days after posting the notice required by this paragraph.

2. The Commissioner shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with Subsection A of this section. The Commissioner shall publish a list of all certified reinsurers and their ratings.

3. In order to be eligible for certification, the assuming insurer shall meet the following requirements:

a. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the Commissioner pursuant to Subsection C of this section.

b. The assuming insurer must maintain capital and surplus, or its equivalent, of no less than $250,000,000 calculated in accordance with Subparagraph (4)(h) of this subsection. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least $250,000,000 and a central fund containing a balance of at least $250,000,000.

c. The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the Commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

(1) Standard & Poor's;

(2) Moody's Investors Service;

(3) Fitch Ratings;

(4) A.M. Best Company; or

(5) Any other Nationally Recognized Statistical Rating Organization.

d. The certified reinsurer must comply with any other requirements reasonably imposed by the Commissioner.

4. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

a. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The Commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Ratings	Best	S&P	Moody's	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-

Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B- C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

b. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

c. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);

d. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (attached as exhibits to this regulation);

e. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

f. Regulatory actions against the certified reinsurer;

g. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in Subparagraph (h) below;

h. For certified reinsurers not domiciled in the U.S., audited financial statements ~~(audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company)~~, regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the Commissioner will consider audited financial statements for the last ~~three (3)~~ two (2) years filed with its non-U.S. jurisdiction supervisor;

i. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

j. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The Commissioner shall

receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

k. Any other information deemed relevant by the Commissioner.

5. Based on the analysis conducted under Subparagraph (4)(e) of a certified reinsurer's reputation for prompt payment of claims, the Commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the Commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under Subparagraph (4)(a) if the Commissioner finds that:

a. More than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more which are not in dispute and which exceed $100,000 for each cedent; or

b. The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by ninety (90) days or more exceeds $50,000,000.

6. The assuming insurer must submit a properly executed Form CR-1 (attached as an exhibit to this regulation) as evidence of its submission to the jurisdiction of this state, appointment of the Commissioner as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The Commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the Commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

7. The certified reinsurer must agree to meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under Section 24-72-204(3)(a)(IV), C.R.S. and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

a. Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

b. Annually, Form CR-F or CR-S, as applicable;

c. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in Subsection (d) below;

d. Annually, the most recent audited financial statements~~(audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company)~~, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the ~~last three (3)~~ two (2) years filed with the certified reinsurer's supervisor;

e. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;

f. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

g. Any other information that the Commissioner may reasonably require.

8. Change in Rating or Revocation of Certification.

a. In the case of a downgrade by a rating agency or other disqualifying circumstance, the Commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of Subparagraph (4)(a).

b. The Commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the Commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

c. If the rating of a certified reinsurer is upgraded by the Commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the Commissioner, the Commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

d. Upon revocation of the certification of a certified reinsurer by the Commissioner, the assuming insurer shall be required to post security in accordance with Section 11~~10~~ in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Section 7, the Commissioner may allow additional credit equal to the ceding insurer's *pro rata* share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the Commissioner to be at high risk of uncollectibility.

C. Qualified Jurisdictions.

1. If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the Commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Commissioner shall publish notice and evidence of such recognition in an appropriate manner. The Commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

2. In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commissioner shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The Commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the Commissioner as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the Commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the Commissioner, include but are not limited to the following:

   a. The framework under which the assuming insurer is regulated.

   b. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

   c. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

   d. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

   e. The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the Commissioner in particular.

   f. The history of performance by assuming insurers in the domiciliary jurisdiction.

   g. Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the Commissioner has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.

   h. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

   i. Any other matters deemed relevant by the Commissioner.

3. A list of qualified jurisdictions shall be published through the NAIC Committee Process. The Commissioner shall consider this list in determining qualified jurisdictions. If the Commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Commissioner shall provide thoroughly documented justification with respect to the criteria provided under Subsection~~s~~ 8~~.~~C(2)(a) to (i).

4. U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction.

1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a

properly executed Form CR- 1 and such additional information as the Commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

2. Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the Commissioner of any change in its status or rating within 10 days after receiving notice of the change.

3. The Commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with Subsection B(8) of this section.

4. The Commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the Commissioner suspends or revokes the certified reinsurer's certification in accordance with Subsection B(8) of this section, the certified reinsurer's certification shall remain in good standing in this state for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

E. Mandatory Funding Clause. In addition to the clauses required under Section 15~~14~~, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. The Commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Section 9 Credit for Reinsurance—Reciprocal Jurisdictions

A. Pursuant to Section 10-3-702(6.5), C.R.S., the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a Reciprocal Jurisdiction, and which meets the other requirements of this regulation.

B. A "Reciprocal Jurisdiction" is a jurisdiction, as designated by the Commissioner pursuant to Subsection D, that meets one of the following:

1. A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection, a "covered agreement" is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

2. A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

3. A qualified jurisdiction, as determined by the Commissioner pursuant to Section 10-3-702(6), C.R.S. and Section 8C, which is not otherwise described in Paragraph (1) or (2) above and which the Commissioner determines meets all of the following additional requirements:

a. Provides that an insurer which has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

b. Does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-U.S. jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

c. Recognizes the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the Commissioner or the Commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

d. Provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the Commissioner in accordance with a memorandum of understanding or similar document between the Commissioner and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

C. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to an assuming insurer meeting each of the conditions set forth below.

1. The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a Reciprocal Jurisdiction.

2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction, and confirmed as set forth in Subsection C(7) according to the methodology of its domiciliary jurisdiction, in the following amounts:

a. No less than $250,000,000; or

b. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

(1) Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least $250,000,000; and

(2) A central fund containing a balance of the equivalent of at least $250,000,000.

3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:

a. If the assuming insurer has its head office or is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(1), the ratio specified in the applicable covered agreement;

b. If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(2), a risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

c. If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(3), after consultation with the Reciprocal Jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the Commissioner determines to be an effective measure of solvency.

4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (attached as an exhibit to this regulation), of its agreement to the following:

a. The assuming insurer must agree to provide prompt written notice and explanation to the Commissioner if it falls below the minimum requirements set forth in Paragraphs (2) or (3) of this subsection, or if any regulatory action is taken against it for serious noncompliance with applicable law.

b. The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the Commissioner as agent for service of process.

(1) The Commissioner may also require that such consent be provided and included in each reinsurance agreement under the Commissioner's jurisdiction.

(2) Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

d. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable.

e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this state's ceding insurers, and agrees to notify the ceding insurer and the Commissioner and to provide one hundred percent (100%) security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of

Section 10-3-702(6), C.R.S., Section 10-3-703, C.R.S. and Section 12, 13 or 14 of this regulation. For purposes of this regulation, the term "solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in Paragraph (5) of this subsection.

5. The assuming insurer or its legal successor must provide, if requested by the Commissioner, on behalf of itself and any legal predecessors, the following documentation to the Commissioner:

a. For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

b. For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;

c. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

d. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in Paragraph (6) of this subsection.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:

a. More than fifteen percent (15%) of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the Commissioner;

b. More than fifteen percent (15%) of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer $100,000, or as otherwise specified in a covered agreement; or

c. The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds $50,000,000, or as otherwise specified in a covered agreement.

7. The assuming insurer's supervisory authority must confirm to the Commissioner on an annual basis that the assuming insurer complies with the requirements set forth in Paragraphs (2) and (3) of this subsection.

8. Nothing in this provision precludes an assuming insurer from providing the Commissioner with information on a voluntary basis.

D. The Commissioner shall timely create and publish a list of Reciprocal Jurisdictions.

1. A list of Reciprocal Jurisdictions is published through the NAIC Committee Process. The Commissioner's list shall include any Reciprocal Jurisdiction as defined under Section 9B(1) and (2), and shall consider any other Reciprocal Jurisdiction included on the NAIC list. The Commissioner may approve a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC Committee Process.

2. The Commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a Reciprocal Jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC Committee Process, except that the Commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under Section 9B(1) and (2). Upon removal of a Reciprocal Jurisdiction from this list credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to Section 10-3-701 et. seq., C.R.S. or this regulation.

E. The Commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.

1. If an NAIC accredited jurisdiction has determined that the conditions set forth in Subsection C have been met, the Commissioner has the discretion to defer to that jurisdiction's determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The Commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirements of Subsection C.

2. When requesting that the Commissioner defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 and additional information as the Commissioner may require. A state that has received such a request will notify other states through the NAIC Committee Process and provide relevant information with respect to the determination of eligibility.

F. If the Commissioner determines that an assuming insurer no longer meets one or more of the requirements under this section, the Commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this section.

1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with Section 11.

2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior

to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the Commissioner and consistent with the provisions of Section 11.

G. Before denying statement credit or imposing a requirement to post security with respect to Section 9F of this regulation or adopting any similar requirement that will have substantially the same regulatory impact as security, the Commissioner shall:

1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in Subsection C of this section;

2. Provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;

3. After the expiration of 90 days or less, as set out in Paragraph (2), if the Commissioner determines that no or insufficient action was taken by the assuming insurer, the Commissioner may impose any of the requirements as set out in this subsection; and

4. Provide a written explanation to the assuming insurer of any of the requirements set out in this subsection.

H. If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

Section ~~9~~10 Credit for Reinsurance Required by Law

Pursuant to Section 10-3-702(7), C.R.S., the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 10-3-702(2,3,4,5,6, or 6.5), C.R.S., but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means state, district or territory of the United States and any lawful national government.

Section ~~10~~11 Asset or Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer not Meeting the Requirements of Sections 4 through ~~9~~10

A. Pursuant to Section 10-3-703, C.R.S., the Commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 10-3-702, et. seq., C.R.S. in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Section 10-3-704(2), C.R.S. This security may be in the form of any of the following:

1. Cash;

2. Securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

3. Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in Section 10-3-704(1), C.R.S., effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

4. Any other form of security acceptable to the Commissioner.

B. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of Section ~~14~~ -15 and the applicable portions of Sections ~~11, 12, or 13~~ 12, 13 or 14 of this regulation have been satisfied.

Section ~~11~~12 Trust Agreements Qualified under Section ~~10~~11

A. As used in this section:

1. "Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

2. "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

3. "Obligations," as used in Subsection B(11) of this section means:

a. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;

b. Reserves for reinsured losses reported and outstanding;

c. Reserves for reinsured losses incurred but not reported; and

d. Reserves for allocated reinsured loss expenses and unearned premiums.

B. Required conditions.

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee, which shall be a qualified United States financial institution as defined in Section 10-3-704(2), C.R.S.

2. The trust agreement shall create a trust account into which assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States.

4. The trust agreement shall provide that:

    a. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

    b. No other statement or document is required to be presented to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

    c. It is not subject to any conditions or qualifications outside of the trust agreement; and

    d. It shall not contain references to any other agreements or documents except as provided for in Paragraphs (11) and (12) of this subsection.

5. The trust agreement shall be established for the sole benefit of the beneficiary.

6. The trust agreement shall require the trustee to:

    a. Receive assets and hold all assets in a safe place;

    b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

    c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

    d. Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account;

    e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

    f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.

9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying commission to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

10. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

11. Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

    a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

    b. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

    c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution as defined in Section 10-3-704(2), C.R.S. apart from its general assets, in trust for such uses and purposes specified in Subparagraphs (a) and (b) above as may remain executory after such withdrawal and for any period after the termination date.

12. Notwithstanding other provisions of this regulation, when a trust agreement is established to meet the requirements of Section ~~10~~ 11 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

    a. To pay or reimburse the ceding insurer for:

        (1) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and

(2) The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement;

b. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or

c. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in Subparagraphs (a) and (b) of this paragraph as may remain executory after withdrawal and for any period after the termination date.

13. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement.

C. Permitted conditions.

1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in Subsection D(1)(b) of this section.

4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

D. Additional conditions applicable to reinsurance agreements:

1. A reinsurance agreement may contain provisions that:

a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

b. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

c. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

d. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

(1) To pay or reimburse the ceding insurer for:

(a) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(b) The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and

(c) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

(2) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

2. The reinsurance agreement also may contain provisions that:

a. Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

(1) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

(2) After withdrawal and transfer, the current fair market value of the trust account is no less than 102 percent of the required amount.

b. Provide for the return of any amount withdrawn in excess of the actual amounts required for Paragraph (1)(d) of this subsection, and for interest payments at a rate not in excess of the prime rate of interest on such amounts;

c. Permit the award by any arbitration panel or court of competent jurisdiction of:

(1) Interest at a rate different from that provided in Subparagraph (b) of this paragraph;

(2) Court or arbitration costs;

(3) Attorney's fees; and

(4) Any other reasonable expenses.

E. Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

F. Existing agreements. Notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to January 1, 2015 will continue to be acceptable until January 1, 2016, at which time the agreements will have to fully comply with this regulation for the trust agreement to be acceptable.

G. The failure of any trust agreement to specifically identify the beneficiary as defined in Subsection A of this section shall not be construed to affect any actions or rights that the Commissioner may take or possess pursuant to the provisions of the laws of this state.

Section ~~12~~13 Letters of Credit Qualified under Section ~~10~~11

A. The letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution as defined in Section 10-3-704(1), C.R.S. The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in

Subsection H(1) of this ~~S~~section ~~12~~. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

B. The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

C. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

D. The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" that prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty (30) days notice prior to expiration date or nonrenewal.

E. The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

F. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of Publication 600 or any other successor publication, occur.

G. If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in Subsection A of this section, then the following additional requirements shall be met:

1. The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

2. The "evergreen clause" shall provide for thirty (30) days notice prior to expiration date for nonrenewal.

H. Reinsurance agreement provisions.

1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:

a. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

b. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any

other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(1) To pay or reimburse the ceding insurer for:

(a) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(b) The assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and

(c) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

(2) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in Subsection H(1)(b)(i) of this section as may remain after withdrawal and for any period after the termination date.

c. All of the provisions of Paragraph (1) of this subsection shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained in Paragraph (1) of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

a. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subparagraph (1)(b) of this subsection; or

b. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

Section ~~13~~14 Other Security

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

Section ~~14~~15 Reinsurance Contract

Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of Sections 4, 5, 6, 7, 8, 9 or ~~10~~ 11 of this regulation or otherwise in compliance with Section 10-3-702, et. seq. after the adoption of this regulation unless the reinsurance agreement:

A. Includes a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to Section 10-3-531, C.R.S.;

B. Includes a provision pursuant to Section 10-3-702, et. seq., whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and

C. Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

Section ~~15~~16 Contracts Affected

All new and renewal reinsurance transactions entered into after January 1, 2015, shall conform to the requirements of Sections 10-3-701 through 10-3-706, C.R.S., and this regulation if credit is to be given to the ceding insurer for such reinsurance.

Section ~~16~~17 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 ~~17~~18 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 ~~18~~19 Effective Date

This regulation shall become effective on January 1, 2022.

Section ~~19~~20 History

Regulation effective January 1, 2007.
Repealed and repromulgated ~~Amended~~ regulation effective January 1, 2015.
Amended regulation effective January 1, 2022.

FORM AR-1

CERTIFICATE OF ASSUMING

INSURER

I, _____, _____
_____ (name of officer)
(title of officer)

of_____, the assuming
insurer (name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in

_____, hereby certify
that (name of state)

_____("Assuming
Insurer"): (name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in_____
(ceding insurer's state of domicile)

for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of _____
(ceding insurer's state of domicile)
as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Insurance Commissioner of_____to examine
(ceding insurer's state of
domicile) its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in _____
(ceding insurer's state of domicile)
reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: _____

_____
(name of assuming insurer)

BY: _____
(name of officer)

_____
(title of officer)

FORM CR-1

CERTIFICATE OF CERTIFIED REINSURER

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer (name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in _____, in order to be considered for approval in this state, hereby certify that (name of state)

_____ ("Assuming Insurer"): (name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in _____ (ceding insurer's state of domicile) for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of _____ (ceding insurer's state of domicile) as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with Section 10-3-701, et. seq.

6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.

7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with Colorado Insurance Regulation 3-3-3(Section 8(B)(7)(d)).

8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.

9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____

_____
(name of assuming insurer)

BY:

_____
(name of officer)

_____
(title of officer)

FORM RJ-1

CERTIFICATE OF REINSURER DOMICILED IN RECIPROCAL JURISDICTION

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming
insurer (name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in _____, in order to
(name of state)

be considered for approval in this state, hereby certify that _____ ("Assuming Insurer"):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in Colorado for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. The assuming insurer agrees that it will include such consent in each reinsurance agreement, if requested by the Commissioner. Nothing in this paragraph constitutes or should be understood to constitute a waiver of assuming insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

2. Designates the Insurance Commissioner of Colorado as its lawful attorney in and for the Colorado upon whom may be served any lawful process in any action, suit or proceeding in this state arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

4. Agrees to provide prompt written notice and explanation if it falls below the minimum capital and surplus or capital or surplus ratio, or if any regulatory action is taken against it for serious noncompliance with applicable law.

5. Confirms that it is not presently participating in any solvent scheme of arrangement, which involves insurers domiciled in Colorado. If the assuming insurer enters into such an arrangement, the assuming insurer agrees to notify the ceding insurer and the Commissioner, and to provide 100% security to the ceding insurer consistent with the terms of the scheme.

6. Agrees that in each reinsurance agreement it will provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final U.S. judgment, that is enforceable under the law of the territory in which it was obtained, or a properly enforceable arbitration award whether obtained by the ceding insurer or by its resolution estate, if applicable.

7. Agrees to provide the documentation in accordance with Colorado Insurance Regulation 3-3-3(Section 9(C)(5)), if requested by the Commissioner.

Dated: _____

_____
(name of assuming insurer)

BY:

_____
(name of officer)

_____
(title of officer)

Form CR-F – PART 1

Assumed Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	Reinsurance On			9	10	11	12	13	14	15
					6	7	8							
Company Code or ID Number		Name of Reinsured	Domiciliary Jurisdiction	Assumed Premium	Paid Losses and Loss Adjustment Expenses	Known Case Losses and LAE	Cols. 6 + 7	Contingent Commissions Payable	Assumed Premiums Receivable	Unearned Premium	Funds Held By or Deposited With Reinsured Companies	Letters of Credit Posted	Amount of Assets Pledged or Compensating Balances to Secure Letters of Credit	Amount of Assets Pledged or Collateral Held in Trust
9999999 Totals														

Form CR-F – PART 2

Ceded Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	6	Reinsurance Recoverable On									Reinsurance Payable		18	19
						7	8	9	10	11	12	13	14	15	16	17		
Company Code or ID Number		Name of Reinsurer	Domiciliary Jurisdiction	Reinsurance Contracts Ceding 75% or More of Direct Premiums Written	Reinsurance Premiums Ceded	Paid Losses	Paid LAE	Known Case Loss Reserves	Known Case LAE Reserves	IBNR Loss Reserves	IBNR LAE Reserves	Unearned Premiums	Contingent Commissions	Cols. 7 through 14 Totals	Ceded Balances Payable	Other Amounts Due to Reinsurers	Net Amount Recoverable From Reinsurers Cols. 15 – [16 + 17]	Funds Held by Company Under Reinsurance Treaties
9999999 Totals																		

Form CR-S – PART 1 – SECTION 1

Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Location	6 Type of Reinsurance Assumed	7 Amount of In Force at End of Year	8 Reserve	9 Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
Totals											

Form CR-S – PART 1 – SECTION 2

Reinsurance Assumed Accident and Health Insurance Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Domiciliary Jurisdiction	6 Type of Reinsurance Assumed	7 Premiums	8 Unearned Premiums	9 Reserve Liability Other Than For Unearned Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
Totals											

Form CR-S – PART 2

Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Paid Losses	7 Unpaid Losses
Totals—Life, Annuity and Accident and Health						

Form CR-S – PART 3 – SECTION 1

Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities
Without Life or Disability Contingencies, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type of Reinsurance Ceded	7 Amount in Force at End of Year	Reserve Credit Taken		10 Premiums	Outstanding Surplus Relief		13 Modified Coinsurance Reserve	14 Funds Withheld Under Coinsurance
							8 Current Year	9 Prior Year		11 Current Year	12 Prior Year		
Totals													

Form CR-S – PART 3 – SECTION 2

Reinsurance Ceded Accident and Health Insurance Listed by Reinsuring Company as of December 31, Current Year

1	2	3	4	5	6	7	8	9	Outstanding Surplus Relief		12	13
Company Code or ID Number		Effective Date	Name of Company	Location	Type	Premiums	Unearned Premiums (Estimated)	Reserve Credit Taken Other than for Unearned Premiums	10 Current Year	11 Prior Year	Modified Coinsurance Reserve	Funds Withheld Under Coinsurance

.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Totais													

Notice of Proposed Rulemaking

Tracking number

2021-00623

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

11/02/2021

Time

10:00 AM

Location

Webinar or 1560 Broadway, STE 850, Denver CO 80202

Subjects and issues involved

The purpose of this regulation is to establish rules governing enrollment periods for individual and group health benefit plans in accordance with Article 16 of Title 10 of Colorado Revised Statutes and the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119 (2010), and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), together referred to as the Affordable Care Act (ACA).

This regulation is being amended to align with changes in the 2021 and 2022 HHS Notice of Benefit and Payment Parameters and to implement Easy Enrollment.

Statutory authority

§§ 10-1-109, 10-16-105(2)(b), 10-16-105.7(1)(e), 10-16-105.7(3)(a)(II)(G), 10-16-105.7(3)(b)(II)(F), 10-16-105.7(3)(c), 10-16-108.5(8), and 10-16-109, C.R.S.

Contact information

Name

Christine Gonzales-Ferrer

Title

Compliance Specialist

Telephone

303-894-2157

Email

christine.gonzales-ferrer@state.co.us

DEPARTMENT OF REGULATORY AGENCIES
Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

DRAFT Proposed Amended Regulation 4-2-43

ENROLLMENT PERIODS RELATING TO INDIVIDUAL AND GROUP HEALTH BENEFIT PLANS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-105(2)(b), 10-16-105.7(1)(e), 10-16-105.7(3)(a)(II)(G), 10-16-105.7(3)(b)(II)(F), 10-16-105.7(3)(c), 10-16-108.5(8), and 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish rules governing enrollment periods for individual and group health benefit plans in accordance with Article 16 of Title 10 of Colorado Revised Statutes and the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119 (2010), and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), together referred to as the "Affordable Care Act" (ACA).

~~The Commissioner finds that the volatility and uncertainty within the individual insurance market, and the potential for consumer harm, constitute a triggering event requiring a special enrollment period, as specified in Section 7, to reduce the potential for consumer harm and ensure the continued health and stability of the Colorado health insurance market.~~

Section 3 Applicability

This regulation shall apply to all carriers offering individual and/or group health benefit plans subject to the individual and/or group laws of Colorado and the requirements of the ACA.

Section 4 Definitions

A. "Calendar year" means, for the purpose of this regulation, a year beginning on January 1 and ending on December 31.

B. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.

C. “Creditable coverage” shall have the same meaning as found at § 10-16-102(16), C.R.S.

D. “Days” mean, for the purpose of this regulation, calendar days, not business days.

E. “Designated beneficiary agreement” shall have the same meaning as found at § 15-22-103(2), C.R.S.

F. “Exchange” shall have the same meaning as found at § 10-16-102(26), C.R.S.

G. “Health benefit plan” shall have the same meaning as found at § 10-16-102(32), C.R.S.

H. “Qualified health plan” or “QHP” means, for the purposes of this regulation, a health benefit plan that has been reviewed and approved by the Division of Insurance as meeting the standards necessary to be considered an ACA-compliant health benefit plan.

I. “Qualified individual” means, for the purpose of this regulation, an individual who has been determined eligible to enroll through the Exchange in a QHP in the individual market.

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

Section 5 Individual Enrollment Periods

A. Carriers offering individual health benefit plans must accept every eligible individual who applies for coverage, agrees to make the required premium payments, and to abide by the reasonable provisions of the plan, although carriers may choose to restrict enrollment to open or special enrollment periods.

B. Carriers offering individual health benefit plans must display continuously and prominently on their website:

1. Notice of open enrollment dates;

2. Notice of special enrollment for qualifying and triggering events;

3. Notice of the enrollment periods for each qualifying and triggering event; and

4. Instructions on how to enroll.

C. Open enrollment periods.

1. The open enrollment period for plans effective on or after January 1 shall begin on November 1 of the prior year and extend through ~~December~~ January 15 of ~~that same year~~the immediately following year.

2. ~~.~~ Carriers must ensure that coverage is effective on January 1 for health benefit plans purchased on or before December 15 of the open enrollment period.

3. Individual health benefit plans purchased beginning December 16 through January 15 shall be effective no later than February 1 of the plan year.~~The open enrollment period will be extended through the annual market stabilization special enrollment period each year, as found in Section 7 of this regulation.~~

4. The benefit year for individual health benefit plans purchased during the annual open enrollment period is a calendar year.

5. During open enrollment periods, carriers must offer guarantee-issue child-only health benefit plans to all applicants under the age of 21.

D. Special enrollment periods.

Carriers must establish special enrollment periods for individuals who experience triggering events, pursuant to § 10-16-105.7, C.R.S.

1. ~~Except as provided in Section 7, f~~Following a triggering event, a carrier must provide a special enrollment period of sixty (60) days.

2. ~~Except as provided in Section 7, w~~When an individual is notified or becomes aware of a triggering event that will occur in the future, ~~he or she~~they may apply for enrollment in a new health benefit plan during the thirty (30) calendar days prior to the date of the triggering event, unless otherwise noted in Section 5.D.4., with coverage beginning no earlier than the day the triggering event occurs, to avoid a gap in coverage. The individual ~~must~~ may be ~~able~~ required to provide written documentation to support the date of the triggering event. The effective date of this enrollment must comply with the coverage effective dates found in Section 5.D.6. of this regulation.

3. ~~Except as provided in Section 7, w~~When a qualified individual is notified or becomes aware of a triggering event that will occur in the future, ~~he or she~~they may apply for enrollment in a new health benefit plan during the sixty (60) calendar days prior to the date of the triggering event, with coverage beginning no earlier than the day the triggering event occurs, to avoid a gap in coverage. The individual ~~must be able~~may be required to provide written documentation to support the date of the triggering event. The effective date of this enrollment must comply with the coverage effective dates found in Section 5.D.6. of this regulation.

4. Triggering events are:

a. An individual or ~~his or her~~their dependent involuntarily losing existing creditable coverage for any reason other than fraud, misrepresentation, or failure to pay a premium. Such individual or dependent may apply for enrollment in a new health benefit plan during the sixty (60) calendar days before the effective date of the loss of coverage;

b. An individual or ~~his or her~~their dependent loses pregnancy-related Medicaid coverage. The date of the loss of coverage is the last day the consumer would have pregnancy-related Medicaid coverage;

c. When an Exchange enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by state law in the state in which the divorce or legal separation occurs, or if the Exchange enrollee, or ~~his or her~~their dependent, dies;

d. An individual or ~~his or her~~their dependent losing other coverage as described under Section 1902(a)(10)(C) of the Social Security Act (42 U.S.C. § 301 et seq.). Such individual or dependent may apply once during a calendar year for enrollment in a new health benefit plan during the sixty (60) calendar days before and after the effective date of the loss of coverage;

e. An individual gaining a dependent or becoming a dependent through marriage, civil union, birth, adoption, or placement for adoption, placement in foster care, through a child support order or other court order, or by entering into a designated beneficiary agreement if the carrier offers coverage to designated beneficiaries;

f. An individual's or ~~his or her~~their dependent's enrollment or non-enrollment in a health benefit plan that is unintentional, inadvertent or erroneous and is the result of an error, misrepresentation, or inaction of the carrier, producer, or the Exchange;

g. An individual or ~~his or her~~their dependent demonstrating to the Commissioner that the health benefit plan in which the individual is enrolled has substantially violated a material provision of its contract in relation to the individual or ~~his or her~~their dependent;

h. A qualified individual who:

(1) Becomes newly eligible, or an Exchange enrollee who is newly eligible or ineligible, for the federal advance premium tax credit or has a change in eligibility for cost-sharing reductions available through the Exchange;

(2) Has a dependent enrolled in the same qualified health plan who is determined to be newly eligible or ineligible for the federal advance premium tax credit or has a change in eligibility for cost-sharing reductions available through the Exchange;

(3) Becomes newly eligible, or ~~his or her~~their dependent becomes newly eligible, for enrollment in a QHP through the Exchange because they have been released from incarceration;

(4) Was previously ineligible for federal premium tax credit solely because of a household income below one hundred percent (100%) of the Federal Poverty Level and who, during the same timeframe, was ineligible for Medicaid because ~~he or she~~they were living in a non-Medicaid expansion state, who either experiences a change in household income or moves to a different state resulting in the qualified individual becoming newly eligible for advance payments of the federal premium tax credit; ~~or~~

(5) Is enrolled, or has a dependent enrolled, in an eligible employer-sponsored plan and is determined to be newly eligible for the federal advance premium tax credit based in part on a finding that such individual is ineligible for coverage in an eligible employer-sponsored plan that provides minimum creditable coverage, including as a result of ~~his or her~~their employer discontinuing or changing coverage within the next sixty (60) days, provided the enrollee is able to terminate ~~his or her~~their existing coverage. This enrollee may apply for enrollment in a new health benefit plan during the sixty (60) calendar days before and after the effective date of the loss of coverage~~.~~;

(6) Indicates on a Colorado Individual Income Tax Form by the tax deadline their interest in learning more about free or reduced health coverage and is found eligible for financial assistance for health coverage by Connect for Health Colorado; or

(7) Did not receive timely notice of an event that triggers eligibility for a special enrollment period, and otherwise was reasonably unaware that a triggering event described in Section 5.D.4 occurred, the Exchange must allow the individual, their dependent to select a new plan within sixty (60) days of the date that they knew, or reasonably should have known, of the occurrence of the triggering event; or

(8) Becomes eligible, or their dependent becomes eligible for advance payments of the premium tax credit and whose household income is expected to be no greater than 150 percent of the federal poverty level, may enroll in a QHP or change from one QHP to another one time per month during periods of time when the applicable individual's applicable percentage for purposes of calculating the premium assistance amount is set at zero.

i. An individual or ~~his or her~~their dependent gaining access to other creditable coverage as a result of a permanent change in residence;

j. A parent or legal guardian dis-enrolling a dependent, or a dependent becoming ineligible for the Child Health Plan Plus (CHP+);

k. An individual becoming ineligible under the Colorado Medical Assistance Act (C.R.S. § 25.5-4-101 et seq.);

l. An individual, who was not previously a citizen, a national, or a lawfully present individual, gaining such status;

m An Indian, as defined by Section 4 of the Indian Health Care Improvement Act (25 U.S.C. § 1601 et seq.), or ~~his or her~~their dependent on the same application, may enroll in a qualified health plan or change from one qualified health plan to another one (1) time per month;

n. An individual or ~~his or her~~their dependent currently enrolled in an individual or group non-calendar year health benefit plan may apply for enrollment in a new health benefit plan during the sixty (60) calendar days prior to the effective date of the involuntary loss of coverage, which is the last day of the plan or policy year;

~~o~~. ~~An individual or his or her dependent enrolling in a health benefit plan may apply for enrollment in a new health benefit plan during the annual market stabilization special enrollment period, as specified in Section 7 of this regulation;~~

o~~p~~. An individual who is a victim of domestic abuse or spousal abandonment, as defined by 26 C.F.R. § 1.36B-2T, including a dependent or unmarried victim within a household, who is enrolled in creditable coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment;

~~q~~p. An individual who is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;

~~r~~q. An individual or ~~his or her~~their dependent who applies for coverage during the annual open enrollment period or due to a triggering event, and is assessed as potentially eligible for Medicaid or the Child Health Plan Plus (CHP+), and is determined ineligible for Medicaid or CHP+ either after open enrollment has

ended or more than sixty (60) days after the triggering or qualifying event, or applies for coverage through a State Medicaid or CHP+ agency during the annual open enrollment period, and is determined ineligible for Medicaid or CHP+ after open enrollment has ended;

~~s~~r. An individual, or ~~his or her~~their dependent, who has purchased an off-Exchange plan, adequately demonstrates to the Commissioner that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a QHP;

~~t~~s. An individual, or ~~his or her~~their dependent, who has purchased an on-Exchange plan, adequately demonstrates to the Exchange that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a QHP;

~~u~~t. An individual, or ~~his or her~~their dependent, adequately demonstrates to the Exchange, in accordance with 45 C.F.R. § 155.420(d)(9), that the individual meets other exceptional circumstances as the Exchange may provide; ~~or~~

~~v~~u. An individual who has purchased a short-term limited duration health insurance policy in the past twelve (12) months and is unable, at the end of ~~his or her~~their policy term, to purchase another short-term policy from the same carrier due to that short-term policy carrier ceasing its sales of all short-term policies in Colorado on or after April 1, 2019. Such individuals may apply for enrollment in a new individual health benefit plan in accordance with Section 5.D. 1. and 2. of this regulation , or during the sixty (60) calendar days after the effective date of this regulation; or~~.~~

v. In the event, an individual, or their dependent, is enrolled in COBRA (Consolidated Omnibus Budget Reconciliation Act) continuation coverage for which an employer is paying all or part of the premiums, or for which a government entity is providing subsidies, and the employer completely ceases its contributions to the qualified individual's or dependent's COBRA continuation coverage or government subsidies completely cease. The triggering event is the last day of the period for which COBRA continuation coverage is paid for or subsidized, in whole or in part, by an employer or government entity.

5. Special Enrollment Period Eligibility Verification and Prior Coverage Requirements

a. Carriers may ~~shall~~ establish a special enrollment period eligibility verification process to confirm that an individual applying for coverage through a special enrollment period is eligible for the requested special enrollment period. Carriers may delay the processing of an application or any enrollment documents or premium payments until after completion of verification of eligibility for the requested special enrollment period.

(1) For special enrollment period eligibility verification, carriers shall make the list of required documentation, relevant premium payment information, and the verification process and deadlines available on their website in a conspicuous manner, and encourage individuals to provide the required documentation with their request for a special enrollment.

(2) A carrier shall notify the applicant within fourteen (14) days of receipt of the application if the applicant did not provide sufficient documentation necessary to verify eligibility for the special enrollment period requested.

The notice shall include information that a failure to provide the documentation will result in a denial of enrollment, and that coverage will not be issued until the required documentation confirming eligibility for the special enrollment period has been received.

(3) Individuals shall have no less than thirty (30) days from the date of the insufficient documentation notice to provide a carrier with sufficient documentation to establish eligibility for the requested special enrollment period.

(4) Carriers must make a verification determination within fourteen (14) days of receiving sufficient documentation in order to make an eligibility determination. If the verification determination is not made within the fourteen (14) day period, the individual shall be deemed verified and coverage shall be issued.

(5) A carrier must provide written notice to the individual of the outcome of the verification determination.

(6) The carrier may retroactively terminate or cancel an individual's enrollment if the carrier determines that the individual committed fraud or intentionally misrepresented ~~his or her~~their eligibility for a special enrollment period.

(7) A carrier is not required to provide thirty (30) days notice prior to denying, terminating, or cancelling an individual determined not to be eligible for a special enrollment period.

(8) A carrier shall notify an individual determined ineligible for a special enrollment period for an on-Exchange plan that ~~he or she~~they may appeal that decision with the Exchange, and the carrier shall respond to documentation requests from the Exchange concerning an appeal within seven (7) days of receiving that request.

(9) A carrier shall notify an individual determined ineligible for a special enrollment period for an off-Exchange plan that ~~he or she~~they may appeal that decision with the carrier and that ~~he or she~~they may appeal a carrier's final determination to the Division once the carrier's internal appeal process has been completed.

b. A carrier shall provide written confirmation of an individual's loss of creditable coverage to that individual within ten (10) business days of receiving such a request. The written confirmation must include the date of the loss of coverage and the reason for the loss of coverage.

c. The following documents shall constitute proof of a triggering event and sufficient documentation of eligibility for a special enrollment period:

~~(1) Evidence of an involuntary loss of creditable coverage shall be considered sufficient if the individual produces:~~

_____Wri~~tten confirmation of~~ th~~e loss of creditable coverage;~~

_____An ~~official letter or other notice from an employer or sent on behalf of an employer that provides notice of eligibility for COBRA or for state continuation benefits;~~

_____Off~~icial documentation for loss due to exhaustion of COBRA or state continuation benefits; or~~

) _____~~A letter~~ c~~onfirming such loss from the Division.~~

(1)~~(2)~~ Evidence of gaining or becoming a dependent shall be considered sufficient if the individual produces one of the following documents:

(a) A marriage license, civil union certificate or common law documentation, if the gaining or becoming a dependent occurs due to marriage or civil union;~~.~~

(b) A birth certificate, adoption documents, or foster care documents, if the gaining or becoming a dependent occurs due to birth, adoption, placement for adoption, or placement in foster care; or~~.~~

(c) A court order or designated beneficiary documents, if the gaining or becoming a dependent occurs due to a court order.

(2)~~(3)~~ Evidence of losing a dependent or no longer being considered a dependent shall be considered sufficient if the individual produces:

(a) A copy of the death certificate or the obituary.

(b) Copies of the final divorce or separation documents.

(c) Proof of age and evidence of loss of creditable coverage when an individual turns 26 and is no longer eligible to be covered under a parent's health benefit plan.

~~(4) Evidence of a permanent change in residence shall be considered sufficient if the individual produces:~~

~~(a) Proof of change of address provided to, and acknowledged by, the U.S. Postal Service;~~

~~(b) A copy of a lease or purchase agreement listing the new address;~~

~~(c) A copy of utility bills listing the new address; or~~

~~(d) A copy of a driver's license listing the new address.~~

~~(5) Evidence of a material violation of a carrier's contract shall be considered sufficient if the individual produces a letter confirming eligibility for a special enrollment from the Division.~~

(3)~~(6)~~ Evidence of a change in citizenship or immigration status shall be considered sufficient if the individual produces official documentation of the change.

~~(7) Evidence of status as an American Indian/Native American shall be considered sufficient if the individual produces official documentation of his or her status.~~

~~(8) Evidence of a new determination of eligibility or ineligibility for federal advance premium tax credits or cost-sharing reductions available through the Exchange shall be considered sufficient if the individual produces the determination from the Exchange.~~

~~(9) Documentation providing evidence of the termination of a short-term policy with an expiration date on or after April 1, 2019, that indicates that the carrier has ceased all short-term policy sales in the state, or that the carrier has exited the market, which includes, but is not limited to, written communication from the carrier or from a broker.~~

~~(4)(10)~~ The following triggering events shall be confirmed by self-attestation:

(a) Evidence of an involuntary loss of credible coverage;

(b) Evidence of a permanent change in residence;

(c) Evidence of a material violation of a carrier's contract confirming eligibility for a special enrollment from the Division;

(d) Evidence of a status as American Indian/Native American; or

(e) Evidence of the termination of a short-term policy with an expiration date on or after April 1, 2019, that indicates that the carrier has exited the market, which includes, but is not limited to, written communication from the carrier or from a broker; or

(f) Evidence of the cessation of subsidies for COBRA or state continuation coverage.

~~(5)(11)~~ Any other documentation reasonably sufficient to verify eligibility for the special enrollment period requested.

d. Prior coverage requirements.

(1) For special enrollment period requests due to marriage or civil union, carriers may require that at least one individual demonstrate that ~~he or she~~they possessed minimum essential coverage for at least one (1) or more days during the sixty (60) days immediately preceding the date of the special enrollment period triggering event.

(2) For special enrollment period requests due to a permanent move, the requesting individual must demonstrate that ~~he or she~~they possessed minimum essential coverage for at least one (1) or more days during the sixty (60) days immediately preceding the date of the permanent move.

(3) If the requesting individual is unable to demonstrate that ~~he or she~~they possessed minimum essential coverage, carriers may require the requesting individual to demonstrate:

(a) ~~He or she~~They lived outside of the United States or in a United States territory for one (1) or more days during the sixty (60) days immediately preceding the date of the special enrollment period triggering event;

(b) ~~That he or she is~~They are an Indian, as defined by Section 4 of the Indian Health Care Improvement Act; or

(c) ~~He or she~~They lived for one (1) or more days during the sixty (60) days preceding the qualifying event or during his or her most recent preceding enrollment period in a service area where no qualified health plan was available through the Exchange.

~~e~~. ~~The special enrollment period eligibility verification and prior coverage requirements found in Section 5.D.5. of this regulation do not apply to the annual market stabilization special enrollment period found in Section 7 of this regulation.~~

~~f~~e. The special enrollment period eligibility verification requirements do not apply to the special enrollment period found in Section 5.D.4.h.6.

6. ~~Except as provided in Section 7, c~~Coverage effective dates will be:

a. In the case of marriage, civil union, or in the case where an individual loses creditable coverage, coverage must be effective no later than the first day of the month following plan selection.

b. In the case of birth, adoption, placement for adoption, or placement in foster care, coverage must be effective on either:

(1) The date of the event; or

(2) The first day of the month following the birth, adoption, placement for adoption, or placement in foster care, if requested by the primary individual policyholder.

c. In the case of an involuntary loss of existing creditable coverage in accordance with Section 5.D.4.a. of this regulation, coverage shall become effective either:

(1) On the first day of the month following the triggering event if plan selection is made on or before the effective date of the triggering event;

(2) In accordance with the effective dates specified in Section 5.D.6.f. and g. of this regulation if a plan selection is made after the effective date of the triggering event; or

(3) At the option of the Exchange, on the first day of the month following plan selection when plan selection is made after a triggering event.

d. In the case of gaining a dependent or becoming a dependent through a court order, coverage shall become effective either:

(1) On the date the court order is effective; or

(2) In accordance with the effective dates specified in Section 5.D.6.f. and g. of this regulation at the election of the primary individual policyholder.

e. The effective date of coverage for triggering events found in Section 5.D.4.f. and g. of this regulation must be an appropriate date based upon the circumstances of the special enrollment period.

f. In the case of all other triggering events where individual coverage is purchased ~~between the first and fifteenth day of the month,~~ coverage shall become effective no later than the first day of the following month.

~~g. In the case of all other triggering events where individual coverage is purchased between the sixteenth and last day of the month, coverage shall become effective no later than the first day of the second following month.~~

Section 6 Group Enrollment Periods

A. Carriers that offer small group health benefit plans must guarantee-issue small group health benefit plans throughout the year to any eligible small group that applies for a plan, agrees to make the required premium payments, and abide by the reasonable provisions of the plan, except as noted below.

B. Special enrollment periods for small employers.

1. For small employers that are unable to comply with employer contribution or group participation rules at the time of initial application, carriers may limit the availability of coverage for a group it has declined to an enrollment period that begins on November 15 and ends on December 15 of each year.

2. Coverage must be effective consistent with the dates listed below, unless the initial premium payment is not received by the carrier's cut-off date.

a. Carriers cannot establish a waiting period of more than ninety (90) days.

b. If a fully completed application that includes plan selection is received by the carrier between the first and the fifteenth day of the month, the first effective day of the health benefit plan will be no later than the first day of the following month.

c. If a fully completed application that includes plan selection is received between the sixteenth and last day of the month, the first effective day of the health benefit plan will be no later than the first day of the second following month.

C. Special enrollment periods for employees of small and large employer group plans.

1. Carriers must establish special enrollment periods in the group health benefit plan for individuals who experience any of the following qualifying events pursuant to § 10-16-105.7(3)(b)(II), C.R.S.:

a. Loss of coverage due to:

(1) The death of a covered employee;

(2) The termination or reduction in the number of hours of the employee's employment;

(3) The covered employee becoming eligible for benefits under Title XVIII of the Federal Social Security Act (42 U.S.C. § 301 et seq.); or

(4) The divorce or legal separation from the covered employee's spouse or partner in a civil union.

b. Becoming a dependent through marriage, civil union, birth, adoption, or placement for adoption, or placement in foster care;

c. Becoming a dependent of a covered person by entering into a designated beneficiary agreement, or pursuant to a court or administrative order mandating that the individual be covered;

d. Losing other creditable coverage due to:

(1) Termination of employment or eligibility for coverage, regardless of eligibility for COBRA or state continuation;

(2) A reduction in the number of hours of employment;

(3) Involuntary termination of coverage; or

(4) Reduction or elimination of his or her employer's contributions toward the coverage.

e. Losing coverage under the Colorado Medical Assistance Act (C.R.S. § 25.5-4-101 et seq.) and then requesting coverage under an employer's group health benefit plan within sixty (60) days of the loss of coverage;

f. An employee or dependent becoming eligible for premium assistance under the Colorado Medical Assistance Act (C.R.S. § 25.5-4-101 et seq.) or the Child Health Plan Plus (CHP+); or

g. A parent or legal guardian dis-enrolling a dependent, or a dependent becoming ineligible for the Child Health Plan Plus (CHP+), and the parent or legal guardian requests enrollment of the dependent in a health benefit plan within sixty (60) days of the disenrollment or determination of ineligibility.

2. Individuals in the group market shall have a thirty (30) day special enrollment period that begins on the date the qualifying event occurs, except as provided in Section 6.C.1.e, and g. of this regulation, which provide a sixty (60) day special enrollment period.

3. When an individual in the group market is notified or becomes aware of a qualifying event that will occur in the future, ~~he or she~~they may apply for coverage during the thirty (30) calendar days prior to the effective date of the qualifying event, with coverage beginning no earlier than the day the qualifying event occurs to avoid a gap in coverage. The individual must be able to provide written documentation to support the effective date of the qualifying event at the time of enrollment. The effective date of this enrollment must comply with the coverage effective dates found in Section 6.C.4. of this regulation.

4. Coverage effective dates.

a. In the case of birth, adoption, placement for adoption, or placement in foster care, coverage must be effective on the date of the event.

b. In the case of marriage, civil union, or other qualifying events, coverage must be effective no later than the first day of the following month after the date the Exchange or the carrier receives a completed enrollment form.

~~**Section 7 Annual Market Stabilization Special Enrollment Period**~~

~~A. Carriers shall establish an annual market stabilization special enrollment period in order to ensure that consumers have sufficient opportunity to enroll in a health benefit plan after the end of the annual open enrollment period, and to ensure the continued health and stability of the Colorado health insurance market.~~

~~B. The annual market stabilization special enrollment period shall begin each year on December 16 and extend through January 15.~~

~~C. Individual health benefit plans purchased on or off of the Exchange during the annual market stabilization special enrollment period shall be effective no later than February 1 of the plan year.~~

~~D. The special enrollment period eligibility verification and prior coverage requirements found in Section 5.D.5. of this regulation do not apply to the annual market stabilization special enrollment period.~~

Section 7~~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 8~~9~~ Incorporated materials

26 C.F.R. § 1.36B-2T, published by Government Printing Office shall mean shall mean 26 C.F.R. § 1.36B-2T as published on the effective date of this regulation and does not include later amendments to or editions of 26 C.F.R. § 1.36B-2T. A copy of 26 C.F.R. § 1.36B-2T may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202. A certified copy of 26 C.F.R. § 1.36B-2T may be requested from the Colorado Division of Insurance for a fee. A copy may also be obtained online at www.ecfr.gov.

45 C.F.R. § 155.420(d)(9), published by Government Printing Office shall mean shall mean 45 C.F.R. § 155.420(d)(9) as published on the effective date of this regulation and does not include later amendments to or editions of 45 C.F.R. § 155.420(d)(9). A copy of 45 C.F.R. § 155.420(d)(9) 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 C.F.R. § 155.420(d)(9) may be requested from the Colorado Division of Insurance for a fee. A copy may also be obtained online at www.ecfr.gov.

Section 9~~10~~ Enforcement

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

Section 10~~1~~1 Effective Date

This regulation shall become effective on ~~September 1, 2019.~~January 1, 2022

Section 11~~12~~ History

Emergency regulation 13-E-13 effective October, 31, 2013.
Regulation effective February 1, 2014.
Amended regulation effective August 15, 2014.
Amended regulation effective November 1, 2015.
Emergency regulation 17-E-01 effective August 1, 2017.
Amended regulation effective December 1, 2017.
Emergency regulation 18-E-04 effective September 5, 2018.
Amended regulation effective January 1, 2019.
Amended regulation effective September 1, 2019.
Amended regulation effective January 1, 2022.

Notice of Proposed Rulemaking

Tracking number

2021-00631

Department

700 - Department of Regulatory Agencies

Agency

709 - Division of Professions and Occupations - Colorado Dental Board

CCR number

3 CCR 709-1

Rule title

DENTISTS & DENTAL HYGIENISTS RULES AND REGULATIONS

Rulemaking Hearing

Date

11/04/2021

Time

01:15 PM

Location

Webinar Only: https://attendee.gotowebinar.com/register/7604076599995125516

Subjects and issues involved

The purpose of this Permanent Rulemaking Hearing is for the Board to consider adopting: revisions to Rules 1.6, 1.9, 1.13, 1.17, 1.21, 1.29, and 1.30, as required by the Office of Legislative Legal Services to fix typographical errors and correct language in the rules that conflict with portions of the statutes; revisions to Rule 1.6, to implement Colorado Senate Bill 21-077 (Concerning the elimination of verification of an individual's lawful presence in the United States as a requirement for individual credentialing); and new Rule 1.31, to implement Colorado House Bill 21-1276 (Concerning the prevention of substance use disorders).

Statutory authority

Sections 12-20-204(1), 12-220-106(1)(a), and 24-4-103, C.R.S.

Contact information

Name

Elena M. Kemp

Title

Regulatory Coordinator

Telephone

3038947426

Email

dora_dpo_rulemaking@state.co.us

DEPARTMENT OF REGULATORY AGENCIES

Colorado Dental Board

DENTISTS & DENTAL HYGIENISTS RULES AND REGULATIONS

3 CCR 709-1

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

…

1.6 Licensure of Dentists and Dental Hygienists

This Rule is promulgated pursuant to sections 12-20-202(3), 12-20-204, 12-220-105(3), and 12-220-106, C.R.S.

A. General Requirements for Licensees and Applicants

…

5. Change of name and address

…

b. The Board requires one of the following forms of documentation to change a licensee's name or correct a social security number or individual taxpayer identification number:

(1) Marriage license;

(2) Divorce decree;

(3) Court order;

(4) Documentation from the Internal Revenue Service verifying the licensee's valid individual taxpayer identification number~~IRS form W-7, as applicable~~, or

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

…

11. Under section 12-20-404(3)(a)(I), C.R.S., any person whose license to practice is revoked ~~or surrendered~~ is ineligible to apply for any license under the Dental Practice Act for at least two years after the date of revocation ~~or surrender~~ of the license. Any subsequent application for licensure is an application for an original license.

…

B. Original Licensure for Dentists

…

2. Each applicant must verify that the applicant:

a. Obtained or will obtain prior to practicing as a licensed dentist in this state commercial professional liability insurance coverage with an insurance company authorized to do business in Colorado pursuant to Article 5 of Title 10, C.R.S., in a minimum indemnity amount of $500,000 per incident and $1,500,000 annual aggregate per year, or is~~f~~ covered under a financial responsibility exemption listed in Rule 1.2.

…

E. Original Licensure for Dental Hygienists

…

2. Each applicant will also be required to verify that the applicant:

a. Obtained or will obtain prior to practicing as a licensed dental hygienist in this state professional liability insurance in the amount of not less than $50,000 per claim and an aggregate liability for all claims during a calendar year of not less than $300,000, or is covered under a financial responsibility exemption listed in Rule 1.5~~2~~. Coverage may be maintained by the dental hygienist or through a supervising licensed dentist;

…

F. Dental Hygienists Licensure by Endorsement through the Occupational Credential Portability Program

1. In order to be qualified for licensure by endorsement through the Occupational Credential Portability Program pursuant to section 12-20-202(3), C.R.S., an applicant shall submit a completed Board approved application along with the required fee and verify that the applicant holds an active license to practice ~~of~~ dental hygiene in good standing in another state or United States territory.

…

H. Reinstatement/Reactivation Requirements for Dentists and Dental Hygienists with Expired, Inactive, or Retired Licenses

1. In order to reinstate or reactivate a license back into active status, each applicant shall submit a completed Board approved application along with the required fee in order to be considered for licensure approval and must also verify that the applicant:

a. Obtained or will obtain prior to active practice in this state professional liability insurance as required pursuant to section 12-220-307, C.R.S., or is covered under a financial responsibility exemption listed in Rule 1.5~~2~~.

…

I. Temporary Licenses

1. By invitation only:

   a. A dentist or dental hygienist who lawfully practices dentistry or dental hygiene in another state or United States territory may be granted a temporary license to practice dentistry or dental hygiene in this state pursuant to section 12-220-106(1)(d), C.R.S., if:

…

   (2) The governmental entity or nonprofit private foundation as defined in section (I)(1)(a)(1) ~~(H)(1)(a)(1)~~ of this Rule certifies the name of the applicant and the dates within which the applicant has been invited to provide dental or dental hygiene services in this state, the applicant's full dental or dental hygiene license history with verification of licensure in each state, and an active license in at least one state on a form provided by the Board; and

   (3) Such applicant's practice in this state, if granted by the Board, is limited to that required by the entities specified in section (I~~H~~)(1)(a)(1) and (2) of this Rule and shall not exceed 120 consecutive days in a twelve-month period, renewable once in a one year period for a maximum of 240 consecutive days in a one year period.

…

(Amended and Re-numbered November 5, 2020; Effective December 30, 2020)

…

1.9 Record Keeping Requirements

…

H. Use of Lasers – refer to Rule 1.2~~2~~4(F) for these documentation requirements.

(Promulgated as Emergency Rule XXVIII on July 7, 2004; Amended January 21, 2010, Effective March 30, 2010; Re-numbered December 30, 2011; Amended April 28, 2016, Effective June 30, 2016; Amended and Re-numbered November 5, 2020; Effective December 30, 2020)

…

1.13 Limited Prescriptive Authority for Dental Hygienists

This Rule is promulgated pursuant to sections 12-20-204, 12-220-105(3), 12-220-106, and 12-220-503(1~~2~~)(g), C.R.S.

…

(Effective June 30, 1996 as Rule XXIV; Amended December 2, 2002; Amended January 21, 2010, Effective March 30, 2010; Re-numbered December 30, 2011; Amended January 22, 2015, Effective March 30, 2015; Amended April 30, 2015, Effective June 30, 2015; Amended January 17, 2018, Effective March 17, 2018; Amended an Re-numbered November 5, 2020; Effective December 30, 2020)

…

1.17 Advertising

This Rule is promulgated pursuant to sections 12-20-204, 12-220-105(3), and 12-220-106, C.R.S.

This Rule applies to advertising in all types of media that is directed to the public. No dentist or dental hygienist shall advertise in any form of communication in a manner that is misleading, deceptive, or false.

…

C. Specialty Practice and Advertising.

…

2. Pursuant to section 12-220-201(1)(ii), C.R.S., the Board may discipline a dentist for advertising or otherwise holding himself/herself out to the public as practicing a dental specialty in which he or she has not successfully completed the education specified for the dental specialty as defined by the American Dental Association (ADA) ~~or the National Commission on Recognition of Dental Specialties and Certifying Boards~~ .

   a. Dental specialties currently defined by the ADA ~~or the National Commission on Recognition of Dental Specialties and Certifying Boards~~ and recognized by the Board include the following:

      (1) Dental public health;

      (2) Endodontics;

      (3) Oral and maxillofacial pathology;

      (4) Oral and maxillofacial radiology;

      (5) Oral and maxillofacial surgery;

      (6) Orthodontics and dentofacial orthopedics;

      (7) Pediatric dentistry;

      (8) Periodontics;

      (9) Prosthodontics;

      (10) Oral Medicine;

      (11) Oro Facial Pain; and

      (12) Dentist Anesthesiologist.

   b. Dentists advertising a specialty that is defined by the ADA ~~or the National Commission on Recognition of Dental Specialties and Certifying Boards~~ must clearly state in all such advertising and/or public promotions that their specialty has been defined by the American Dental Association ~~or the National Commission on Recognition of Dental Specialties and Certifying Boards~~, provide the full name of the CODA approved school where their residency was completed, and upon request, promptly provide additional information to the public.

3. The Board may also recognize dental specialties not defined by the ADA ~~or the National Commission on Recognition of Dental Specialties and Certifying Boards~~. Dentists advertising a specialty that is not defined by the ADA ~~or the National Commission on Recognition of Dental Specialties and Certifying Boards~~ must clearly state in all such advertising and/or public promotions that their specialty has not been defined by the American Dental Association ~~or the National Commission on Recognition of Dental Specialties and Certifying Boards~~ . Advertising dentists must also provide the full name of the entity that has defined their specialty and upon request, promptly provide additional information to the public.

4. ADA ~~or National Commission on Recognition of Dental Specialties and Certifying Boards~~ defined dental specialists are those dentists who have successfully completed a Commission on Dental Accreditation (CODA) approved specialty program. The Board recognizes that dentists advertising a non-ADA ~~or National Commission on Recognition of Dental Specialties and Certifying Boards~~ defined specialty may or may not have successfully completed a CODA approved specialty program. Therefore:

   a. Dentists who have successfully completed a CODA approved specialty program, whether defined or not defined by the ADA ~~or the National Commission on Recognition of Dental Specialties and Certifying Boards~~, may advertise the practice of that specialty subject to the provisions of paragraphs (2) or (3) of this Rule, including providing the full name of the CODA approved school where their residency was completed.

   b. In addition to the requirements of paragraphs (2) and (3) of this Rule, dentists who have not completed a CODA approved specialty program and are advertising a non-ADA ~~or National Commission on Recognition of Dental Specialties and Certifying Boards~~ defined specialty, must clearly state in all advertising and/or public promotions that their specialty program is not approved by the Commission on Dental Accreditation. Such dentists must also identify their specific training completed (credential awarded) in order to receive their specialty designation and upon request, promptly provide additional information to the public.

…

(Effective August 1, 2000; Temporarily Expired December 2, 2002; Effective July 1, 2003; Amended October 27, 2004; Amended October 26, 2006, Effective December 30, 2006; Amended April 25, 2007, Effective July 1, 2007; Amended October 24, 2007, Effective December 31, 2007; Amended October 22, 2008, Effective November 30, 2008; Amended January 21, 2010, Effective March 30, 2010; Re-numbered December 30, 2011; Amended July 13, 2016, Effective September 14, 2016; Amended November 5, 2020; Effective December 30, 2020)

…

1.21 Fining Schedule for Violations of the Dental Practice Act and Board Rules

Pursuant to section 12-220-202(5), C.R.S., when a licensed dentist, including one issued an academic license, or dental hygienist violates a provision of the Dental Practice Act or a Board Rule, the Board may impose a fine on the licensee. The amount of an administrative fine assessed will be based on the following criteria:

- Severity of the violation;

- Type of violation; and

- Whether the licensee committed repeated ~~violations.f~~violations~~; and~~

~~- Any other mitigating or aggravating circumstances.~~

…

(Adopted January 22, 2015, Effective March 30, 2015; Amended January 20, 2016, Effective March 16, 2016; Amended April 28, 2016, Effective June 30, 2016; Amended November 5, 2020; Effective December 30, 2020)

…

1.29 CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE FOR PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER

~~PHYSICIAL OR MENTAL ILLNESS~~

This Rule is promulgated pursuant to sections 12-20-204, 12-30-108, 12-220-105(3), 12-220-106, 12-220-201(1)(j), and 12-220-207, ~~and 12-30-412,~~ C.R.S.

A. ~~Physical or mental illness requirements.~~ These requirements apply to a dentist or dental hygienist who holds an active license issued by the Board, including a dentist issued an academic license

B. ~~Notice to Board.~~ No later than thirty days from the date a physical illness, physical condition, or behavioral or mental health disorder~~illness or condition~~ impacts a licensee's ability to practice with reasonable skill and safety, the licensee shall provide the Board, in writing, the following information:

1. The diagnosis and a description of the illness, ~~or~~ condition, or disorder;

2. The date the illness, ~~or~~ condition, or disorder was first diagnosed;

3. The name of the current treatment provider and documentation from the current treatment provider confirming the diagnosis, date of onset, and treatment plan;

4. A description of the licensee's practice and any modifications, limitations or restrictions to that practice that have been made as a result of the illness, ~~or~~ condition, or disorder;

5. Whether the licensee has been evaluated by, or is currently receiving services from the Board's authorized Peer Health Assistance Program related to the illness, ~~or~~ condition, or disorder, and, if so, the date of initial contact and whether services are ongoing.

C. ~~Confidential Agreement; Board Discretion.~~ Compliance with this Rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Board pursuant to sections 12-220-207 and 12-30-108, C.R.S. However, mere compliance with this Rule does not require the Board to negotiate regarding, or enter into, a Confidential Agreement. Rather, the Board will evaluate all facts and circumstances to determine if a Confidential Agreement is appropriate.

D. ~~Failure to Notify.~~ If the Board discovers that a licensee has a physical illness, physical condition, or behavioral or mental health disorder ~~a mental or physical illness or condition~~ that impacts the licensee's ability to practice with reasonable skill and safety and the licensee has not notified the Board as required under these Rules of such illness, ~~or~~ condition, or disorder, the licensee

~~psychologist~~ shall not be eligible for a Confidential Agreement and may be subject to disciplinary action for failure to notify under section 12-220-201(1)(j), C.R.S.

(Adopted November 5, 2020; Effective December 30, 2020)

1.30 REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT

This Rule is promulgated pursuant to sections 12-20-204, 12-220-105(3), 12-220-106, and 12-30-115, C.R.S.

A. On or after March 1, 2021, a licensee shall provide a written disclosure to a patient, as defined in section 12-30-115(1)(a), C.R.S., instances ~~(add statutory language)~~ of sexual misconduct , including a conviction or guilty plea as set forth in section 12-30-115(2)(a) C.R.S., or final agency action resulting in probation or limitation of licensee's ability to practice as set forth is section 12-30-115(2)(b), C.R.S.

…

1.31 RULES REGARDING THE USE OF BENZODIAZEPINE~~RULE TITLE~~

The authority for promulgation of these rules and regulations by the Colorado Dental Board is set forth in ~~This Rule is promulgated pursuant to~~ sections 12-20-204(1), 12-220-105(3), 12-220-106, and 12-30-109(6), C.R.S.

The purpose of these~~is~~ Rules and regulations is to implement rules required by section 12-30-109(6), C.R.S., related to requirements for prescribing benzodiazepines to patients for whom licensees have not previously prescribed benzodiazepines within the last twelve months.

A. Licensees must limit any prescription for a continuous benzodiazepine to a 30-day supply, for any patient to whom the licensee has not prescribed a benzodiazepine in the last 12 months.

B. Prior to prescribing the second fill of a benzodiazepine, a licensee must comply with the requirements of section 12-280-404(4), C.R.S. Failure to comply with section 12-280-404(4), C.R.S., constitutes unprofessional conduct or grounds for discipline under section 12-220-201(1), ~~[12-XX-XXX]~~ C.R.S.

C~~E~~. The limitation stated in section (A) of this Rule does not apply to patients for whom licensees prescribe benzodiazepines for the following conditions:

1. Epilepsy;

2. A seizure, a seizure disorder, or a suspected seizure disorder;

3. Spasticity;

4. Alcohol withdrawal; or

5. A neurological condition, including a post-traumatic brain injury or catatonia.

D~~F~~. These rules do not require or encourage abrupt discontinuation, limitation, or withdrawal of benzodiazepines. Licensees are expected to follow generally accepted standards of the practice of dentistry based on an individual patient's needs, in tapering benzodiazepine prescriptions.

[ADD EDITING HISTORY]

Editor's Notes

History

Rules XVII, XXVI eff. 07/01/2007.

Rules XXVI, XXIX, XXX eff. 12/31/2007.

Rule XXVI eff. 11/30/2008.

Rule III eff. 05/30/2009.

Rule III eff. 12/30/2009.

Rules III, XIV-XXX eff. 03/30/2010.

Rules I-IX, XI-XIII, XV-XXII eff. 12/30/2011.

Rules I-III, IX, XI-XIII, XXIII-XXIV eff. 03/30/2015. Rule XVI repealed eff. 03/30/2015.

Rules XIII, XIV, XXIV eff. 06/30/2015.

Rule XXIII eff. 03/16/2016.

Rules I, III, IV, V, IX, X, XIV, XV, XVI, XVIII, XX, XXI, XXIII, XXIV, XXV eff. 06/30/2016. Rules VI, VII, VIII, XIX, XXII repealed eff. 06/30/2016.

Rule XVII eff. 09/14/2016.

Rule XIII eff. 03/17/2018.

Rule XXIV eff. 07/03/2018.

Rule XXVI eff. 08/14/2018.

Rules III, XXVI eff. 07/01/2019.

Rule 1.3 J eff. 12/30/2019.

Rule 1.27 emer. rule eff. 05/01/2020; expired 08/29/2020.

Rule 1.28 emer. rule eff. 05/11/2020; expired 09/08/2020.

Rule 1.27 emer. rule eff. 08/30/2020.

Rule 1.28 emer. rule eff. 09/09/2020.

Rules 1.27, 1.28 emer. rules eff. 12/28/2020.

Rules 1.1-1.13, 1.15-1.18, 1.21, 1.22, 1.29, Appendix A eff. 12/30/2020. Rules 1.19, 1.22 repealed eff 12/30/2020.

Rule 1.31 emer. rule eff. 01/11/2021.

Rule 1.32 emer. rule eff. 03/02/2021; expired 06/30/2021.

Rules 1.27, 1.28 emer. rules eff. 04/27/2021.

Rule 1.31 emer. rule eff. 05/11/2021.

Rule 1.30 E-F eff. 06/30/2021.

Rules 1.27, 1.28 emer. rules eff. 07/12/2021.

Notice of Proposed Rulemaking

Tracking number

2021-00629

Department

700 - Department of Regulatory Agencies

Agency

717 - Division of Professions and Occupations - State Board of Examiners of Nursing Home Administrators

CCR number

3 CCR 717-1

Rule title

RULES AND REGULATIONS FOR NURSING HOME ADMINISTRATORS

Rulemaking Hearing

Date

11/10/2021

Time

09:00 AM

Location

Webinar Only: https://attendee.gotowebinar.com/register/5429537269369865228

Subjects and issues involved

The purpose of this Permanent Rulemaking Hearing is for the Board to consider adoption the proposed revisions to Rule 1.4, to correct language in the rule that conflicts with portions of the statute (section 12-265-113 (3), C.R.S.); and revisions to Rules 1.6., 1.8, 1.9, and 1.11, to fix typographical errors. These revisions are required by the Office of Legislative Legal Services (OLLS).

Statutory authority

Sections 12-20-204(1), 12-265-107, and 24-4-103, C.R.S.

Contact information

Name

Elena M. Kemp

Title

Regulatory Coordinator

Telephone

3038947426

Email

dora_dpo_rulemaking@state.co.us

DEPARTMENT OF REGULATORY AGENCIES

State Board of Examiners of Nursing Home Administrators

NURSING HOME ADMINISTRATORS RULES AND REGULATIONS

3 CCR 717-1

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

…

1.4 CHANGE OF NAME AND ADDRESS

…

C. Except for letters of admonition, ~~Any~~ notifications by the Board to a licensee or applicant, required or permitted, under section 12-265-101, *et seq.*, C.R.S., or under section 24-4-101, *et seq.*, C.R.S. (State Administrative Procedure Act), shall be served personally, by first class mail, or electronically to the last address of record provided in writing to the Board and maintained by the Division of Professions and Occupations. Service by mail or electronic mail shall be deemed sufficient and proper upon a licensee or applicant. Letters of admonition must be served by certified mail pursuant to section 12-265-113(3), C.R.S.

…

1.6 EDUCATION, TRAINING, OR SERVICE GAINED DURING MILITARY SERVICE AND MILITARY SPOUSES

This Rule is promulgated pursuant to sections 12-20-202(4), 12-20-204, ~~12-20-301(3),~~ and 12-265-107(1)(a), C.R.S.

A. Education, training, or service gained in military services outlined in section 12-20-202(4), C.R.S., to be accepted and applied towards receiving a license, must be substantially equivalent, as determined by the Board, to the qualifications otherwise applicable at the time of receipt of the application. It is the applicant's responsibility to provide timely and complete evidence for review and consideration. Satisfactory evidence of such education, training, or service will be assessed on a case by case basis.

B. Regulations of Military Spouses.

1. The spouse of a person who is actively serving in the United States Armed Forces and who is stationed in Colorado in accordance with military orders shall be entitled to a temporary license to practice nursing home administration as set forth in section 12-20-202, C.R.S., subject to the following terms:

a. The person is licensed to practice as a nursing home administrator in another state;

b. Other than the person's lack of licensure, registration, or certification in Colorado, there is no basis to disqualify the person under Title 12 of the Colorado Revised Statutes; and

c. The person consents, as a condition of practicing in Colorado, to be subject to the jurisdiction and disciplinary authority of the Board.

2. Nothing in sections 12-20-301 through 12-20-305, C.R.S., abrogates the requirements of Long Term Care Facilities for licensure as set forth in 6 CCR 1011-1, Chapter V, or for participating in Medicaid or Medicare as set forth in 42 CFR Part 483.

…

1.8 LICENSURE BY ENDORSEMENT

This Rule is promulgated pursuant to sections 12-20-202(3), 12-20-204, 12-265-107(1)(a), and 12-265-112, C.R.S.

A. To be considered for licensure by endorsement pursuant to the Occupational Credential Portability Program under sections 12-20-202(3) and 12-265-112, C.R.S., an applicant must submit a completed application form, all supporting documentation, and the appropriate fee.

B. Applicant must possess a current, active and unrestricted license in good standing at time of application.

C. In accordance with 12-20-202(3)(d), C.R.S., the Board has established the following criteria for determining whether an applicant possesses experience and credentials that are substantially equivalent to sections 12-265-108 and 12-265-111, C.R.S.

1. The applicant has:

a. Successfully completed a bachelor's degree or higher degree in public health administration or health administration, a master's degree in management or business administration, or any degree or degrees deemed appropriate by the board; or

b. Successfully completed an associate's degree or higher degree in a health-care-related field or a bachelor's degree in business or public administration and has a minimum of one year of experience in administration in a nursing home or hospital. For the purposes of this section, a registered nurse who is a graduate of a three-year diploma program meets the associate degree requirement.

2. The applicant has passed the national examination administered by the nationally and Board recognized testing entity for nursing home administrators and has passed any other examination in the state or territory in which he or she is licensed to practice nursing home administration.

1.9 TEMPORARY LICENSURE

This Rule is promulgated pursuant to sections 12-20-204, 12-265-107(1)(a), and 12-265-110, C.R.S.

A. Applicants must have submitted an application for licensure as a nursing home administrator prior to consideration for any temporary license.

1. If the applicant is the current Director of Nursing at the facility and is eligible for a temporary license for an emergency situation as stated below in section (B)~~2~~)~~(a)~~, then the applicant is not required to submit an application for licensure prior to consideration for any temporary license.

B. Temporary License for Emergency Situations

1. A temporary license, not to exceed ninety days, may be issued to a qualified applicant in the case of death of the administrator, termination of the administrator, resignation of the administrator, or other similar emergent circumstances. Promotion or transfer made at the discretion of the ownership, management, or facility governing board does not qualify as an emergency.

2. The Program Director is authorized to issue one ninety day emergency temporary license, and one ninety day extension per occurrence.

3. A qualified applicant for an emergency temporary license is one who meets the requirements for nursing home administrator licensing and may include the following:

   a. An individual who has successfully completed the Administrator-in-Training (AIT) program; or

   b. An individual who qualifies for licensure by exam, endorsement, or reinstatement and has made application for licensure.

4. An applicant for an emergency temporary license must submit an application and payment of the appropriate fee. A representative of the facility must attest to the nature of the emergency.

5. The applicant cannot practice in the capacity of a nursing home administrator until the Board has approved the application for a temporary license.

C. Temporary License for a Hospital Administrator

1. A temporary license, not to exceed twelve months, shall be issued to a qualified applicant in the case of death of the administrator, termination of the administrator, resignation of the administrator, or other similar emergent circumstances. Promotion or transfer made at the discretion of the ownership, management, or facility governing board does not qualify as an emergency.

   a. The Program Director is authorized to issue one six-month temporary license, and one ninety day extension per occurrence.

   b. Any request for a second and final ninety day extension requires Board review and approval.

2. A qualified applicant is one who meets the requirements for nursing home administrator licensing and may include the following:

   a. An individual who has successfully completed the Administrator-in-Training (AIT) program; or

   b. An individual who qualifies for licensure by exam, endorsement, or reinstatement and has made application for licensure.

3. An applicant for a temporary license must submit:

   a. An application and payment of the appropriate fee; and

   b. A letter from the general hospital board of directors or similar authority verifying that the applicant is currently employed as the hospital administrator and that the hospital needs the applicant to serve as the nursing home administrator for one of the reasons set forth in section (B)~~3)(a)~~ above.

4. The applicant cannot practice in the capacity of a nursing home administrator until the Board has approved the application for a temporary license.

5. A temporary license issued to a hospital administrator under this section (C~~3~~) shall be void at such time the license holder is no longer employed by the general hospital.

…

1.11 REINSTATEMENT OF AN EXPIRED LICENSE

This Rule is promulgated pursuant to sections 12-20-202, 12-20-204 and 12-265-107(1)(a), C.R.S.

…

Editor's Notes

History

Rules 1-6 eff. 07/30/2008.
Rules 1-7 eff. 10/30/2008.
Entire rule eff. 08/30/2009.
Entire rule eff. 03/30/2010.
Entire rule eff. 07/15/2010.
Rule 2.B.1 eff. 07/01/2011.
Entire rule eff. 04/30/2012.
Entire rule eff. 09/01/2012.
Rule III.E.1.a eff. 10/30/2012.
Rules II.A.5.b-c, II.C.2.c.ii, II.C.3, II.E.1, III.C.1, III.D.3 eff. 12/30/2012.
Entire rule eff. 09/14/2013.
Rules 1.3.B.1.e, 1.3.D.1, 1.3.D.4.c eff. 05/15/2020.
Rules 1.1 Q, 1.2 B eff. 01/14/2021.
Entire rule eff. 07/15/2021.

Notice of Proposed Rulemaking

Tracking number

2021-00599

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-2

Rule title

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

Rulemaking Hearing

Date

11/04/2021

Time

09:00 AM

Location

Virtual Rulemaking Hearing - 1560 Broadway; Denver, CO 80202

Subjects and issues involved

Chapter 1: Definitions; Chapter 3: Standards for Real Estate Appraisal Qualifying Education Programs; Chapter 5: Standards for Real Estate Appraisal Experience; Chapter 7: Continuing Education Requirements; Chapter 13: Disciplinary Procedures; and Chapter 17: Licensing Requirements for Appraisal Management Companies.

Statutory authority

Part 6 of Title 12, Article 10, Colorado Revised Statutes, as amended.

Contact information

Name

Martha Torres-Recinos

Title

Rulemaking Coordinator

Telephone

303-894-2359

Email

marthal.torres-recinos@state.co.us

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

RULES GOVERNING THE PRACTICE OF REAL ESTATE APPRAISERS OF THE BOARD OF REAL ESTATE APPRAISERS

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
November 4, 2021 at 9:00 AM MST

Division of Real Estate Office
1560 Broadway
Denver, CO 80202

VIRTUAL MEETING REGISTRATION LINK:

https://attendee.gotowebinar.com/register/3646400982079326987

Pursuant to and in compliance with Title 12, Article 10 and Title 24, Article 4, C.R.S., as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers ("Board") to promulgate rules, or to amend, repeal, or repeal and re-enact the present rules of the Board.

The hearing more than likely will only be conducted in a virtual setting. All interested parties are urged to attend this public hearing by registering for the webinar on the Division's website at www.dre.colorado.gov and to submit written comments concerning the proposed amended rules in advance if possible for consideration.

In order to facilitate the review of comments by the Board, all interested parties are strongly encouraged to submit their written comments to Eric Turner via email at eric.turner@state.co.us on or before 5:00 p.m. on October 25, 2021. Any written comments not received by October 25, 2021, may be submitted via public testimony at the hearing on November 4, 2021.

STATEMENT OF BASIS

The statutory basis for the rules titled Rules of the Colorado Board of Real Estate Appraisers is Part 6 of Title 12, Article 10, Colorado Revised Statutes, as amended. The specific authority under which the Board hall establish these rules is set forth in section 12-10-604(1)(a)(I), C.R.S.

STATEMENT OF PURPOSE

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

SPECIFIC PURPOSE OF RULEMAKING

The specific purpose of this rulemaking is modifying, adding, or repealing existing rules with respect to the applicable version of The Real Property Appraiser Qualification Criteria (Criteria) and amending the controlling appraiser responsibilities as recommended by the Appraisal Subcommittee (ASC). Among the

updates in the new edition of the Criteria include distinguishing between synchronous, asynchronous and hybrid education courses. The Appraiser Qualifications Board adopted a new edition of the Criteria on August 24, 2021 and will be effective January 1, 2022.

PROPOSED NEW, AMENDED AND REPEALED RULES

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

Proposed New, Amended, Repealed, or Repealed and Re-Enacted Rules

CHAPTER 1: DEFINITIONS

1.22 Distance Education: ~~Educational methodologies and presentation techniques other than traditional classroom formats, including and without limitation, live teleconferencing, written or electronic correspondence courses, internet on-line learning, video, and audio tapes.~~Any education process based on the geographical separation of student and instructor. Components of distance education include synchronous, asynchronous, and hybrid.

1.32 Real Property Appraiser Qualification Criteria (Criteria): Pursuant to section 12-10-606(1) and (2), C.R.S. as amended, the Board incorporates by reference in compliance with section 24-4-103(12.5), C.R.S., the Real Property Appraiser Qualification Criteria adopted by the AQB of TAF on ~~May 15, 2020,~~August 24, 2021, including the Required Core Curricula, Guide Notes, and Interpretations relating to the real property appraiser classifications described in Board Rules 1.13, 1.14, and 1.15. This Board Rule 1.32 excludes and does not incorporate by reference the following: the trainee real property appraiser classification and qualification requirements~~,~~; the supervisory appraiser requirements~~,~~; ~~and~~ supervisory appraiser/trainee appraiser course objectives and outline~~.~~; or any later amendments or additions of the Criteria. A certified copy of the Real Property Appraiser Qualification Criteria is on file and available for public inspection at the Office of the Board at 1560 Broadway, Suite 925, Denver, Colorado 80202. Copies of the Real Property Appraiser Qualification Criteria may be examined at the Internet website of TAF at www.appraisalfoundation.org, and copies may be ordered through that mechanism. TAF may also be contacted at 1155 15th Street, NW, Suite 1111, Washington, DC 20005, or by telephone at (202) 347-7722 or telefax at (202) 347-7727. The Real Property Appraiser Qualification Criteria is effective as of January 1, ~~2021~~2022.

1.58 Synchronous Distance Education: The instructor and students interact simultaneously online, similar to a phone call, video chat, live webinar, or web-based meeting.

1.59 Asynchronous Distance Education: The instructor and student interaction is non-simultaneous; the students progress at their own pace and follow a structured course content and quiz/exam schedule.

1.60 Hybrid Course Education: Learning environments that allow for both in-person (synchronous) and online (asynchronous) interaction.

1.61 Bio-Metric Proctoring: A student's identity is continually verified through processes, such as facial recognition, consistency in keystroke cadence, and the observation of activity in the testing location. Aberrant behavior or activity can be readily observed.

CHAPTER 3: STANDARDS FOR REAL ESTATE APPRAISAL QUALIFYING EDUCATION PROGRAMS

3.5 The number of hours credited must be equivalent to the actual number of contact hours of in-class or synchronous distance education instruction and testing. An hour of education is defined as at least fifty (50) minutes of instruction out of each 60-minute segment. For asynchronous distance education, the number of hours credited must be that number of hours allowed by the CAP as defined in Board Rule 1.39. For hybrid course education, the number of hours credited will be equivalent for each specific course delivery method. Parts of the course that are delivered in-class or synchronously and delivered asynchronously must meet their respective requirements as set forth in this Board Rule 3.5.

3.14 To be acceptable for qualifying appraisal education, asynchronous distance education offerings must incorporate methods and activities that promote active student engagement and participation in the learning process. Among those methods and activities acceptable are written exercises which are graded and returned to the student, required responses to computer based presentations, provision for students to submit questions during teleconferences, and examinations proctored by an independent third party, who is an official approved by the college or university, or by the sponsoring organization. Bio-metric proctoring is acceptable. Simple reading, viewing or listening to materials without active student engagement and participation in the learning process is not sufficient to satisfy the requirements of this Board Rule 3.14.

3.16 To be acceptable for qualifying real estate appraisal education, synchronous distance education and asynchronous distance education courses must meet the other requirements of Chapter 3 of these Rules, and must include a written, closed book final examination proctored by an independent third party, or other final examination testing procedure acceptable to the Board. Bio-metric proctoring is acceptable. Examples of acceptable examination proctors include public officials who do not supervise the student, secondary and higher education school officials, and public librarians. Failure to observe this requirement may result in rejection of the course and/or course provider by the Board for that applicant, and may result in the Board refusing or withdrawing approval of any courses offered by the provider.

3.18 Course providers must provide each student who successfully completes a qualifying real estate appraisal education course in the manner prescribed in Board Rule 3.7 a course completion certificate. The Board will not mandate the exact form of course completion certificates; however, the following information must be included:

A. Name of course provider;

B. Course title, which must describe topical content, or the Real Property Appraiser Qualification Criteria Core Curriculum module title;

C. Course number, if any;

D. Course dates;

E. Number of approved education hours;

F. Statement that the required examination was successfully completed;

G. Course location, which for synchronous distance education and asynchronous distance education modalities must be the principal place of business of the course provider;

H. Name of student; and

I. For all USPAP courses begun on and after January 1, 2003, the name(s) and AQB USPAP instructor certification number(s) of the instructor(s).

3.19 The provisions of Board Rule 3.3 notwithstanding, qualifying education courses begun on and after January 1, 2004 and offered through asynchronous distance education modalities must be approved through the CAP as defined in Board Rule 1.39. The Board will not accept asynchronous distance education courses begun on and after January 1, 2004 that have not been approved through the CAP.

CHAPTER 5: STANDARDS FOR REAL ESTATE APPRAISAL EXPERIENCE

5.8 There need not be a client in a traditional sense (~~i.e.~~e.g., a client hiring an appraiser for a business purpose) in order for an appraisal to qualify for experience~~, . but experience~~Experience gained for work without a traditional client ~~cannot exceed fifty percent (50%)~~can meet any portion of the total experience requirement. ~~A client may include a government entity or a court of competent jurisdiction.~~

Practicum courses that are approved by the CAP or the Board can satisfy the nontraditional client experience requirement. A practicum course must include the generally applicable methods of appraisal practice for the credential level. Content includes, but is not limited to: requiring the student to produce credible appraisals that utilize an actual subject property; performing market research, containing sales analysis; and applying and reporting the applicable appraisal approaches in conformity with the USPAP. Assignments must require problem solving skills for a variety of property types for the credential level. Experience credit will be granted for the actual classroom hours of instruction, and hours of documented research and analysis as awarded from the practicum course approval process.

CHAPTER 7: CONTINUING EDUCATION REQUIREMENTS

7.6 Continuing appraisal education must be at least two (2) class hours in duration including examination time (if any). Continuing appraisal education programs and courses are intended to maintain and improve the appraiser's skill, knowledge, and competency. Continuing appraisal education courses and programs may include, without limitation, these real estate and real estate appraisal topics:

A. Ad valorem taxation;

B. Arbitration, dispute resolution;

C. Courses related to the practice of real estate appraisal or consulting;

D. Development cost estimating;

E. Ethics and standards of professional practice, USPAP;

F. Valuation bias, fair housing, and/or equal opportunity;

~~F~~G. Land use planning, zoning;

~~G~~H. Management, leasing, timesharing;

~~H~~I. Property development, partial interests;

~~I~~J. Real estate law, easements, and legal interests;

~~J~~K. Real estate litigation, damages, condemnation;

~~K~~L. Real estate financing and investment;

~~L~~M. Real estate appraisal related computer applications;

~~M~~N. Real estate securities and syndication;

~~N~~O. Developing opinions of real property value in appraisals that also include personal property and/or business value;

~~O~~P. Seller concessions and impact on value;

~~P~~Q. Energy efficient items and "green building" appraisals; and/or

~~Q~~R. Other topics as the Board may approve, upon its own motion or upon petition by the course provider or the licensee in a form acceptable to the Board.

7.12 Continuing real estate appraisal education must be successfully completed by the licensee. Successful completion means either in-class or synchronous distance education attendance at the offering and participation in class activities. Successful completion of courses undertaken through asynchronous distance education requires compliance with the provisions of Board Rule 7.14. ~~Teaching~~ The teaching of continuing real estate appraisal education will constitute successful completion, if also in compliance with Board Rule 7.8; however, credit will be given for only one (1) presentation of a particular offering during each licensing period.

7.13 The number of hours credited will be equivalent to the actual number of contact hours of in-class or synchronous distance education instruction and testing. An hour of appraisal education and training is defined as at least fifty (50) minutes of instruction out of each 60-minute segment. For asynchronous distance education offerings, the number of hours credited must be that number of hours allowed by the CAP as defined in Board Rule 1.39. For hybrid course education, the number of hours credited will be equivalent for each specific course delivery method. Parts of the course that are delivered in-class or synchronously and delivered asynchronously must meet their respective requirements as set forth in this Board Rule 7.13.

7.14 ~~Distance~~ Asynchronous distance education offerings must include methods and activities which promote active student engagement and participation in the learning process. Among those methods and activities acceptable are written exercises which are graded and returned to the student, required responses in computer based presentations, provision for students to submit questions during teleconferences, and examinations proctored by an independent third party. Biometric proctoring is acceptable. Simple reading, viewing, or listening to materials is not sufficient engagement in the learning process to satisfy the requirements of this Board Rule 7.14.

7.22 Course providers must provide each student who successfully completes a continuing education course in the manner prescribed in Board Rule 7.12 a course completion certificate. The Board will not mandate the exact form of course certificates; however, the following information must be included:

A. Name of course provider;

B. Course title, which must describe topical content;

C. Course number, if any;

D. Course dates;

E. Number of continuing education hours;

F. Statement that the required examination was successfully completed, if an examination is a regular part of the course;

G. Course location, which for synchronous distance education and asynchronous distance education modalities must be the principal place of business of the course provider;

H. Name of student; and

I. For USPAP courses begun on and after January 1, 2003, the name and AQB USPAP instructor certification number of the instructor.

7.23 The provisions of Board Rule 7.4 notwithstanding, real estate appraisal continuing education offered through asynchronous distance education must be approved through the CAP, unless the provider is a government agency that has sought an exemption from the Board.

CHAPTER 13: DISCIPLINARY PROCEDURES

13.12 A controlling appraiser, or an approved designee of a licensed appraisal management company, must inform the Board in writing within ten (10) days regarding the following:

A. ~~when an~~An owner of an appraisal management company, possessing more than ten percent ownership of the licensed entity, has been convicted of, entered a plea of guilty to, entered a plea of nolo contendere, entered an alford plea, or receiving a deferred judgment and sentence to any misdemeanor or felony relating to the conduct of an appraisal, theft, embezzlement, bribery, fraud, misrepresentation, or deceit, or any other like crime under Colorado law, federal law, or the laws of other jurisdictions~~.~~; and

B. An owner of an appraisal management company, possessing any percentage ownership of the licensed entity, has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any jurisdiction.

CHAPTER 17: LICENSING REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES

17.7 The controlling appraiser, or an authorized representative, must notify the Board within ten (10) business days of ~~a~~ any change in ownership of the appraisal management company ~~that results in a new owner who owns more than ten (10) percent of the entity, or~~including a change in ownership that increases an existing individual's total ownership to more than ten (10) percent.

17.19 Applicants for licensure, renewal, or reinstatement as an appraisal management company must complete the following:

A. The controlling appraiser must report and certify:

1. The number of licensed or certified appraisers that provided an appraisal in connection with a Covered Transaction on the appraisal management company's Panel in Colorado during the Reporting Period;

2. The total number of licensed or certified appraisers on the Panel in Colorado, whether or not the appraisers provided an appraisal in connection with a Covered Transaction, during the Reporting Period; and

3. The total number of licensed or certified appraisers on the Panel in all states that the appraisal management company is licensed during the Reporting Period.

B. Submit to the Division the AMC Registry Fee for appraisal management companies that meet the Panel Size Threshold and the appraisal management company minimum requirements as set forth in section 12-10-607(9), C.R.S., along with the application for initial licensure, renewal, or reinstatement.

A hearing on the above subject matter will be held on Thursday, November 4, 2021 at the Colorado Division of Real Estate, 1560 Broadway, Colorado 80202 beginning at 9:00 a.m. Also, the virtual webinar of the meeting may be accessed at the following link:

https://attendee.gotowebinar.com/register/3646400982079326987

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

2021-00635

Department

700 - Department of Regulatory Agencies

Agency

746 - Division of Professions and Occupations - Office of Private Investigator Voluntary Licensure

CCR number

4 CCR 746-1

Rule title

OFFICE OF PRIVATE INVESTIGATOR VOLUNTARY LICENSURE

Rulemaking Hearing

Date

11/01/2021

Time

09:30 AM

Location

Webinar Only: https://attendee.gotowebinar.com/register/1372079878845462286

Subjects and issues involved

The purpose of this Permanent Rulemaking Hearing is for the Director to repeal all of the Office of Private Investigator Voluntary Licensure's rules (Rules 1.1 through 7.1) in compliance with Colorado Senate Bill 14-133 (Concerning the Regulation of Private Investigators by the Department of Regulatory Agencies) which ended Voluntary Licensure by mandating Private Investigators to become Licensed, and granted the Director authority to regulate the profession. The Governor recently vetoed Colorado House Bill 20-1207 (Concerning the Continuation of the Regulation of Private Investigators). Accordingly, Private Investigator Licensure is no longer regulated, nor subject to the Director's authority as of September 1, 2020.

Statutory authority

Section 12-20-204(1) and 24-4-103, C.R.S.

Contact information

Name

Elena M. Kemp

Title

Regulatory Coordinator

Telephone

3038947426

Email

dora_dpo_rulemaking@state.co.us

DEPARTMENT OF REGULATORY AGENCIES

Office of Private Investigator Voluntary Licensure

RULES AND REGULATIONS [REPEALED]

4 CCR 746-1

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

BASIS [REPEALED]

~~**These rules are promulgated and adopted by the Director of the Division of Registrations pursuant to §12-58.5-106, C.R.S.**~~

PURPOSE [REPEALED]

~~**These rules are adopted to implement the Director's authority to license persons as private investigators and to set forth the requirements for being so licensed.**~~

CHAPTER 1 - APPLICATION FOR VOLUNTARY LICENSURE [REPEALED]

~~**1.1** An applicant for registration must:~~

~~A. Submit a completed application for licensure on forms and in the manner prescribed by the Director;~~

~~B. Submit with the application all fees established by the Director pursuant to §12-58.5-105(1), C.R.S.;~~

~~C. Sign an attestation that the information in the application is true and correct to the best of the applicant's knowledge and belief;~~

~~D. Undergo a fingerprint-based criminal history background check completed in accordance with procedures set forth by the Director;~~

~~E. Sign an attestation that the applicant has knowledge and understanding of the statutes and rules affecting the ethics and activities of Licensed Private Investigators in this state as required by Section 12-58.5-105 C.R.S.;~~

~~F. Submit an affidavit of verifiable experience or education and experience as described in Chapter 2; and~~

~~G. Provide a current email address for the licensee or a letter explaining why the licensee cannot provide an email address; and~~

~~H. A signed attestation that any business entity registered, by the applicant, with the Secretary of State is in good standing.~~

~~**1.2** An application is deemed received on the date that it is date-stamped as received by the Division of Registration ("application receipt date"). An application for a license submitted without all required fees and documentation will be considered incomplete. Incomplete applications will be retained~~

for one (1) year from the application receipt date, after which applicants shall be required to begin the application process again including payment of the application fee. The Director will not consider or review an incomplete application.

CHAPTER 2 - EXPERIENCE AND EDUCATION REQUIREMENTS[REPEALED]

2.1 VERIFIABLE APPLICABLE EXPERIENCE

A. An applicant may be issued a license as a private investigator when the applicant has obtained 4,000 hours of experience in investigative work in areas described in §12-58.5-103(5), including experience gained while employed in the positions described in § § 12-58.5-103(6)(b)(IV), and 12-58.5-103(6)(b)(VII), C.R.S. not more than 5 years prior to the application receipt date. The 4,000 hours of experience may include not more 400 hours of training specifically related to investigative work.

B. Experience gained while engaged in the activities or positions described in §12-2-58.5-103(6)(b), C.R.S. shall not qualify as applicable experience for licensure except as described in 2.1.A above.

C. Hours of qualifying experience and training and the precise nature of that experience and training shall be substantiated in a manner prescribed by the Director and shall be subject to independent verification.

2.2 VERIFIABLE APPLICABLE EXPERIENCE AND EDUCATION REQUIREMENTS

A. An applicant may be issued a license as a private investigator when the applicant has obtained, at a minimum, an associate degree from an accredited college or university and 2,000 hours of experience in investigative work as described in Rule 2.1.

B. An applicant shall provide the name and address of the accredited college or university along with the date the degree was obtained on the application. The applicant may be required to provide additional information regarding the degree, including an official transcript or grade card, in a manner prescribed by the Director.

C. A college or university will be considered to be an "accredited college or university" under 2.2.A. above if the college or university is deemed accredited by a nationally recognized accrediting agency.

2.3 MILITARY SERVICE

Education, training, or service gained in military service as outlined in §24-34-102(8.5), C.R.S. may be accepted and applied towards receiving a license, if it is determined by the Director to be substantially equivalent to the qualifications otherwise applicable at the time of receipt of the application. It is the applicant's responsibility to provide timely and complete evidence for review and consideration. Satisfactory evidence of such education, training, or service will be assessed on a case by case basis.

CHAPTER 3 - REPORTING REQUIREMENTS [REPEALED]

3.1 REPORTING CRIMINAL CONVICTIONS, JUDGMENTS AND ADMINISTRATIVE PROCEEDINGS

A Licensee shall notify the Director, in a manner prescribed by the Director, within 30 days of any of the following events:

A. The conviction of the licensee under the laws of any state, territory, or insular possession of the United States and the District of Columbia, or of the United States or any foreign jurisdiction, of a felony or of any offense, the underlying factual basis of which has been found by the court to involve unlawful sexual behavior, domestic violence, or stalking, or of violation of a protection order. For the purposes of these rules a guilty verdict, a plea of guilty, including a deferred judgment and sentence, or a plea of nolo contendere accepted by the court is considered a conviction.

B. Imposition of discipline upon the licensee by another jurisdiction that regulates private investigators. Such discipline includes, but is not limited to, a citation, fine, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license or registration whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license or registration fee by the due date.

C. The notice to the Director shall include the following information:

1. If the event is an action by a governmental entity: (1) the name of the entity; (2) its jurisdiction; (3) the case name; (4) the docket, proceeding, or case number by which the matter is designated; (5) a description of the matter or a copy of the document initiating the action or proceeding, and (6) if the matter has been decided or settled, a copy of the consent decree, order or decision;

2. If the event is a felony conviction or other offense adjudicated by a court: (1) the court; (2) its jurisdiction; (3) the case name; (4) the case number; (5) a copy of the indictment or charges; and (6) any plea or verdict entered by the court;

a. The licensee shall also provide to the Director a copy of the imposition of sentence related to the felony or other offense.

b. The licensee shall provide the Director a copy of court documents showing completion of all terms of any sentence imposed within 90 days of such completion.

3. The licensee providing notification to the Director pursuant to this Chapter 3 may also submit a written explanatory statement with the notice to be included with the licensee's records.

CHAPTER 4 - CONTINUING DUTY TO REPORT INFORMATION [REPEALED]

4.1 NOTICES FROM LICENSEES

A. Address and Name Changes

1. Licensed Private Investigators shall notify the Director of any name, address, telephone, or email change within 30 days of the change in a manner prescribed by the Director. The Director will not change the licensee's information without explicit notification in the manner prescribed by the Director.

2. One of the following forms of documentation is necessary 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 Director.

CHAPTER 5 - REINSTATEMENT OF EXPIRED LICENSE [REPEALED]

5.1 An applicant seeking reinstatement of an expired license shall complete a reinstatement application and pay a reinstatement fee.

5.2 If the license has been expired more than two years, an applicant must also provide an affidavit of experience as described in Chapter 2 demonstrating that the applicant has obtained a minimum of 1600 hours of qualifying experience within the two years immediately preceding the application receipt date.

CHAPTER 6 - DECLARATORY ORDERS [REPEALED]

The purpose of this rule is to establish procedures for the handling of requests for declaratory orders filed pursuant to the Colorado Administrative Procedures Act § 24-4-105(1), C.R.S.

6.1 Any person or entity may petition the Director 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 Director.

6.2 The Director will determine, in the Director's discretion and without notice to petitioner, whether to rule upon any such petition. The Director shall promptly notify the petitioner of the Director's action and state the reasons for such action.

6.3 In determining whether to rule upon a petition filed pursuant to this rule, the Director will consider the following matters, among others:

A. Whether a ruling on the petition will terminate a controversy or remove uncertainties.

B. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more of the petitioners.

C. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Director 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 Rule 57, Colorado Rules of Civil Procedure, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule or order in question.

6.4 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 58.5.

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.

6.5 If the Director determines that the Director will rule on the petition, the following procedure shall apply:

A. The Director may rule upon the petition based solely upon the facts presented in the petition. In such case:

1. Any ruling of the Director will apply only to the extent of the facts presented in the petition and any amendment to the petition.

2. The Director may order the petitioner to file a written brief, memorandum or statement of position.

3. The Director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.

4. The Director may dispose of the petition on the sole basis of the matters set forth in the petition.

5. The Director 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 Director may take administrative notice of facts pursuant to the State Administrative procedures Act §24-4-105(8), C.R.S., and may utilize available experience, technical competence and specialized knowledge in the disposition of the petition.

7. If the Director rules upon the petition without a hearing, the Director shall promptly notify the petitioner of the decision.

B. The Director may, in the Director's discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The notice to the petitioner setting forth such hearing shall set forth, to the extent known, the factual or other matters into which the Director intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all of the facts stated in the petition, all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Director to consider.

6.6 The parties to any proceeding pursuant to this rule shall be the Director and the petitioner. Any other person may seek leave of the Director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Director. A petition to intervene shall set forth the same matters as required in section 3.4 of this chapter. Any reference to a "petitioner" in this rule also refers to any person who has been granted leave to intervene by the Director.

6.7 Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute final agency action subject to judicial review pursuant to § 24-4-106, C.R.S.

CHAPTER 7 - FINE SCHEDULE [REPEALED]

~~**7.1** A Licensed Private Investigator violating any provision of Article 58.5 of Title 12, or these rules may be fined up to one thousand dollars for a first violation proven by the Director, up to two thousand dollars for a second violation proven by the Director, and up to three thousand dollars for a third or subsequent violation proven by the Director. Such fines may be imposed in addition to and concurrent with any other penalty imposed by the Director.~~

Editor's Notes

History

Entire rule eff. 05/01/2012.

Notice of Proposed Rulemaking

Tracking number

2021-00633

Department

700 - Department of Regulatory Agencies

Agency

750 - Division of Professions and Occupations - Office of Private Investigator Licensing

CCR number

4 CCR 750-1

Rule title

PRIVATE INVESTIGATOR LICENSURE RULES AND REGULATIONS

Rulemaking Hearing

Date

11/01/2021

Time

09:00 AM

Location

Webinar Only: https://attendee.gotowebinar.com/register/7368004857153853196

Subjects and issues involved

The purpose of this Permanent Rulemaking Hearing is for the Director to repeal all of the Office of Private Investigator Licensure's rules (Rules 1.1 through 1.10) in compliance with the Governor's veto of Colorado House Bill 20-1207 (Concerning the Continuation of the Regulation of Private Investigators). Accordingly, Private Investigator Licensure is no longer regulated, nor subject to the Director's authority as of September 1, 2020.

Statutory authority

Section 12-20-204(1), 12-160-109(2)(a), 24-4-103, and 24-34-104(19)(a)(VIII), C.R.S.

Contact information

Name

Elena M. Kemp

Title

Regulatory Coordinator

Telephone

3038947426

Email

dora_dpo_rulemaking@state.co.us

DEPARTMENT OF REGULATORY AGENCIES

Office of Private Investigator Licensing

4 CCR 750-1

PRIVATE INVESTIGATOR LICENSURE RULES AND REGULATIONS [REPEALED]

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

Authority [REPEALED]

~~The registration and regulation of private investigators is found in Title 12 ("Professions and Occupations"), Article 160 ("Private Investigators") of the Colorado Revised Statutes. These rules are promulgated pursuant to sections 12-160-107(1)(b)(II), 12-160-108, 12-160-109(2)(a), and 12-160-110(2), C.R.S.~~

Scope and Purpose [REPEALED]

~~These rules are promulgated in order to carry out the powers and duties of the Director of the Division of Professions and Occupations, Department of Regulatory Agencies ("Director") pursuant to Article 160 of Title 12, C.R.S. These Rules shall be binding on every person authorized to practice, offering to practice, or performing private investigation services in Colorado. All persons licensed Article 160 of Title 12, C.R.S., are charged with having knowledge of the existence of these rules and shall be deemed to be familiar with their provisions and to understand the rules.~~

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

1.1 Definitions [REPEALED]

~~Purpose: The purpose of this Rule is to define terms used in the private investigator rules and statutes.~~

~~A. "Applicant" means a person who applies for an initial or renewal license as a private investigator.~~

~~B. "Cause analysis" or "Failure analysis," means an investigation conducted by a licensed professional engineer acting within the scope of the practice of engineering.~~

~~C. "Certified fraud examiner" means a person certified by the Association of Certified Fraud Examiners, or its successor organization, as a Certified Fraud Examiner ("CFE").~~

~~D. "Claims adjustment or claims investigation" means an investigation undertaken to determine the validity of an insurance claim.~~

~~E. "Client" means any person who engages the services of a private investigator or private detective.~~

~~F. "Director" means the Director of the Division of Professions and Occupations, or the Director's Designee.~~

~~G. "Division" means the Division of Professions and Occupations in the Colorado Department of Regulatory Agencies.~~

H. "Employee" means a person who is hired for a wage, salary, fee, or payment to perform work for an employer, and to whom the employer provides or will provide Internal Revenue Service Form W-2 for work performed.

I. "Independent contractor" means a person who performs work for another, but who is not an employee.

J. "Internal investigation" means an investigation undertaken within a company or organization to uncover the truth about alleged misconduct within the organization or company, conducted by an employee of and on behalf of the company or organization.

K. "Genealogist" means a person who traces or studies the descent of persons or families.

L. "Journalist" means a person who investigates and reports events, issues, and trends to audiences in print, broadcast, and/or online media.

M. "Level I Private Investigator" means a private investigator licensed as such by the Director.

N. "Level II Private Investigator" means a private investigator licensed as such by the Director.

O. "Licensee" means a private investigator licensed by the Director as a Level I or Level II Private Investigator.

P. "Person" means an individual, firm, company, association, organization, partnership, or corporation.

Q. "Private Investigation" means undertaking an investigation for the purpose of obtaining information for others pertaining to:

1. A crime, wrongful act, or threat against the United States or any State or Territory of the United States;

2. The identity, reputation, character, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, or transactions of a person, group of persons, or organization;

3. The credibility of witnesses or other persons;

4. The whereabouts of missing persons;

5. The determination of the owners of abandoned property;

6. The causes and origin of, or responsibility for, libel, slander, a loss, an accident, damage, or an injury to a person or to real or personal property;

7. The business of securing evidence to be used before an investigatory committee, board of award or arbitration, administrative body, or officer or in the preparation for or in a civil or criminal trial;

8. The business of locating persons who have become delinquent in their lawful debts, when the private investigator locating the debtor is hired by an individual or collection agency;

9. The location or recovery of lost or stolen property;

10. The affiliation, connection, or relationship of any person, firm, or corporation with any organization, society, or association or with any official, representative, or member of an organization, society, or association;

11. The conduct, honesty, efficiency, loyalty, or activities of employees, persons seeking employment, agents, contractors, or subcontractors; or

12. The identity of persons suspected of crimes or misdemeanors.

R. "Private Investigator" or "Private Detective" means a natural person who, for a fee, reward, compensation, or other consideration, engages in a business or accepts employment to conduct private investigations.

S. "Service of process" means the delivery of legal papers to a person required to respond to them.

1.2 Jurisdiction for Regulation of Private Investigators [REPEALED]

Purpose: The purpose of this Rule is to specify what parties are subject to these rules as required by section 12-160-105, C.R.S., as well as to clarify what activities or professions are exempted from these rules, as required in section 12-160-106, C.R.S.

A. A private investigator must be licensed in Colorado if he or she is conducting private investigations in Colorado.

B. Exemptions from Licensure: Licensure as a private investigator is not required for the following:

1. A collection agency or consumer reporting agency as defined in section 5-16-103(3) and (6), C.R.S., respectively.

2. A person conducting an investigation on the person's own behalf, or an employee of any employer conducting an internal investigation on behalf of his or her employer.

3. An attorney licensed to practice law in Colorado, an employee of a licensed attorney, or a person under contract to perform paralegal services for a licensed attorney;

4. A certified peace officer of a law enforcement agency operating in his or her official capacity;

5. A certified public accountant authorized to provide accounting services in Colorado pursuant to Title 12, Article 100 of the Colorado Revised Statutes;

6. An employee of a certified public accountant;

7. An employee or affiliate of an accounting firm registered pursuant to section 12-100-114, C.R.S.;

8. A person who conducts forensic accounting, fraud investigations, or other related analysis of financial transactions based on information that is either publicly available or provided by clients or other third parties and who is:

a. An accountant or public accountant who is not regulated in the State of Colorado;

b. A certified fraud examiner; or

c. An employee or independent contractor under the guidance of an accountant, public accountant, or certified fraud examiner.

9. A person who aggregates public records and charges a fee for accessing the aggregated public records data;

10. A person employed by an insurance company who is conducting claims adjustment or claims investigation for the purposes of an insurance claim;

11. An investigator employed or contracted by a public or governmental agency;

12. A journalist or genealogist;

13. A person serving process within Colorado, performing his or her duties in compliance with the Colorado or Federal Rules of Civil Procedure or in accordance with applicable foreign state court rules or laws pertaining to service of foreign process within this state, or performing any task associated with effecting service of process, all of which includes inquiries related to effective proper service of process and resulting supporting proofs, declarations, affidavits of service, or declarations or affidavits of due diligence to support alternative methods of service of process; except that a process server who performs private investigations outside the efforts to effect service of process is not exempt from the license requirements and must obtain a license as a private investigator in order to perform those private investigations;

14. A person attempting to recover a fugitive when that person is a bail bonding agent or cash-bonding agent qualified to write bail bonds pursuant to Title 10, Article 23 of the Colorado Revised Statutes, or is acting pursuant to a contract with or at the request of a qualified bail bonding agent or cash-bonding agent;

15. An owner, employee, or independent contractor of an agency conducting an investigation to determine the origin and cause of a fire or explosion;

16. An owner, employee, or independent contractor of an agency conducting an investigation for cause analysis or failure analysis where the investigation is conducted by an engineer licensed pursuant to Title 12, Article 120 of the Colorado Revised Statutes acting within his or her area of expertise and within the scope of the practice of engineering;

17. Any other person holding a license issued by the authority of Title 12 of the Colorado Revised Statutes and practicing within the scope of his or her practice.

1.3 Application for Licensure [REPEALED]

Purpose: The purpose of this Rule is to specify the form and manner of an application for private investigator licensure, as required in sections 12-160-107(1) and 12-160-108, C.R.S.

A. An applicant for a Level I Private Investigator License shall meet the following requirements:

1. Apply in a manner determined by the Director, submitting the appropriate fee determined by the Director;

2. Be at least twenty-one years of age;

3. Be lawfully present in the United States;

4. Take and pass a jurisprudence examination developed and approved by the Director to demonstrate knowledge and understanding of the laws and rules affecting the ethics and activities of private investigators;

5. Undergo a state and national fingerprint-based criminal history record check utilizing records of the Colorado Bureau of Investigation and the Federal Bureau of Investigation. The applicant, at his or her own expense, shall have his or her fingerprints taken by a local law enforcement agency for submission to the Colorado Bureau of Investigation; and

6. Attest that the applicant will post and maintain, or be covered by, a surety bond as described in Rule 1.6.

B. An applicant for a Level II Private Investigator License shall meet the following requirements:

1. Apply in a manner determined by the Director, submitting the appropriate fee determined by the Director;

2. Be at least twenty-one years of age;

3. Be lawfully present in the United States;

4. Take and pass a jurisprudence examination developed and approved by the Director to demonstrate knowledge and understanding of the laws and rules affecting the ethics and activities of private investigators;

5. Undergo a state and national fingerprint-based criminal history record check utilizing records of the Colorado Bureau of Investigation and the Federal Bureau of Investigation. The applicant, at his or her own expense, shall have his or her fingerprints taken by a local law enforcement agency for submission to the Colorado Bureau of Investigation;

6. Attest that the applicant will post and maintain, or be covered by, a surety bond as described in Rule 1.6; and

7. Attest, in a manner approved by the Director, of at least 4,000 hours of applicable experience in any of the following:

a. As a private investigator or private detective.

b. Conducting investigations with a local, state, or federal law enforcement agency.

c. Any degree conferred by a college or university counts for experience in the following manner:

(1) A two-year degree will satisfy 1,000 hours of the 4,000 hour experience requirement.

(2) A baccalaureate degree will satisfy 2,000 hours of the 4,000 hour experience requirement.

(3) A master's or juris doctorate degree will satisfy 3,000 hours of the 4,000 hour experience requirement.

d. Pursuant to section 24-34-102(8.5), C.R.S., investigative experience gained in military education, training, or service.

e. Upon selection for a compliance audit with this Rule 1.5, it is the applicant's responsibility to provide timely and complete evidence for the Director's review and consideration. The applicant must submit documentation supporting the assertion that the applicant meets the applicable licensing requirements attested to within thirty days of the audit notice. Failure to do so is grounds for discipline.

C. An application is deemed received on the date that it is date-stamped as received by the Division of Professions and Occupations ("application receipt date"). An application for a license submitted without all required fees and documentation will be considered incomplete. Incomplete applications will be retained for one year from the application receipt date, after which applicants shall be required to begin the application process again including payment of the application fee. The Director will not consider or review an incomplete application.

D. Any use of fraud, misrepresentation or deceit in applying for or attempting to apply for a license is subject to discipline.

1.4 Surety Bond [REPEALED]

Purpose: The purpose of this Rule is to specify the form and manner whereby private investigators must post and maintain, or be covered by, a surety bond, as required in section 12-160-108, C.R.S.

A. All Level I and Level II Private Investigators may not engage in private investigation activities unless the licensee posts and maintains, or is covered by, a surety bond in the amount of at least $10,000.

B. Each licensee shall maintain this surety bond for the duration of time he or she is licensed and actively engaged in private investigation activities as a Level I or Level II Private Investigator. The licensee may change surety bond providers but there shall be no gap in coverage.

C. Any failure to maintain or be covered by a complying surety bond shall be grounds for discipline under section 12-160-110, C.R.S.

1.5 Duty to Report Change of Contact Information to The Director's Office [REPEALED]

Purpose: The purpose of this Rule is to establish and clarify the requirements for licensees to notify the Director of a change in contact information, as required for the administration of the program under section 12-160-109, C.R.S.

A. Licensees shall notify the Director of any name, address, telephone, or email change within thirty days of the change in a manner prescribed by the Director. The Director will not change the licensee's information without explicit notification in the manner prescribed by the Director.

B. One or more of the following forms of documentation is necessary to change a name or correct a social security number:

1. Marriage license;

2. Divorce decree;

3. Court order; or

4. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Director.

1.6 Declaratory Orders [REPEALED]

~~Purpose: The purpose of this Rule is to establish procedures for the handling of requests for declaratory orders filed pursuant to the Colorado Administrative Procedure Act, section 24-4-105(11), C.R.S.~~

~~A. Any person or entity may petition the Director 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 Director.~~

~~B. The Director will determine, in the Director's discretion and without notice to petitioner, whether to rule upon any such petition. The Director shall promptly notify the petitioner of the Director's action and state the reasons for such action.~~

~~C. In determining whether to rule upon a petition filed pursuant to this rule, the Director will consider the following matters, among others:~~

~~1. Whether a ruling on the petition will terminate a controversy or remove uncertainties.~~

~~2. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more of the petitioners.~~

~~3. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Director or a court but not involving any petitioner.~~

~~4. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.~~

~~5. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Rule 57, Colorado Rules of Civil Procedure, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule or order in question.~~

~~D. Any petition filed pursuant to this rule shall set forth the following:~~

~~1. The name and address of the petitioner and whether the petitioner is licensed pursuant to Title 12, Article 160.~~

~~2. The statute, rule or order to which the petition relates.~~

~~3. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner.~~

~~E. If the Director determines to rule on the petition, the following procedure shall apply:~~

~~1. The Director may rule upon the petition based solely upon the facts presented in the petition. In such case:~~

~~a. Any ruling of the Director will apply only to the extent of the facts presented in the petition and any amendment to the petition.~~

~~b. The Director may order the petitioner to file a written brief, memorandum or statement of position.~~

c. The Director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.

d. The Director may dispose of the petition on the sole basis of the matters set forth in the petition.

e. The Director may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.

f. The Director may take administrative notice of facts pursuant to the State Administrative procedures Act, section 24-4-105(8), C.R.S., and may utilize available experience, technical competence and specialized knowledge in the disposition of the petition.

2. If the Director rules upon the petition without a hearing, the Director shall promptly notify the petitioner of the decision.

3. The Director may, in the Director's discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The notice to the petitioner setting forth such hearing shall set forth, to the extent known, the factual or other matters into which the Director intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all of the facts stated in the petition, all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Director to consider.

F. The parties to any proceeding pursuant to this rule shall be the Director and the petitioner. Any other person may seek leave of the Director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Director. A petition to intervene shall set forth the same matters as required in D of this Rule. Any reference to a "petitioner" in this Rule also refers to any person who has been granted leave to intervene by the Director.

G. Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute final agency action subject to judicial review pursuant to section 24-4-106, C.R.S.

1.7 Renewal and Reinstatement [REPEALED]

Purpose: The purpose of this Rule is to describe the form and manner of renewing and reinstating a private investigator license, as required in section 12-160-107(3), C.R.S.

A. Renewal: Licensees shall renew their license as determined by the Director.

1. A licensee shall have a sixty day grace period after license expiration to renew such license without the imposition of a disciplinary sanction for practicing on an expired license. During this grace period, a delinquency fee shall be charged for late renewal.

2. A licensee or registrant who does not renew such license or registration within the sixty day grace period shall be deemed as having an expired license and shall be ineligible to practice until such license is reinstated. If the licensee practices with an expired license, the Director may impose discipline.

B. A private investigator applying for reinstatement of an expired license shall complete a reinstatement application and pay a reinstatement fee in the manner approved by the Director.

C. If the license has been expired for more than two years from the date of receipt of the reinstatement application, an applicant shall:

1. Establish competency to practice as follows:

a. Verification of license in good standing from another state along with proof of active practice in that state for the year previous to the date of receipt of the reinstatement application;

b. Retaking and achieving a passing score on the Private Investigator jurisprudence examination; or

c. By any other means approved by the Director.

2. Undergo a state and national fingerprint-based criminal history record check utilizing records of the Colorado Bureau of Investigation and the Federal Bureau of Investigation. The applicant, at his or her own expense, shall have his or her fingerprints taken by a local law enforcement agency for submission to the Colorado Bureau of Investigation.

D. An applicant for reinstatement who has actively practiced in Colorado with an expired license in violation of sections 12-160-105(1)(a) and (b), C.R.S., is subject to denial of application, disciplinary action, and/or other penalties in accordance with section 24-34-102 *et seq.*, C.R.S.

1.8 Standards of Practice [REPEALED]

Purpose: The purpose of this Rule is to list and define generally accepted standards of practice in the private investigator profession, as specified in section 12-160-109(2)(a)(III), C.R.S.

A. Contracts

1. A licensee shall enter into written contract with each client, except as detailed in this Rule. A licensee is deemed to have entered into a written contract if the licensee's employer has entered into a contract that complies with the requirements of this Rule 1.8(A).

2. The contract must include, at minimum, the following:

a. The date of the contract;

b. The parties to the contract;

c. A description of the services to be provided;

d. A description of the fees required for the services to be provided;

e. A description of how or when the contract will terminate or may be terminated by one or both parties;

f. A statement indicating that the client has the right to receive both an oral and written report; and

g. A statement indicating the number of days after a client's request by which a licensee must provide a written report to the client.

3. A copy of the contract shall be furnished to the client.

4. Nothing in this Rule 1.8(A) requires a contract to be executed for each assignment or investigation. A licensee's contract with a client may cover numerous assignments or investigations.

5. A written contract is not required under any of the following circumstances:

a. In an emergency situation when the services of the licensee are required and there is no time to enter into a written contract before conducting the services;

b. When providing services to an attorney;

c. When providing services to another licensee; or

d. When providing services to an insurance company.

B. Conflicts of Interest

1. A licensee shall not represent more than one party in an investigation unless the licensee fully discloses such relationship to the parties involved.

2. The licensee shall not accept compensation, financial or otherwise, from more than one party for services on or relating to the same investigation, set of circumstances, court case, or issues unless all interested parties consent in writing after full disclosure by the licensee.

3. The licensee shall avoid all known conflicts of interest with his or her employer or client, and shall promptly inform his or her employer or client of any business association, interest, or circumstance which could influence his or her judgment or the quality of his or her services. When such a conflict is unavoidable, the licensee shall forthwith disclose the circumstances to his or her employer or client. A conflict exists when a private investigator, because of some personal interest, finds it difficult to devote himself or herself with loyalty and singleness of purpose to the best interest of his or her client or employer.

4. The licensee shall take reasonable steps to ascertain the existence of potential conflicts of interest among his or her employers or clients.

C. Confidentiality

1. Except as required by state or federal law, the licensee shall keep all information obtained in all cases confidential and for the use of the client only.

2. This Rule shall not be construed to:

a. Limit a client's ability to waive confidentiality;

b. Affect in any way the licensee's obligation to comply with a validly issued and enforceable subpoena or summons;

c. Prohibit review of a licensee's professional practice by the Director; or

d. Prohibit a licensee from utilizing any such relevant information in the defense of a claim asserted against a licensee.

D. Recordkeeping

1. Licensees shall keep separate and distinct files for each client. These files shall be kept for a minimum of seven years from the date the investigation is completed.

2. All records of each licensee must be kept in a reasonably secure manner to prevent access by unauthorized parties. Each record must contain at least the following:

a. All contracts and written agreements with the client;

b. Date investigative activities began;

c. Any final written report;

d. Accurate accounting of time spent;

e. Accurate accounting of activities conducted; and

f. Accurate accounting of expenses incurred by the licensee during the course of the investigation.

3. Records must be preserved in a manner that they are reasonably safe from intentional or accidental destruction and degradation.

4. Records shall be stored in a readily accessible manner. “Readily accessible” means in a form that can be produced within ten days of demand, under ordinary business conditions.

5. Record destruction shall occur in a manner that ensures the records cannot be reconstructed.

E. Advertising

1. No licensee shall publish or cause to be published any advertisement, letterhead, circular, statement, or phrase of any sort which suggests that the licensee is an official law enforcement or investigative agency.

2. Any vehicle used by the licensee that is marked in any manner by the use of painted signs, decals, or other means shall not be of a design so similar to those of local, state, federal, or military authorities as to create confusion.

3. A licensee shall not falsify or permit misrepresentation of his or her academic or professional qualifications. He or she shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter of prior assignments.

4. In the course of business as a private investigator, a licensee shall not wear, use, or display a badge, shield, or star that substantially resembles a badge, shield, or star used by a local, state, or federal law enforcement agency.

5. A licensee must not use false, misleading, or deceptive advertising.

F. Business Standards and Compliance with Laws

1. A licensee shall obtain all necessary permits to conduct his or her business, included those to carry firearms, as applicable.

2. If carrying a concealed firearm, the licensee must have the permit on his or her person.

3. A licensee must not pretend to be a law enforcement officer or a peace officer including, but not limited to:

a. Operating a motor vehicle with flashing red or blue lights;

b. Wearing a uniform that closely resembles in style, color, accessories, or insignia the uniforms of law enforcement in whose jurisdiction the licensee conducts business.

4. A licensee must not advise any person to engage in an illegal act or course of conduct.

5. A licensee must not violate state or federal laws, rules or regulations related to the care, handling or use of firearms or other dangerous weapons.

6. A licensee must not neglect, fail, or refuse to render professional services to any person solely because of that person's age, race, color, disability, sex, sexual orientation, religion, creed, national origin, marital status, lawful source of income, or ancestry.

7. A licensee shall not fraudulently bill or charge a client. A licensee must provide clients with a complete and comprehensive itemized statement of services and expenses within seven business days after having been requested to do so by the client.

8. A licensee must not obtain or attempt to obtain anything of value from a client without the client's consent.

9. In providing private investigator services, the licensee shall take into account all applicable laws and regulations and not knowingly provide services resulting in the violation of such laws and regulations.

10. The licensee shall be accurate and truthful in all professional reports, statements or testimony. He or she shall include all relevant and pertinent information on such reports, statement, or testimony.

11. No licensee shall knowingly associate with, or permit the use of his or her name in a business venture by any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.

12. A licensee may not knowingly violate a court order or injunction in the course of business as an investigator.

13. Licensees shall obey all applicable federal, state, and local laws, including but not limited to criminal laws. "Criminal laws" include the penal ordinances and regulations of a political subdivision of a state or the agencies of the federal government. These criminal laws include but are not limited to those that involve stalking, harassment, invasion of privacy, wiretapping, credit reporting, and those that involve protection orders against defendants.

14. A licensee shall not knowingly disclose the location of a person covered by a protection order to any party against whom the protection order has been issued.

G. Other Generally Accepted Standards of Practice. A licensee shall not engage in the practice of private investigation incompetently or in any other manner that is outside the generally accepted standards of practice of the licensed private investigations industry, as determined by the Director.

1.9 Duty to Report [REPEALED]

Purpose: Section 12-160-110(1)(d), C.R.S., provides the Director the authority to discipline a licensee for failing to report the conviction or plea to a crime. The purpose of this Rule is to specify the requirement to self-report violations and to provide the manner of reporting violations.

A. Licensees shall promptly report to the Director any person who appears to be practicing the profession without the required license.

B. A Licensee shall notify the Director, in a manner prescribed by the Director, within thirty days of any of the following events:

1. The conviction of the licensee under the laws of any state, territory, or insular possession of the United States and the District of Columbia, or of the United States or any foreign jurisdiction, of: a felony; or any offense, the underlying factual basis of which has been found by the court to involve unlawful sexual behavior, domestic violence, stalking, or violation of a protection order. For the purposes of these rules a guilty verdict, a plea of guilty, including a deferred judgment and sentence, or a plea of nolo contendere accepted by the court is considered a conviction.

2. Imposition of discipline upon the licensee by another jurisdiction that regulates private investigators. Such discipline includes, but is not limited to, a citation, fine, sanction, probation, civil penalty, or a denial, suspension, revocation, relinquishment, failure to renew in lieu or avoidance of discipline, or modification of a license or registration whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license or registration fee by the due date.

3. The notice to the Director shall include the following information:

a. If the event is an action by a governmental entity: (1) the name of the entity; (2) its jurisdiction; (3) the case name; (4) the docket, proceeding, or case number by which the matter is designated; (5) a description of the matter or a copy of the document initiating the action or proceeding, and (6) if the matter has been decided or settled, a copy of the consent decree, order or decision.

b. If the event is a felony conviction or other offense adjudicated by a court: (1) the court; (2) its jurisdiction; (3) the case name; (4) the case number; (5) a copy of the indictment or charges; and (6) any plea or verdict entered by the court.

c. The licensee shall also provide to the Director a copy of the imposition of sentence related to the felony or other offense.

d. The licensee shall provide the Director a copy of court documents showing completion of all terms of any sentence imposed within ninety days of such completion.

e. The licensee providing notification to the Director pursuant to this Rule may also submit a written explanatory statement with the notice to be included with the licensee's records.

1.10 Imposition of Fines [REPEALED]

Purpose: Section 12-160-110(2), C.R.S., provides authority for the Director to establish fines that may be imposed upon a licensee. The purpose of this Rule is to establish a fine structure and the circumstances under which fines may be imposed by the Director.

A. The Director may impose a fine in lieu of or in addition to any other disciplinary sanction.

B. The Director may impose a separate fine for each violation of Article 160 of Title 12, C.R.S., any Rule adopted by the Director, or any Order issued by the Director.

C. The Director may impose fines consistent with the following structure:

1. For a licensee's first violation, a fine of no less than two hundred fifty dollars ($250.00) and no more than three thousand dollars ($3,000.00).

2. For a licensee's second violation, a fine of no less than five hundred dollars ($500.00) and no more than three thousand dollars ($3,000.00).

3. For a licensee's third and any additional violations, a fine of no less than one thousand dollars ($1,000.00) and no more than three thousand dollars ($3,000.00).

D. The Director may, in his or her discretion, consider aggravating and mitigating factors when deciding the fine to be assessed.

E. A licensee who fails to pay a fine required pursuant to a Final Agency Order or Stipulation is subject to additional disciplinary action as set forth in section 12-160-110, C.R.S., including suspension or revocation of his or her private investigator license.

F. Payment of a fine does not exempt the licensee from compliance with the statutes and rules governing the practice of private investigators in Colorado.

Editor's Notes

History

Entire rule eff. 03/02/2015.

Notice of Proposed Rulemaking

Tracking number

2021-00594

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

12/14/2021

Time

04:30 PM

Location

This hearing will be held online only via the Zoom platform; there will be no in-person participation. See Notice for all details.

Subjects and issues involved

To consider revisions to Regulation Number 7 and Regulation Number 22 to address legislative and policy directives, that: reduce emissions from the upstream and midstream segments of the oil and gas industry as identified in the oil and gas sector and industrial sector of the Greenhouse Gas (GHG) Roadmap, including potential requirements for Leak Detection and Repair, natural gas processing plants, pigging and blowdown system maintenance operations, midstream fuel combustion equipment, well maintenance operations, and upstream GHG intensity; impose additional practices to ensure the efficacy of air pollution control equipment; impose additional reporting requirements to ensure the verifiability and enforceability of the regulatory requirements; and achieve reductions of GHG and co-pollutants in disproportionately impacted communities. These revisions to Regulation Numbers 7 and 22 are currently proposed on a state-wide and state-only basis, but the Commission may consider State Implementation Plan (SIP) revisions to Regulation Number 7, specific to flare performance, as necessary to address Ozone Nonattainment Area requirements related to previously submitted SIP revisions.

Statutory authority

Sections 25-7-101; 25-7-102; 25-7-105(1); 25-7-106; 25-7-106(6); 25-7-109(10); and Sections 24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S., as applicable and amended.

Contact information

Name

Stefanie Rucker

Title

Program Supervisor

Telephone

303-692-3188

Email

stefanie.rucker@state.co.us

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

PART C Surface Coating, Solvents, Asphalt, Graphic Arts and Printing, and Pharmaceuticals

I. Surface Coating Operations

II. Solvent Use

III. Use of Cutback Asphalt

IV. Graphic Arts and Printing

V. Pharmaceutical Synthesis

Appendix D Minimum Cooling Capacities for Refrigerated Freeboard Chillers on Vapor Degreasers

Appendix E Emission Limit Conversion Procedure

PART D Oil and Natural Gas Operations

I. Volatile Organic Compound Emissions from Oil and Gas Operations

II. (State Only) Statewide Controls for Oil and Gas Operations

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

IV. (State Only) Control of Emissions from the Natural Gas Transmission and Storage Segment

V. (State Only) Oil and Natural Gas Operations Emissions Inventory

VI. (State Only) Oil and Natural Gas Pre-Production and Early-Production Operations

PART E Combustion Equipment and Major Source RACT

I. Control of Emissions from Engines

II. Control of Emissions from Stationary and Portable Combustion Equipment in the 8-Hour Ozone Control Area

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

IV. Control of Emissions from Breweries in the 8-hour Ozone Control Area

PART F Statements of Basis, Specific Statutory Authority and Purpose

---

Pursuant to Colorado Revised Statutes Section 24-4-103 (12.5), materials incorporated by reference are available for public inspection during normal business hours, or copies may be obtained at a reasonable cost from the Air Quality Control Commission (the Commission), 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530. The material incorporated by reference is also available through the United States Government Printing Office, online at www.govinfo.gov. Materials incorporated by reference are those editions in existence as of the date indicated and do not include any later amendments.

>>>>>>>

PART D Oil and Natural Gas Operations

>>>>>>>

II. (State Only) Statewide Controls for Oil and Gas Operations

II.A. (State Only) Definitions

II.A.1. "Air Pollution Control Equipment," as used in this Section II., means a combustion device or vapor recovery unit. Air pollution control equipment also means alternative emissions control equipment and pollution prevention devices and processes intended to reduce uncontrolled actual emissions that comply with the requirements of Section II.B.2.e.

II.A.2. "Approved Instrument Monitoring Method," means an infra-red camera, EPA Method 21, or other Division approved instrument based monitoring method or program. If an owner or operator elects to use Division approved continuous emission monitoring, the Division may approve a streamlined inspection and reporting program for such operations, including approved instrument monitoring method and/or AVO inspections.

II.A.3. "Auto-Igniter" means a device which will automatically attempt to relight the pilot flame in the combustion chamber of a control device in order to combust VOC emissions.

II.A.4. "Blowdown" as used in Section II.H., means the depressurization of equipment to reduce system pressure for shutdowns or for maintenance, safety, or cessations of operations. Blowdown includes venting as defined in Section II.C.2.a.(i)(B) where the venting was intentional.

II.A.45. "Centrifugal Compressor" means any machine used for raising the pressure of natural gas by drawing in low pressure natural gas and discharging significantly higher pressure natural gas by means of mechanical rotating vanes or impellers. Screw, sliding vane, and liquid ring compressors are not centrifugal compressors.

II.A.56. "Class II Disposal Well Facility" means a facility that injects underground fluids which are brought to the surface in connection with natural gas storage operations or oil or natural gas production and that may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection. Class II disposal well facilities do not include wells which inject fluids for enhanced recovery of oil or natural gas or for storage of hydrocarbons which are liquid at standard temperature and pressure.

II.A.67. "Commencement of oOperation" means when a source first conducts the activity that it was designed and permitted for. In addition, for oil and gas well production facilities, commencement of operation is the date any permanent production equipment is in use and product is consistently flowing to sales lines, gathering lines, or storage tanks from the first producing well at the stationary source, but no later than end of well completion operations (including flowback).

II.A.78. "Component" means each pump seal, flange, pressure relief device (including thief hatches or other openings on a controlled storage tank), connector, and valve that contains or contacts a process stream with hydrocarbons, except for components in process streams consisting of glycol, amine, produced water, or methanol.

II.A.~~8~~9. “Connector” means flanged, screwed, or other joined fittings used to connect two pipes or a pipe and a piece of process equipment or that close an opening in a pipe that could be connected to another pipe. Joined fittings welded completely around the circumference of the interface are not considered connectors.

II.A.10. “Disproportionately Impacted Community” (DI community) means a community that is in a census block group, as determined in accordance with the most recent United States census, where the proportion of households that are low income (meaning the median household income is less than or equal to two hundred percent of the federal poverty guideline) is greater than forty percent; the proportion of households that identify as minority is greater than forty percent, or the proportion of households that are housing cost-burdened (meaning a household that spends more than thirty percent of its income on housing) is greater than forty percent; or is any other community as identified or approved by a state agency, if: the community has a history of environmental racism perpetuated through redlining, anti-indigenous, anti-immigrant, anti-Hispanic, or anti-black laws; or the community is one where multiple factors, including socioeconomic stressors, disproportionate environmental burdens, vulnerability to environmental degradation, and lack of public participation, may act cumulatively to affect health and the environment and contribute to persistent disparities.

II.A.~~9~~11. “Dump Valve” means a liquid-control valve in a separator that controls liquid level within the separator vessel.

II.A.~~10~~12. “Dump Event” means the opening of a dump valve allowing liquid to flow from a separator equipped with a dump valve to a storage tank.

II.A.~~11~~13. “Glycol Natural Gas Dehydrator” means any device in which a liquid glycol (including ethylene glycol, diethylene glycol, or triethylene glycol) absorbent directly contacts a natural gas stream and absorbs water.

II.A.~~12~~14. “Infra-red Camera” means an optical gas imaging instrument designed for and capable of detecting hydrocarbons.

II.A.~~13~~15. “Hydrocarbon Liquid” means any naturally occurring, unrefined petroleum liquid. Hydrocarbon liquid does not include produced water.

II.A.16. “Hot Tapping” means a procedure that makes a new pipeline connection while the pipeline remains in service, flowing natural gas under pressure. The procedure involves attaching a branch connection and valve on the outside of an operating pipeline and then cutting out the pipe-line wall within the branch and removing the wall section through the valve.

II.A.17. “Jumper Line” means an enclosed piping system attached to the vent line of a pig launcher or receiver that routes the contents of a pig launcher or receiver into a lower pressure gathering system.

II.A.18. “Midstream Pipeline” means the pipeline and metering and regulating equipment delivering oil or natural gas from an oil or gas well or well production facility to a natural gas compressor station, natural gas processing plant, transmission pipeline, or direct use. Midstream pipeline also means the pipeline and metering and regulating equipment delivering oil or natural gas from a natural gas compressor station to a natural gas processing plant, transmission pipeline, or direct use.

II.A.19. “Midstream Segment” means the oil and natural gas compression segment and the natural gas processing segment upstream of the natural gas transmission and storage segment.

II.A.~~14~~20. “Natural Gas Compressor Station” means a facility, located downstream of well production facilities, which contains one or more compressors designed to compress natural gas from well pressure to gathering system pressure prior to the inlet of a natural gas processing plant.

II.A.21. “Natural Gas Processing Segment” means the operations engaged in the separation of natural gas liquids (NGLs) or non-methane gases from produced natural gas, or the separation of NGLs into one or more component mixtures. Separation includes one or more of the following: forced extraction of natural gas liquids, sulfur and carbon dioxide removal, fractionation of NGLs, or the capture of CO2 separated from natural gas streams. This segment also includes all residue gas compression equipment owned or operated by the natural gas processing plant.

II.A.22. “Natural Gas Transmission and Storage Segment” means onshore natural gas transmission pipelines, onshore natural gas transmission compression, underground natural gas storage, and liquefied natural gas (LNG) storage, as these terms are defined in 40 CFR Part 98, Section 98.230 (October 22, 2015), that are physically located in Colorado.

II.A.~~15~~23. “Normal Operation” means all periods of operation, excluding malfunctions as defined in Section I.G. of the Common Provisions regulation. For storage tanks at well production facilities, normal operation includes but is not limited to liquid dumps from the separator.

II.A.24. “Northern Weld County” means the portion of the county that does not lie south of a line described as follows: Beginning at a point on Weld County’s eastern boundary and Logan County’s western boundary intersected by 40 degrees, 42 minutes, 47.1 seconds north latitude, proceed west on 40 degrees, 42 minutes, 47.1 seconds north latitude until this line intersects Weld County’s western boundary and Larimer County’s eastern boundary.

II.A.~~16~~25. “Occupied Areas” means (1) a building or structure designed for use as a place of residency by a person, a family, or families. The term includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for temporary occupancy or for business purposes; (2) indoor or outdoor spaces associated with a school that students use commonly as part of their curriculum or extracurricular activities; (3) five thousand (5,000) or more square feet of building floor area in commercial facilities that are operating and normally occupied during working hours; and (4) an outdoor venue or recreation area, such as a playground, permanent sports field, amphitheater, or other similar place of outdoor public assembly.

II.A.26. “Oil and Natural Gas Compression Segment” means the gathering pipelines and other equipment used to collect oil and/or natural gas from gas or oil wells and used to compress, dehydrate, sweeten, or transport the oil and/or natural gas to a natural gas processing facility, a natural gas transmission pipeline, or to a natural gas distribution pipeline. For purposes of Section II., equipment located within the boundaries of a well production facility, including but not limited to compressors, is excluded from the oil and natural gas compression segment.

II.A.~~17~~27. “Open-Ended Valve or Line” means any valve, except safety relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

II.A.28. “Pig Ramp” means a device installed inside the barrel of a pig receiver designed and intended to prevent liquid accumulation in the barrel and minimize release of volatile liquids into the environment during retrieval of the pig.

II.A.29. “Pigging” means the process of introducing and subsequently removing a specialized device (a “pig”) into a natural gas pipeline to push liquids through the pipeline into a slug catcher and/or designated system.

II.A.30. “Pigging Facility” means the upstream or downstream facility where a pig is launched or received, including standalone pigging stations, natural gas compressor stations, natural gas processing plants, well sites, or well production facilities.

II.A.31. “Pigging Pipeline” means a midstream segment pipeline connected to a pig launcher or receiver.

II.A.~~18~~32. “Produced Water” means water that is extracted from the earth from an oil or natural gas production well, or that is separated from crude oil, condensate, or natural gas after extraction.

II.A.~~19~~33. “Reciprocating Compressor” means a piece of equipment that increases the pressure of process gas by positive displacement, employing linear movement of the piston rod.

II.A.~~20~~34. “Stabilized” when used to refer to crude oil, condensate, intermediate hydrocarbon liquids, or produced water means that the vapor pressure of the liquid is sufficiently low to prevent the production of vapor phase upon transferring the liquid to an atmospheric pressure in a storage tank, and that any emissions that occur are limited to those commonly referred to within the industry as working, breathing, and standing losses.

II.A.~~21~~35. “Storage Tank” means any fixed roof storage vessel or series of storage vessels that are manifolded together via liquid line. Storage tanks may be located at a well production facility or other location.

II.A.~~22~~36. “Storage Tank Measurement System” means equipment and methods used to determine the quantity and quality of the liquids inside a storage tank without requiring direct access through the storage tank thief hatch.

II.A.~~23~~37. “Storage Vessel” means a tank or other vessel that contains an accumulation of hydrocarbon liquids or produced water and is constructed primarily of nonearthed materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support. A well completion vessel that receives recovered liquids from a well after commencement of operation for a period which exceeds 60 days is considered a storage vessel. Storage vessel does not include vessels that are skid-mounted or permanently attached to something that is mobile (such as trucks, railcars, barges, or ships) and are intended to be located at the site for less than 180 consecutive days; process vessels such as surge control vessels, bottom receivers, or knockout vessels; or pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere.

II.A.~~25~~38. “Vapor Collection and Return System” means a closed system designed to control the release of VOCs displaced from a vessel during transfer of hydrocarbon liquids by using the transferred hydrocarbon liquids for direct displacement to force vapors from the vessel being loaded into either the storage tank being unloaded or to air pollution control equipment.

II.A.~~24~~39. “Visible Emissions” means observations of smoke for any period or periods of duration greater than or equal to one (1) minute in any fifteen (15) minute period during normal operation, pursuant to EPA Method 22. Visible emissions do not include radiant energy or water vapor.

II.A.~~26~~40. “Well Production Facility” means all equipment at a single stationary source directly associated with one or more oil wells or natural gas wells upstream of the natural gas processing plant. This equipment includes, but is not limited to, equipment used for storage, separation, treating, dehydration, artificial lift, combustion, compression, pumping, metering, monitoring, and flowline.

II.B. (State Only) General Provisions

II.B.1. General requirements for prevention of emissions and good air pollution control practices for all oil and gas exploration and production operations~~,~~; Class II disposal well facilities~~,~~; well production facilities~~,~~; and midstream segment operations, including natural gas compressor stations~~,~~ and natural gas processing plants.

II.B.1.a. All hydrocarbon liquids and produced water collection, storage, processing, and handling operations, regardless of size, must be designed, operated, and maintained so as to minimize emission of VOCs and other hydrocarbons to the atmosphere to the extent reasonably practicable.

II.B.1.b. At all times, including periods of start-up and shutdown, the facility and air pollution control equipment must be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether or not acceptable operation and maintenance procedures are being used will be based on information available to the Division, which may include, but is not limited to, monitoring results, opacity observations, review of operation and maintenance procedures, and inspection of the source.

II.B.2. General requirements for air pollution control equipment used to comply with Section II.

II.B.2.a. All air pollution control equipment must be operated and maintained pursuant to the manufacturing specifications or equivalent to the extent practicable, and consistent with technological limitations and good engineering and maintenance practices. The owner or operator must keep manufacturer specifications or equivalent on file. In addition, all such air pollution control equipment must be adequately designed and sized to achieve the control efficiency rates and to handle reasonably foreseeable fluctuations in emissions of VOCs and other hydrocarbons during normal operations. Fluctuations in emissions that occur when the separator dumps into the tank are reasonably foreseeable.

II.B.2.b. If a combustion device is used to control emissions of VOCs and other hydrocarbons, it must be enclosed, have no visible emissions during normal operation, and be designed so that an observer can, by means of visual observation from the outside of the enclosed combustion device, or by other means approved by the Division, determine whether it is operating properly.

II.B.2.c. Any of the effective dates for installation of controls on storage tanks, dehydrators, and/or internal combustion engines may be extended at the Division’s discretion for good cause shown.

II.B.2.d. Auto-igniters: All combustion devices used to control emissions of hydrocarbons must be equipped with and operate an auto-igniter as follows

II.B.2.d.(i) All combustion devices installed on or after May 1, 2014, must be equipped with an operational auto-igniter upon installation of the combustion device.

II.B.2.d.(ii) All combustion devices installed before May 1, 2014, must be equipped with an operational auto-igniter by or before May 1, 2016, or after the next combustion device planned shutdown, whichever comes first.

II.B.2.e. Alternative emissions control equipment will qualify as air pollution control equipment, and may be used in lieu of, or in combination with, combustion devices and vapor recovery units to achieve the emission reductions required by this Section II., if the Division approves the equipment, device, or process. As part of the approval process the Division, at its discretion, may specify a different control efficiency than the control efficiencies required by this Section II.

II.B.2.f. Owners or operators must conduct weekly visual inspections of air pollution control equipment.

II.B.2.f.(i) Visual inspections must begin

II.B.2.f.(i)(A) February 14, 2022, for owners or operators of storage tanks subject to Section II.C.1.

II.B.2.f.(i)(B) May 1, 2022, for air pollution control equipment that commenced operation before February 14, 2022, unless subject to Section II.B.2.f.(i)(A).

II.B.2.f.(i)(C) Within thirty (30) days of commencement of operation for air pollution control equipment constructed on or after February 14, 2022.

II.B.2.f.(ii) Weekly visual inspections must include, at a minimum

II.B.2.f.(ii)(A) Inspection or monitoring of each combustion device to ensure that it is operating, including that the pilot light is lit and the auto-igniter is properly functioning.

II.B.2.f.(ii)(B) Inspection or monitoring of each combustion device to ensure that the valves for the piping of gas to the pilot light are open and functioning properly.

II.B.2.f.(ii)(C) Inspection or monitoring of each combustion device to ensure the burner tray is not visibly clogged.

II.B.2.f.(ii)(D) Inspection of each combustion device for the presence or absence of smoke. If smoke is observed, either the equipment must be immediately shut-in to investigate the potential cause for smoke and perform repairs, as necessary, or EPA Method 22 must be conducted to determine whether visible emissions are present for a period of at least one (1) minute in fifteen (15) minutes.

II.B.2.f.(ii)(E) Inspection or monitoring of each vapor recovery unit to ensure that the unit is operating and that vapors are being routed to the unit.

II.B.2.f.(ii)(F) Inspection or monitoring of air pollution control equipment to ensure that valves for the piping of gas to the air pollution control equipment are open.

II.B.2.f.(ii)(G) Recording the flow meter readings, once installed pursuant to Section II.B.2.g.(i). An owner or operator may use automation to continuously record flow to the air pollution control equipment for which flow meters are required under Section II.B.2.g.

II.B.2.g. Owners or operators must install and operate a flow meter at the inlet to the air pollution control equipment.

II.B.2.g.(i) Flow meters must be installed and operating by

II.B.2.g.(i)(A) May 1, 2022, for air pollution control equipment that commenced operation before February 14, 2022.

II.B.2.g.(i)(B) Commencement of operation for air pollution control equipment that commences operation on or after February 14, 2022.

II.B.2.g.(ii) The owner or operator must calibrate and maintain the flow meter in accordance with the manufacturer's specifications and schedule.

II.B.2.g.(iii) Flow meters are not required to be installed

II.B.2.g.(iii)(A) On portable air pollution control equipment used at a location for less than 180 consecutive days.

II.B.2.g.(iii)(B) On vapor recovery units used in connection with separation equipment or dehydrators, or on air pollution control equipment used during vapor recovery unit downtime associated with dehydrators.

II.B.2.g.(iii)(C) Where installation of the flow meter is technically or economically infeasible, as demonstrated by the owner or operator to the Division's reasonable satisfaction, or where the Division approves the use of an alternate parameter (and associated recordkeeping and reporting).

II.B.2.h. Beginning February 14, 2022, the owner or operator must conduct performance tests for each enclosed combustion device for which Regulation Number 7 requires the device to achieve at least 95% control efficiency for hydrocarbons. A performance test that does not demonstrate that an enclosed combustion device is achieving at least 95% control efficiency for hydrocarbons is considered a failing test.

II.B.2.h.(i) Performance test requirements.

II.B.2.h.(i)(A) Performance tests are not required for enclosed combustion devices serving solely as control devices during vapor recovery unit downtime.

II.B.2.h.(i)(B) Owners or operators must test all enclosed combustion devices used to control the same piece of equipment or operation (e.g., a bank of enclosed combustion devices controlling a storage tank) over the course of the same testing event, which may occur over multiple working days.

II.B.2.h.(i)(C) Performance tests must be conducted in accordance with a Division-approved test protocol.

II.B.2.h.(i)(D) For the calendar year of the performance test, owners or operators must calculate enclosed combustion device emissions (or the emissions for the source controlled) pursuant to Sections II.G. and V. with the results of the most recent performance test.

II.B.2.h.(i)(E) Owners or operators of enclosed combustion devices that fail a performance test must follow the manufacturer's repair instructions, if available, or best combustion engineering practices to return the device to compliant operation within thirty (30) days or shut-in all equipment or operations controlled by the enclosed combustion device.

II.B.2.h.(i)(F) Owners or operators must retest the enclosed combustion device within ninety (90) days of a failed test or upon return to operation if the equipment or operations controlled by the enclosed combustion device were shut-in as a response to a failed test.

II.B.2.h.(i)(G) As an alternative to Section II.B.2.h.(i)(F), the owner or operator may replace the failing enclosed combustion device with a different enclosed combustion device and test the replacement enclosed combustion device upon commencement of operation. The owner or operator does not have to test the replacement enclosed combustion device if the device is newly manufactured (has never been in operation anywhere else) and has been tested by the manufacturer in accordance with the requirements of 40 CFR Part 60, Subpart OOOOa, Section 60.5413a(d) (June 3, 2016).

II.B.2.h.(ii) Initial performance test schedule.

II.B.2.h.(ii)(A) Enclosed combustion devices that commenced operation before December 31, 2021, must be tested within the schedule in Table 1, unless the Division approves an alternative testing schedule.

Table 1 – Enclosed Combustion Device Inspections	
Location of	Compliance deadlines

enclosed combustion device	Dec. 31, 2022	Dec. 31, 2023	Dec. 31, 2024	Dec. 31, 2025	Dec. 31, 2026	Dec. 31, 2027
	Percentage (%) of enclosed combustion devices that must be tested					
Within a DI community	At least 25%	At least 50%	At least 75%	At least 100%	NA	NA
Within the 8-hour ozone control area and northern Weld County	At least 20%	At least 40%	At least 60%	At least 80%	100%	NA
Outside the 8-hour ozone control area and northern Weld County	At least 10%	At least 20%	At least 35%	At least 50%	At least 75%	100%

II.B.2.h.(ii)(B) Enclosed combustion devices that commence operation on or after December 31, 2021, must be tested within two (2) years after commencement of operation, unless the enclosed combustion device is newly manufactured (has never been in operation) and has been tested by the manufacturer in accordance with the requirements of 40 CFR Part 60, Subpart OOOOa, Section 60.5413a(d) (June 3, 2016), in which case the enclosed combustion device must be tested within five (5) years after commencement of operation.

II.B.2.h.(ii)(C) No enclosed combustion device located in the 8-hour ozone control area and northern Weld County or in a disproportionately impacted community can operate for more than five (5) years without a performance test.

II.B.2.h.(ii)(D) No enclosed combustion device located outside the 8-hour ozone control area and northern Weld County but not within a disproportionately impacted community can operate for more than ten (10) years without a performance test.

II.B.2.h.(ii)(E) Owners or operators do not have to start up a source solely to perform a performance test on the enclosed combustion device if gas flow to the device is from a source or equipment that has been shut-in for more than thirty (30) consecutive days; however, a performance test is required within thirty (30) days of the enclosed combustion device once again receiving gas flow.

II.B.2.h.(iii) Notification. No later than July 31, 2022, owners or operators of enclosed combustion devices subject to Section II.B.2.h.(ii) must submit a notification to the Division with the following information.

II.B.2.h.(iii)(A) A list of all enclosed combustion devices that commenced operation before December 31, 2021, with

associated facility name and location, AIRS ID (if assigned), manufacturer model, serial number (if available), and identification of equipment controlled by the enclosed combustion device.

II.B.2.h.(iii)(B) The year in which each enclosed combustion device will be tested to meet the compliance schedule in Table 1.

II.B.2.h.(iv) Subsequent performance tests.

II.B.2.h.(iv)(A) Enclosed combustion devices located in the 8-hour ozone control area and northern Weld County must be tested within five (5) years following the previous performance test, unless the enclosed combustion device is newly manufactured (has never been in operation) and has been tested by the manufacturer in accordance with the requirements of 40 CFR Part 60, Subpart OOOOa, Section 60.5413a(d) (June 3, 2016), in which case the enclosed combustion device must be tested within eight (8) years following the previous performance test.

II.B.2.h.(iv)(B) Enclosed combustion devices located within a disproportionately impacted community must be tested within five (5) years following the previous performance test, unless the enclosed combustion device is newly manufactured (has never been in operation) and has been tested by the manufacturer in accordance with the requirements of 40 CFR Part 60, Subpart OOOOa, Section 60.5413a(d) (June 3, 2016), in which case the enclosed combustion device must be tested within eight (8) years following the previous performance test.

II.B.2.h.(iv)(C) Enclosed combustion devices located outside the 8-hour ozone control area and northern Weld County and not within a disproportionately impacted community must be tested within ten (10) years following the previous performance test.

II.B.2.i. Recordkeeping. Except as specified in Section II.B.2.i.(ix), the owner or operator must maintain records for a period of five (5) years and make them available to the Division upon request, including

II.B.2.i.(i) Notifications submitted in accordance with Section II.B.2.h.(iii).

II.B.2.i.(ii) Records of the make, model, serial number, and AIRS ID (if assigned) of each enclosed combustion device and associated facility name and location.

II.B.2.i.(iii) Records of visual inspections conducted pursuant to Section II.B.2.f., including the time and date of each inspection and a description of any problems observed, description and date of any corrective action(s) taken, and name of employee or third party performing corrective action(s).

II.B.2.i.(iv) Records of the date and result of any EPA Method 22 test or investigation.

II.B.2.i.(v) Records of the date and duration of any period where the air pollution control equipment is not operating.

II.B.2.i.(vi) Monthly records of the total hours the vapor recovery unit is not operating, the total condensate throughput volume, and total condensate throughput volume during the time the vapor recovery unit is not operating.

II.B.2.i.(vii) Records of inlet gas flow rate, as required by Section II.B.2.f.(iii)(G).

II.B.2.i.(viii) Records supporting the delay of any performance test pursuant to Section II.B.2.h.(i)(E).

II.B.2.i.(ix) Records of performance tests must be maintained for the life of the equipment that the enclosed combustion device is used to control (even if ownership or control of the device is transferred), including manufacturer model and serial number(s) of devices tested; the date of the test; a copy of the test protocol followed; a certification by a responsible official that the performance test was conducted in accordance with a Division-approved test protocol; the enclosed combustion device parameters outlined in the test protocol; and documentation of the methods and results of the test.

II.B.2.j. Reporting. The owner or operator must submit the following information to the Division.

II.B.2.j.(i) Within fourteen (14) days of a failing performance test, the owner or operator must submit a notification of the failing test, including: facility AIRS ID and equipment or operation controlled; the date of test; the results of the test; monthly methane and VOC emission calculations using the test results for the calendar year of the test; monthly production (if enclosed combustion device is controlling a storage tank) or gas flared (if enclosed combustion device is controlling separation equipment) for the calendar year of the test; the proposed corrective action to return the enclosed combustion device to proper operation, including the timing thereof; and the proposed date of the retest.

II.B.2.j.(ii) On the same date at the annual emissions inventory report in Part D, Section V., the owner or operator must submit the date of each performance test, the results of the test, and copies of all performance test reports for testing performed during that year.

II.B.2.j.(iii) By July 31 of each year (beginning 2023), owners or operators must submit an update to the notification provided under Section II.B.2.h.(iii) documenting changes to the list specified in Section II.B.2.h.(iii)(A) (e.g., an enclosed combustion device moved to a different facility (including transfer to another operator) or controlling more or less equipment or operations than specified) and changes to the performance testing schedule provided pursuant to Section II.B.2.h.(iii)(B).

II.B.3. Requirements for compressor seals and open-ended valves or lines

II.B.3.a. Beginning January 1, 2015, each open-ended valve or line at well production facilities and natural gas compressor stations must be equipped with a cap, blind

flange, plug, or a second valve that seals the open end at all times except during operations requiring process fluid flow through the open-ended valve or line. Open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset are exempt from the requirement to seal the open end of the valve or line. Alternatively, an open-ended valve or line may be treated as if it is a “component” as defined in Section II.A.7., and may be monitored under the provisions of Section II.E.

II.B.3.b. Beginning January 1, 2015, uncontrolled actual hydrocarbon emissions from wet seal fluid degassing systems on wet seal centrifugal compressors must be reduced by at least 95%, unless the centrifugal compressor is subject to 40 CFR Part 60, Subpart OOOO (February 23, 2014) or 40 CFR Part 60, Subpart OOOOa (June 3, 2016) on that date or thereafter.

II.B.3.c. Beginning January 1, 2015, the rod packing on any reciprocating compressor located at a natural gas compressor station must be replaced every 26,000 hours of operation or every thirty-six (36) months, unless the reciprocating compressor is subject to the reciprocating compressor emission control, monitoring, recordkeeping, and reporting requirements of 40 CFR Part 60, Subpart OOOO (February 23, 2014) or 40 CFR Part 60, Subpart OOOOa (June 3, 2016) on that date or thereafter. The measurement of accumulated hours of operation (26,000) or months elapsed (36) begins on January 1, 2015.

II.B.3.d. Beginning February 14, 2022, the rod packing on any reciprocating compressor located at a natural gas processing plant must be replaced every 26,000 hours of operation or every thirty-six (36) months, unless the reciprocating compressor is subject to the reciprocating compressor emission control, monitoring, recordkeeping, and reporting requirements of Section I.J.2., 40 CFR Part 60, Subpart OOOO (February 23, 2014), or 40 CFR Part 60, Subpart OOOOa (June 3, 2016) on that date or thereafter. The measurement of accumulated hours of operation (26,000) or months elapsed (36) begins on February 14, 2022.

>>>>>>>

II.C. Emission reduction from storage tanks at oil and gas exploration and production operations, Class II disposal well facilities, well production facilities, natural gas compressor stations, and natural gas processing plants.

II.C.1. Control and monitoring requirements for storage tanks

>>>>>>>

II.C.1.d. (State Only) Beginning May 1, 2014, or the applicable compliance date in Sections II.C.1.b.(i) or II.C.1.c.(i), whichever comes later, owners or operators of storage tanks subject to Section II.C.1. must conduct audio, visual, olfactory (AVO) and additional visual inspections of the storage tank and any associated equipment (e.g., separator, air pollution control equipment, or other pressure reducing equipment) at the same frequency as liquids are loaded out from the storage tank. These inspections are not required more frequently than every seven (7) days but must be conducted at least every thirty-one (31) days. Monitoring is not required for storage tanks or associated equipment that are unsafe, difficult, or inaccessible to monitor, as defined in Section II.C.1.e. The additional visual inspections must include, at a minimum:

II.C.1.d.(i) Visual inspection of any thief hatch, pressure relief valve, or other access point to ensure that they are closed and properly sealed.

II.C.1.d.(ii) ~~Visual inspection or monitoring of the air pollution control equipment to ensure that it is operating, including that the pilot light is lit on combustion devices used as air pollution control equipment.~~Repealed.

II.C.1.d.(iii) Repealed.~~If a combustion device is used, visual inspection of the auto-igniter and valves for piping of gas to the pilot light to ensure they are functioning properly.~~

II.C.1.d.(iv) Repealed.~~Visual inspection of the air pollution control equipment to ensure that the valves for the piping from the storage tank to the air pollution control equipment are open.~~

II.C.1.d.(v) Repealed.~~If a combustion device is used, inspection of the device for the presence or absence of smoke. If smoke is observed, either the equipment must be immediately shut-in to investigate the potential cause for smoke and perform repairs, as necessary, or EPA Method 22 must be conducted to determine whether visible emissions are present for a period of at least one (1) minute in fifteen (15) minutes.~~

II.C.1.d.(vi) Beginning May 1, 2020, or the applicable compliance date in Section II.C.1.c.(i), whichever comes later, visual observation of the dump valve(s) of the last separator(s) before the storage tank(s) to ensure the dump valve is free of debris and not stuck open. The owner or operator is not required to observe the actuation of the dump valve during this inspection; however, if a dump event occurs during the inspection, the owner or operator must confirm proper operation of the valve.

II.C.1.d.(vii) Beginning May 1, 2020, or the applicable compliance date in Section II.C.1.c.(i), whichever comes later, a check for the presence of liquids in liquid knockout vessels that do not drain automatically, underground lines, and aboveground piping.

II.C.1.d.(vii)(A) For liquid knockout vessels for which a procedure exists to check liquid level, check for the presence of liquids. If liquids are present above the low level indication point, drain liquids.

II.C.1.d.(vii)(B) For liquid knockout vessels for which no procedure exists to check liquid level, drain liquids.

II.C.1.d.(vii)(C) For underground lines and aboveground piping that is not sloped to a liquid knockout or tank and for which a procedure exists to check for the presence of liquids accumulation, check for the presence of liquids and drain liquids as needed.

II.C.1.d.(vii)(D) For underground lines and aboveground piping that is not sloped to a liquid knockout vessel or tank and for

which no written procedure exists to check for the presence of liquids accumulation, drain liquids quarterly.

>>>>>>>

II.C.2. (State Only) Capture and monitoring requirements for storage tanks that are fitted with air pollution control equipment as required by Sections I.D. or II.C.1.

II.C.2.a. Owners or operators of storage tanks must route all hydrocarbon emissions to air pollution control equipment, and must operate without venting hydrocarbon emissions from the thief hatch (or other access point to the tank) or pressure relief device during normal operation~~,~~. This requirement does not apply where ~~unless~~ venting is reasonably required for maintenance, unless the control of maintenance emissions is required pursuant to Section II.H.2.; gauging ~~(,~~ unless the use of a storage tank measurement system is required pursuant to and the operator ~~compiles~~ complies with Section II.C.4.~~;),~~ or safety of personnel and equipment. Compliance must be achieved in accordance with the schedule in Section II.C.2.b.(ii).

II.C.2.a.(i) Venting is emissions from a controlled storage tank thief hatch, pressure relief device, or other access point to the storage tank, which:

II.C.2.a.(i)(A) Are primarily the result of over-pressurization, whether related to design, operation, or maintenance; or

II.C.2.a.(i)(B) Are the result of an open, unlatched, or visibly unseated pressure relief device (e.g., thief hatch or pressure relief valve), an open vent line, or an unintended opening in the storage tank (e.g., crack or hole).

II.C.2.a.(ii) When emissions from a controlled storage tank are observed, the Division may require the owner or operator to submit sufficient information demonstrating whether or not the emissions were primarily the result of over-pressurization. Absent a demonstration that such emissions were not primarily the result of over-pressurization, such emissions will be considered venting for purposes of Section II.C.2.a.

II.C.2.a.(iii) When venting is observed, the owner or operator must confirm within twenty-four (24) hours of taking action to return the storage tank to operation without venting that the action(s) taken was effective. If the venting was observed using an approved instrument monitoring method, the confirmation must be made using an approved instrument monitoring method.

II.C.2.b. Owners or operators of storage tanks subject to the control requirements of Sections I.D., II.C.1.a, II.C.1.b., or II.C.1.c. must develop, certify, and implement a documented Storage Tank Emission Management System (STEM) plan to identify, evaluate, and employ appropriate control technologies, monitoring practices, operational practices, and/or other strategies designed to meet the requirements set forth in Section II.C.2.a. Owners or operators must update the STEM plan as necessary to achieve or maintain compliance. Owners or operators are not required to

develop and implement STEM for storage tanks containing only stabilized liquids. The minimum elements of STEM are listed.

>>>>>>>

II.C.2.b.(ii) Owners or operators must achieve the requirements of Sections II.C.2.a. and II.C.2.b. and begin implementing the required approved instrument monitoring method in accordance with the following schedule

>>>>>>>

II.C.2.b.(ii)(I) Following the first approved instrument monitoring method inspection, owners or operators must continue conducting approved instrument monitoring method inspections in accordance with the inspection frequency in Table ~~1~~2.

Table ~~2~~1 – Storage Tank Inspections

Threshold: Storage Tank Uncontrolled Actual VOC Emissions (tpy)	Approved Instrument Monitoring Method Inspection Frequency
≥ 2 and ≤ 12	Semi-annually
> 12 and ≤ 50	Quarterly
> 50	Monthly

>>>>>>>

II.C.3. (State Only) Recordkeeping: The owner or operator of each storage tank subject to Sections I.D. or II.C. must maintain records of STEM, if applicable, including the plan, any updates, and the certification, and make them available to the Division upon request. In addition, for a period of two (2) years, the owner or operator must maintain records of any required monitoring and make them available to the Division upon request, including

II.C.3.a. The AIRS ID for the storage tank.

II.C.3.b. The date and duration of any period where the thief hatch, pressure relief device, or other access point are found to be venting hydrocarbon emissions, except for venting that is reasonably required for maintenance (unless the control of maintenance emissions is required pursuant to Section II.H.2.), gauging (unless use of a storage tank measurement system is required pursuant to and the operator complies with Section II.C.4.), or safety of personnel and equipment.

II.C.3.c. The date and duration of any period where the air pollution control equipment is not operating.

II.C.3.d. Records of the inspections required in Sections II.C.1.d. and II.C.2.b.(ii), including the time and date of each inspection and a description of any problems observed, description and date of any corrective action(s) taken, and name of employee or third party performing corrective action(s).

II.C.3.e. Repealed~~Where a combustion device is being used, the date and result of any EPA Method 22 test or investigation pursuant to Section II.C.1.d.(v)~~.

>>>>>>>

II.E. (State Only) Leak detection and repair program for well production facilities and natural gas compressor stations

II.E.1. The following provisions of Section II.E. apply in lieu of any directed inspection and maintenance program requirements established pursuant to Regulation Number 3, Part B, Section III.D.2.

II.E.2. Owners or operators of well production facilities or natural gas compressor stations that monitor components as part of Section II.E. may estimate uncontrolled actual emissions from components for the purpose of evaluating the applicability of component fugitive emissions to Regulation Number 3 by utilizing the emission factors defined as less than 10,000 ppmv of Table 2-8 of the 1995 EPA Protocol for Equipment Leak Emission Estimates (Document EPA-453/R-95-017).

II.E.3. Beginning January 1, 2015, owners or operators of natural gas compressor stations must inspect components for leaks using an approved instrument monitoring method, in accordance with the following schedule

II.E.3.a. Approved instrument monitoring method inspections must begin within ninety (90) days after January 1, 2015, or the date the natural gas compressor station commences operation if such date is after January 1, 2015, for natural gas compressor stations with fugitive VOC emissions greater than zero (0) but less than or equal to fifty (50) tons per year, based on a rolling twelve-month total.

II.E.3.a.(i) Annual approved instrument monitoring method inspections at natural gas compressor stations with fugitive VOC emissions greater than zero (0) but less than or equal to twelve (12) tons per year, based on a rolling twelve-month total, must begin within ninety (90) days after January 1, 2015, or the date the natural gas compressor station commences operation if such date is after January 1, 2015. Annual inspections must be conducted through calendar year 2019.

II.E.3.a.(ii) Beginning calendar year 2020, owners or operators of natural gas compressor stations with fugitive VOC emissions greater than zero (0) but less than or equal to twelve (12) tons per year, based on a rolling twelve-month total, must conduct semi-annual approved instrument monitoring method inspections.

II.E.3.b. Approved instrument monitoring method inspections must begin within thirty (30) days after January 1, 2015, or the date the natural gas compressor station commences operation if such date is after January 1, 2015, for natural gas compressor stations with fugitive VOC emissions greater than fifty (50) tons per year.

II.E.3.c. Following the first approved instrument monitoring method inspection, owners or operators must continue conducting approved instrument monitoring method inspections in accordance with the Inspection Frequency in Table ~~2~~3.

II.E.3.d. Beginning January 1, 2023, owners or operators of natural gas compressor stations located within a disproportionately impacted community must inspect components for leaks using an approved instrument monitoring method in accordance with the inspection frequency in Table 3.

II.E.3.~~d~~e. For purposes of Section II.E.3., fugitive emissions must be calculated using the emission factors of Table 2-4 of the 1995 EPA Protocol for Equipment Leak Emission Estimates (Document EPA-453/R-95-017), or other Division approved method.

Table ~~2~~ 3 – Natural Gas Compressor Station Component Inspections

Fugitive VOC Emissions (rolling twelve-month tpy)	Inspection Frequency
> 0 and ≤ 12	Semi-annually
> 0 and < 12, located within a disproportionately impacted community	Quarterly
> 12 and ≤ 50	Quarterly
> 50	Monthly

II.E.4. Requirements for well production facilities

II.E.4.a. Owners or operators of well production facilities constructed on or after October 15, 2014, must identify leaks from components using an approved instrument monitoring method no sooner than fifteen (15) days and no later than thirty (30) days after the facility commences operation. This initial test constitutes the first, or only for facilities subject to a one time approved instrument monitoring method inspection, of the periodic approved instrument monitoring method inspections. Thereafter, approved instrument monitoring method and AVO inspections must be conducted in accordance with the Inspection Frequencies in Table ~~3~~4.

II.E.4.b. Owners or operators of well production facilities constructed before October 15, 2014, must identify leaks from components using an approved instrument monitoring method within ninety (90) days of the Phase-In Schedule in Table ~~3~~4; within thirty (30) days for well production facilities subject to monthly approved instrument monitoring method inspections; or by January 1, 2016, for well production facilities subject to a one time approved instrument monitoring method inspection. Thereafter, approved instrument monitoring method and AVO inspections must be conducted in accordance with the inspection frequencies in Table ~~3~~4.

II.E.4.c. Beginning calendar year 2020, owners or operators of well production facilities with estimated uncontrolled actual VOC emissions greater than or equal to two (2) but less than or equal to twelve (12) tons per year as calculated in accordance with Section II.E.4.e., based on a rolling twelve-month total, must inspect components for leaks using an approved instrument monitoring method at least semi-annually.

II.E.4.d. Beginning calendar year 2020, owners or operators of well production facilities with estimated uncontrolled actual VOC emissions greater than or equal to two

(2) tons per year as calculated in accordance with Section II.E.4.eg., based on a rolling twelve-month total, and located within 1,000 feet of an occupied area must inspect components for leaks using an approved instrument monitoring method in accordance with the inspection frequency in Table 34.

II.E.4.e. Beginning January 1, 2023, owners or operators of well production facilities located within a disproportionately impacted community must inspect components for leaks using an approved instrument monitoring method in accordance with the inspection frequency in Table 4.

II.E.4.f. Owners or operators of well production facilities that commence operation on or after May 1, 2022, must inspect components for leaks using an approved instrument monitoring method at least monthly, unless the owner or operator meets the requirements of Sections II.E.4.f.(i) or (ii), in which case the owner or operator must inspect components for leaks using an approved instrument monitoring method in accordance with the inspection frequency in Table 4.

II.E.4.f.(i) The owner or operator installs and operates an automatic pressure management and pilot light system, consistent with a Division-approved protocol, on each storage tank at a well production facility with storage tanks subject to the requirements of Section II.C. The Division-approved protocol must ensure that the automatic pressure management and pilot light system

II.E.4.f.(i)(A) Is capable of continuously tracking the pressure in the storage tank(s) and monitoring the pilot light on combustion devices used as air pollution control equipment;

II.E.4.f.(i)(B) Accurately identifies when storage tank pressure levels both drop and rise substantially to indicate venting (e.g., both when a thief hatch is open and when pressure rises above the level where venting might occur);

II.E.4.f.(i)(C) Accurately identifies when a pilot light is out and subsequently re-lit;

II.E.4.f.(i)(D) Will shut-in flow to the storage tank(s) under the circumstances in Sections II.E.4.f.(i)(B) and II.E.4.f.(i)(C);

II.E.4.f.(i)(E) Triggers a site investigation by the owner or operator upon the occurrence of potential venting and pilot light outages; and

II.E.4.f.(i)(F) Includes sufficient recordkeeping and reporting requirements to demonstrate compliance.

II.E.4.f.(ii) The owner or operator installs and operators an approved air quality monitoring plan pursuant to Section VI. to detect, evaluate, and reduce, as necessary, VOC or methane emissions. Except as further specified in Sections II.E.4.f.(ii)(A) and II.E.4.f.(ii)(B), owners or operators must continue to comply with Sections VI.C.2. and VI.C.3. for as long as the monitoring system is in use.

II.E.4.f.(ii)(A) Owners or operators must keep records of the air quality monitoring plan for as long as the monitoring system is in use and provide records to the Division upon request.

II.E.4.f.(ii)(B) Owners or operators must submit and keep records of the monthly reports of monitoring conducted that meet the requirements of Section VI.C.2.b. for as long as the monitoring system is in use and provide records to the Division upon request.

II.E.4.eg. The estimated uncontrolled actual VOC emissions from the highest emitting storage tank at the well production facility determines the frequency at which inspections must be performed. If no storage tanks storing oil or condensate are located at the well production facility, owners or operators must rely on the facility emissions (controlled actual VOC emissions from all permanent equipment, including emissions from components determined by utilizing the emission factors defined as less than 10,000 ppmv of Table 2-8 of the 1995 EPA Protocol for Equipment Leak Emission Estimates).

Table 43 – Well Production Facility Component Inspections

Thresholds (per II.E.4.dg.)				
Well production facilities without storage tanks (rolling twelve-month tpy)	Well production facilities with storage tanks (rolling twelve-month tpy)	Approved Instrument Monitoring Method Inspection Frequency	AVO Inspection Frequency	Phase-In Schedule
> 0 and < 2	> 0 and < 2	One time	Monthly	January 1, 2016
≥ 2 and ≤ 12	≥ 2 and ≤ 12	Semi-annually	Monthly	* begins in 2020
> 2 and < 12, located within 1,000 feet of an occupied area	> 2 and < 12, located within 1,000 feet of an occupied area	Quarterly	Monthly	* begins in 2020
> 2 and < 12, located within a disproportionately impacted community	> 2 and < 12, located within a disproportionately impacted community	Quarterly	Monthly	* begins January 1, 2023
> 12 and ≤ 20	> 12 and ≤ 50	Quarterly	Monthly	January 1, 2015
> 12, located within 1,000 feet of an occupied area	> 12, located within 1,000 feet of an occupied area	Monthly		* begins in 2020
> 12, located within a disproportionately impacted community	> 12, located within a disproportionately impacted community	Monthly		* begins January 1, 2023
> 20	> 50	Monthly		January 1, 2015

II.E.5. If a component is unsafe, difficult, or inaccessible to monitor, the owner or operator is not required to monitor the component until it becomes feasible to do so.

II.E.5.a. Difficult to monitor components are those that cannot be monitored without elevating the monitoring personnel more than two (2) meters above a supported surface or are unable to be reached via a wheeled scissor-lift or hydraulic type scaffold that allows access to components up to 7.6 meters (25 feet) above the ground.

II.E.5.b. Unsafe to monitor components are those that cannot be monitored without exposing monitoring personnel to an immediate danger as a consequence of completing the monitoring.

II.E.5.c. Inaccessible to monitor components are those that are buried, insulated, or obstructed by equipment or piping that prevents access to the components by monitoring personnel.

II.E.6. Leaks requiring repair: Leaks must be identified utilizing the methods listed in Section II.E.6. Only leaks from components exceeding the thresholds in Section II.E.6. require repair under Section II.E.7.

II.E.6.a. For EPA Method 21 monitoring, at facilities constructed before May 1, 2014, repair is required for leaks with any concentration of hydrocarbon above 2,000 parts per million (ppm) not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation, except for well production facilities where a leak is defined as any concentration of hydrocarbon above 500 ppm not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

II.E.6.b. For EPA Method 21 monitoring, at facilities constructed on or after May 1, 2014, repair is required for leaks with any concentration of hydrocarbon above 500 ppm not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

II.E.6.c. For infra-red camera and AVO monitoring, repair is required for leaks with any detectable emissions not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

II.E.6.d. For other Division approved instrument monitoring methods or programs, leak identification requiring repair will be established as set forth in the Division's approval.

II.E.6.e. Except as provided in Sections II.E.6.f. or II.E.6.g., for leaks identified using an approved non-quantitative instrument monitoring method or AVO, owners or operators have the option of either repairing the leak in accordance with the repair schedule set forth in Section II.E.7.a. or conducting follow-up monitoring using EPA Method 21 within five (5) working days of the leak detection. If the follow-up EPA Method 21 monitoring shows that the emission is a leak requiring repair as set forth in Section II.E.6., the leak must be repaired in accordance with Section II.E.7.a. and remonitored in accordance with Section II.E.7.c.

II.E.6.f. Beginning on March 1, 2021, for leaks identified using an approved non-quantitative instrument monitoring method or AVO at a well production facility located within 1,000 feet of an occupied area, owners or operators have the option of either repairing the leak in accordance with the repair schedule set forth

in Section II.E.7.b. or conducting follow-up monitoring using EPA Method 21 within five (5) working days of the leak detection. If the follow-up EPA Method 21 monitoring shows that the emission is a leak requiring repair as set forth in Sections II.E.6.a. through II.E.6.d., the leak must be repaired as follows and remonitored in accordance with Section II.E.7.c.

II.E.6.f.(i) If EPA Method 21 indicates a leak greater than 500 ppm and less than 10,000 ppm hydrocarbons, the leak must be repaired in accordance with Section II.E.7.a.

II.E.6.f.(ii) If EPA Method 21 is not performed or indicates a leak greater than or equal to 10,000 ppm hydrocarbons, the leak must be repaired in accordance with Section II.E.7.b.

II.E.6.g. Beginning January 1, 2023, for leaks identified using an approved non-quantitative instrument monitoring method or AVO at a well production facility located within a disproportionately impacted community, owners or operators have the option of either repairing the leak in accordance with the repair schedule set forth in Section II.E.7.b. or conducting follow-up monitoring using EPA Method 21 within five (5) working days of the leak detection. If the follow-up EPA Method 21 monitoring shows that the emission is a leak requiring repair as set forth in Sections II.E.6.a. through II.E.6.d., the leak must be repaired as follows and remonitored in accordance with Section II.E.7.c.

II.E.6.g.(i) If EPA Method 21 indicates a leak greater than 500 ppm and less than 10,000 ppm hydrocarbons, the leak must be repaired in accordance with Section II.E.7.a.

II.E.6.g.(ii) If EPA Method 21 is not performed or indicates a leak greater than or equal to 10,000 ppm hydrocarbons, the leak must be repaired in accordance with Section II.E.7.b.

II.E.7. Repair and remonitoring

II.E.7.a. Except as provided in Section II.E.7.b., the first attempt to repair a leak must be made no later than five (5) working days after discovery and repair of a leak discovered on or after January 1, 2018, completed no later than thirty (30) working days after discovery, unless parts are unavailable, the equipment requires shutdown to complete repair, or other good cause exists.

II.E.7.a.(i) If parts are unavailable, they must be ordered promptly and the repair must be made within fifteen (15) working days of receipt of the parts.

II.E.7.a.(ii) If shutdown is required, a repair attempt must be made during the next scheduled shutdown and final repair completed within two (2) years after discovery.

II.E.7.a.(iii) If delay is attributable to other good cause, repairs must be completed within fifteen (15) working days after the cause of delay ceases to exist.

II.E.7.a.(iv) Beginning January 1, 2023, the owner or operator must take action(s) where technically feasible to mitigate emissions from leaks placed on delay of repair.

II.E.7.b. For leaks requiring repair pursuant to Sections II.E.6.f. and II.E.6.g., the first attempt to repair must be made as soon as practicable but no later than five (5) working days after discovery and completed within five (5) working days after discovery. If repair is not completed within five (5) working days after discovery, the owner or operator must use other means to stop the leak including, but not limited to, isolating the component or shutting in the well, unless such other means will cause greater emissions.

II.E.7.b.(i) If the owner or operator cannot repair or stop the leak within five (5) working days after discovery, the owner or operator must notify the local government with jurisdiction over the location and the Division as soon as possible, but no later than seven (7) working days after the leak is discovered. The notice must include

II.E.7.b.(i)(A) Identification of the facility, the leaking component, and contact information of the owner or operator representative;

II.E.7.b.(i)(B) The concentration of hydrocarbons using EPA Method 21, if available;

II.E.7.b.(i)(C) Instructions to access the infrared camera video footage of the leak, if available;

II.E.7.b.(i)(D) The approximate distance of the facility to the closest occupied area that is not an outdoor area;

II.E.7.b.(i)(E) The basis for the delay of repair and justification for not isolating the component or shutting in the well; and

II.E.7.b.(i)(F) The estimated date of repair.

II.E.7.c. Within fifteen (15) working days of completion of a repair, the leak must be remonitored using an approved instrument monitoring method to verify that the repair was effective.

II.E.7.d. Leaks discovered pursuant to the leak detection methods of Section II.E.6. are not subject to enforcement by the Division unless the owner or operator fails to perform the required repairs in accordance with Section II.E.7. or keep required records in accordance with Section II.E.8.

II.E.8. Recordkeeping: The owner or operator of each facility subject to the leak detection and repair requirements in Section II.E. must maintain the following records for a period of two (2) years and make them available to the Division upon request.

II.E.8.a. Documentation of the initial approved instrument monitoring method inspection for new well production facilities;

II.E.8.b. The date, facility name, and facility AIRS ID or facility location if the facility does not have an AIRS ID for each inspection;

II.E.8.c. ~~A~~ For each inspection, a list of the leaking components requiring repair and the monitoring method(s) used to determine the presence of the leak;

II.E.8.d. The date and result of any EPA Method 21 monitoring relied upon to demonstrate a leak is not subject to Section II.E.7.b.;

II.E.8.e. The date of first attempt to repair the leak and, if necessary, any additional attempt to repair the leak;

II.E.8.f. The date the leak was repaired and for leaks discovered and repaired on or after January 1, 2018, the type of repair method applied;

II.E.8.g. Documentation of actions taken pursuant to Section II.E.7.b. to stop a leak that was not repaired within five (5) working days after discovery or documentation that such actions would cause greater emissions;

II.E.8.h. Copies of all notices submitted pursuant to Section II.E.7.b.(i) and the infrared camera video footage of leaks that required notice pursuant to Section II.E.7.b.(i);

II.E.8.i. The delayed repair list, including the basis for placing leaks on the list;

II.E.8.i.(i) For leaks discovered on or after January 1, 2018, the delayed repair list must include the date and duration of any period where the repair of a leak was delayed due to unavailable parts, required shutdown, or delay for other good cause, the basis for the delay, and the schedule for repairing the leak. Delay of repair beyond thirty (30) days after initial discovery due to unavailable parts must be reviewed, and a record kept of that review, by a representative of the owner or operator with responsibility for leak detection and repair compliance functions. This review will not be made by the individual making the initial determination to place a part on the delayed repair list.

II.E.8.i.(ii) For leaks discovered after March 1, 2021, that require repair pursuant to Section II.E.7.b., the delayed repair list must include the date and duration of leaks for which repairs were not completed within five (5) working days after discovery, and the schedule for repairing the leak.

II.E.8.i.(iii) For leaks discovered after January 1, 2023, pursuant to Section II.E.6.g., that require repair pursuant to Section II.E.7.b., the delayed repair list must include the date and duration of leaks for which repairs were not completed within five (5) working days after discovery, and the schedule for repairing the leak, including, but not limited to, the date upon which necessary parts were ordered and the estimated delivery date.

II.E.8.i.(iv) For leaks discovered after January 1, 2023, the delayed repair list must include a description of action(s) taken to mitigate the emissions from the leak or the reasons why mitigation was not technically feasible, as required under Section II.E.7.a.(iv).

II.E.8.j. The date the leak was remonitored and the results of the remonitoring;

II.E.8.k. A list of components that are designated as unsafe, difficult, or inaccessible to monitor, as described in Section II.E.5., an explanation stating why the component is so designated, and the schedule for monitoring such component(s); and

II.E.8.l. Documentation of the owner or operator's proximity analysis, if applicable, including the date of the initial and any subsequent analysis and a description of the methodology used for the analysis.

II.E.9. Reporting. The owner or operator of each facility subject to the leak detection and repair requirements in Section II.E. must submit a single annual report using the Division-approved format on or before May 31st of each year (beginning May 31st, 2019) that includes, at a minimum, the following information regarding leak detection and repair activities at their subject facilities conducted the previous calendar year.:

II.E.9.a. The total number of well production facilities and total number of natural gas compressor stations inspected;

II.E.9.b. The total number of inspections performed per inspection frequency tier of well production facilities, including the number of facilities inspected in accordance with Section II.E.4.d., and inspection frequency tier of natural gas compressor stations;

II.E.9.c. The total number of identified leaks requiring repair, broken out by component type, monitoring method, and inspection frequency tier of well production facilities, as reported in Section II.E.9.b., or inspection frequency tier of natural gas compressor stations;

II.E.9.d. The total number of leaks repaired for each inspection frequency tier of well production facilities, as reported in Section II.E.9.b., or inspection frequency tier of natural gas compressor stations;

II.E.9.e. The total number of leaks on the delayed repair list as of December 31st broken out by component type, inspection frequency tier of well production facilities, as reported in Section II.E.9.b., or inspection frequency tier of natural gas compressor stations, and the basis for each delay of repair. This total does not include leaks that have been stopped through other means, as specified in Section II.E.7.b.;

II.E.9.f. The record of all reviews conducted for delayed repairs due to unavailable parts extending beyond 30 days for the previous calendar year; and

II.E.9.g. Each report must be accompanied by a certification by a responsible official that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

II.F. Control of emissions from well production facilities

Well Operation and Maintenance:

II.F.1. On or after August 1, 2014, gas coming off a separator, produced during normal operation from any newly constructed, hydraulically fractured, or recompleted oil and gas well, must either be routed to a gas gathering line or controlled from commencement of operation by air pollution control equipment that achieves an average hydrocarbon control efficiency of 95%.

II.F.2. On or after February 14, 2022, gas coming off a separator, produced during normal operation from any oil and gas well, must either be routed to a gas gathering line or controlled by air pollution control equipment that achieves an average hydrocarbon

control efficiency of 95%, unless emitting to the atmosphere is authorized pursuant to a variance issued by the Colorado Oil and Gas Conservation Commission.

II.F.3. If a combustion device is used, it must have a design destruction efficiency of at least 98% for hydrocarbons.

II.G. (State Only) Emissions during downhole well maintenance, well liquids unloading events, and well plugging

II.G.1. Beginning May 1, 2014, owners or operators must use best management practices to minimize hydrocarbon emissions and the need for emissions from the well associated with downhole well maintenance, well liquids unloading, and well plugging (beginning January 31, 2020), unless emitting is necessary for safety. The emitting as necessary for safety exemption does not apply to Section II.G.1.c.

II.G.1.a. ~~During~~ Prior to January 1, 2023, during liquids unloading events, any means of creating differential pressure must first be used to attempt to unload the liquids from the well without emitting. If these methods are not successful in unloading the liquids from the well, the well may emit in order to create the necessary differential pressure to bring the liquids to the surface.

II.G.1.b. The owner or operator must be present on-site during any planned downhole well maintenance, well liquids unloading, or well plugging event and must ensure that any emissions from the well associated with the event are limited to the maximum extent practicable.

II.G.1.c. Beginning January 1, 2023, owners or operators must use the following best management practices to minimize hydrocarbon emissions and the need for emissions from the well associated with all downhole well maintenance and well liquids unloading, including well swabbing, consistent with well site conditions and good engineering practices

II.G.1.c.(i) Use best engineering practices in the design and construction of oil and gas wells and well production facilities to minimize the need for well liquids unloading and other downhole well maintenance as the well ages.

II.G.1.c.(ii) Attempt to create differential pressure to unload the liquids from the well without emitting.

II.G.1.c.(iii) Monitor wellhead pressure and flow rate of the vented natural gas.

II.G.1.c.(iv) Reduce wellhead pressure before releasing gas to the atmosphere.

II.G.1.c.(v) Close wellhead vents to the atmosphere and return the well to normal production operation as soon as practicable.

II.G.1.c.(vi) Use one of the following methods to reduce emissions during well liquids unloading, including well swabbing

II.G.1.c.(vi)(A) Installation and use of artificial lift, such as a plunger lift, with an automated lift controller where automation is technically feasible.

II.G.1.c.(vi)(B) Installation and use of a control device that achieves at least 95% control of hydrocarbon emissions. Portable combustion devices may be used to comply with Section II.G.1.c.(vi)(B).

II.G.2. Recordkeeping

II.G.2.a. Through January 31, 2020, the owner or operator must keep records of the cause, date, time, and duration of venting events under Section II.G. Records must be kept for two (2) years and made available to the Division upon request.

II.G.2.b. Beginning January 31, 2020, or the date specified in Section II.G.2.b.(iii), the owner or operator must keep the following records for two (2) years and make records available to the Division upon request.

II.G.2.b.(i) The cause of emissions (i.e., downhole well maintenance, well liquids unloading, well plugging), date, time, and duration of emissions under Section II.G.

II.G.2.b.(ii) The best management practices used to minimize hydrocarbon emissions or the safety needs that prevented the use of best management practices.

II.G.2.b.(iii) Beginning July 1, 2020, the emissions associated with well liquids unloading, downhole well maintenance, and well plugging.

II.G.2.c. Beginning January 1, 2023, the owner or operator must keep the following records for two (2) years and make records available to the Division upon request.

II.G.2.c.(i) The volume of gas vented during each downhole well maintenance, well liquids unloading, and well plugging event.

II.G.2.c.(ii) The method(s) used to reduce emissions pursuant to Section II.G.1.c.(vi).

II.G.2.c.(iii) For wells with artificial lift, the number of cycles of that lift and the number of well liquids unloading events resulting in emissions.

II.G.3. Reporting

II.G.3.a. The owner or operator must submit a single annual report using a Division-approved format on or before June 30th of each year (beginning June 30th, 2021) that includes the following information regarding each downhole well maintenance, well liquids unloading, and well plugging event conducted the previous calendar year that resulted in emissions.

II.G.3.a.(i) The API number of the well and the AIRS number of any associated storage tanks.

II.G.3.a.(ii) Whether the emissions occurred due to downhole well maintenance, well liquids unloading, or well plugging.

II.G.3.a.(iii) The date, time, and duration of the downhole well maintenance, well liquids unloading, or well plugging event.

II.G.3.a.(iv) The best management practices used to minimize emissions, including the method used pursuant to Section II.G.1.c.(vi) beginning January 1, 2023.

II.G.3.a.(v) Safety needs that prevented the use of best management practices to minimize emissions, if applicable.

II.G.3.a.(vi) An estimate of the volume of natural gas, VOC, NOx, N2O), CO2, CO, ethane, and methane emitted from the well associated with well liquid unloading activities, downhole well maintenance, and well plugging event and the emission factor or calculation methodology used to determine the volume of natural gas and emissions.

II.G.3.a.(vii) Beginning June 30th of 2024 (for calendar year 2023), whether the well identified in Section II.G.3.a.(i) is equipped with artificial lift.

II.H. Emission reduction from midstream segment operations.

II.H.1. Pigging operations

II.H.1.a. Beginning January 1, 2023, midstream segment owners or operators must capture and recover hydrocarbon emissions from pigging operations where owners or operators conduct pigging operations more than one time per month.

II.H.1.a.(i) If capture and recovery of the hydrocarbon emissions emitted during pigging operations is not feasible, the owner or operator may request Division approval to use air pollution control equipment to control hydrocarbon emissions from pigging operations. Such air pollution control equipment is subject to Section II.B.

II.H.1.b. Beginning January 1, 2023, where capture and recovery is not required under Section II.A.1.a., midstream segment owners or operators must use best management practices to reduce emissions associated with pigging operations, including, but not limited to

II.H.1.a.(i) Keeping pipeline access openings to the pig receiver closed at all times except when a pig is being placed into or removed from the receiver or during active pipeline maintenance activities.

II.H.1.a.(ii) Installing a pig ramp inside the pig receiver to prevent liquid accumulation in the pig barrel and minimize the release of volatile liquids during retrieval of the pig.

II.H.1.a.(iii) Where feasible, connecting each high pressure pig launcher and receiver by jumper lines to a low pressure gathering line and operate jumper lines to depressurize such pig launchers and receivers prior to opening the pig launcher or receiver hatch.

II.H.1.a.(iv) Using short pig barrels, which reduce the gas volume for potential release.

II.H.1.a.(v) The Division can approve alternatives to the best management practices in Sections II.H.1.a.(i) through II.H.1.a.(iv) where the owner or operator demonstrates that the alternatives will achieve equivalent or better emission reductions.

II.H.2. Blowdowns

II.H.2.a. Beginning January 1, 2023, midstream segment owners or operators must capture or control hydrocarbon emissions from blowdowns of equipment and piping at natural gas compressor stations and natural gas processing plants. Air pollution control equipment used to comply with this requirement is subject to Section II.B.2.

II.H.2.b. Beginning January 1, 2023, midstream segment owners or operators of midstream pipelines (not within the boundaries of the natural gas compressor station or natural gas processing plant) must use best management practices to reduce emissions from blowdowns, including, but not limited to, where practicable

II.H.2.b.(i) Planning for venting-reduction steps, such as pipeline pump-downs techniques (e.g., in-line compressors, portable compressors, ejector), when large vessels and pipelines need to be isolated and depressurized.

II.H.2.b.(ii) Rerouting gas to the low-pressure system using existing piping connections between high- and low-pressure systems, temporarily resetting or bypassing pressure regulators to reduce system pressure prior to maintenance, or installing temporary connections between high- and low-pressure systems.

II.H.2.b.(iii) Minimizing the volume that must be released. For example, add stops to isolate a smaller section of a pipeline to reduce the length of pipe that must be vented.

II.H.2.b.(iv) Using inert gases and pigs to perform pipeline purges.

II.H.2.b.(v) Using hot taps to make new connections to pipelines to avoid the need to depressurize the pipeline.

II.H.2.b.(vi) Using non-intrusive inspection, such as inline inspection tools, to avoid the need to purge a pipeline prior to inspection.

II.H.2.b.(vii) Coordinating operational repairs and routine maintenance to minimize the number of emissions released.

II.H.3. Recordkeeping. The owner or operator must maintain records for a period of two (2) years and make them available to the Division upon request, including

II.H.3.a. Records of pigging operations.

II.H.3.a.(i) The number of pigging events, including the locations of the pigging event, pigging facility (including AIRS ID, if applicable), and pigging pipeline; date and time; volume of gas recovered and released; type and volume of liquid cleared; and duration of emissions.

II.H.3.a.(ii) The monthly VOC and methane emissions associated with the pigging operations, in accordance with Division-approved calculation methodology, including the VOC and methane percent composition of the fluid transported by the pigging pipeline in percent VOC and methane by weight at normal pipeline operating conditions.

II.H.3.a.(iii) If subject to Section II.H.1.a., documentation of the methods used to comply with Section II.H.1.a.

I.H.3.a.(iv) If subject to Section II.H.1.b., documentation of best management practices employed pursuant to Section II.H.1.b.

II.H.3.b. Records of blowdowns.

II.H.3.b.(i) For blowdowns subject to Section II.H.2.a., the cause of blowdown emissions, including the location (by equipment, facility, and AIRS ID), date, time, and duration of emissions.

II.H.3.b.(ii) For blowdowns subject to Section II.H.2.b., the cause of blowdown emissions and the location (by equipment and coordinates if no AIRS ID), date, time, and duration of emissions.

II.H.3.b.(iii) The monthly VOC and methane emissions associated with blowdowns.

II.H.3.b.(iv) Records of best management practices employed pursuant to Section II.H.1.b.

II.I. (State Only) Control of emissions from natural gas-processing plants

II.I.1. Beginning January 1, 2023, owners or operators of natural gas-processing plants that are not subject to the requirements of Section I.G. must comply with the leak detection and repair (LDAR) program as provided at 40 CFR Part 60, Subpart OOOOa (June 3, 2016) unless subject to the LDAR program provided at 40 CFR Part 60, Subpart OOOO (August 16, 2012).

II.I.1.a. The owner or operator must attempt drill and tap repair of leaking valves, if other repair methods are not successful, prior to placing the valve on delay of repair.

III. Natural Gas-Actuated Pneumatic Controllers Associated with Oil and Gas Operations

III.A. Applicability

This section applies to pneumatic controllers that are actuated by natural gas, and located at, or upstream of natural gas processing plants (upstream activities include: oil and gas exploration and production operations and natural gas compressor stations).

>>>>>>>

III.C. Emission Reduction Requirements

Owners and operators of affected operations shall reduce emissions of volatile organic compounds from pneumatic controllers associated with affected operations as follows:

>>>>>>>

III.C.3. (State Only) Statewide:

III.C.3.a. Owners or operators of all pneumatic controllers placed in service on or after May 1, 2014~~, and before May 1, 2021~~ except as otherwise provided in Section III.C.4., must~~:~~

III.C.3.a.(i) Utilize no-bleed pneumatic controllers where on-site electrical grid power is being used and use of a no-bleed pneumatic controller is technically and economically feasible.

III.C.3.a.(ii) If on-site electrical grid power is not being used or a no-bleed pneumatic controller is not technically and economically feasible, utilize pneumatic controllers that emit natural gas emissions in an amount equal to or less than a low-bleed pneumatic controller, unless allowed pursuant to Section III.C.3.c.

III.C.3.a.(iii) For purposes of Section III.C.3.a.(ii), instead of a low-bleed pneumatic controller, owners or operators may utilize a natural gas-driven intermittent pneumatic controller.

III.C.3.a.(iv) Utilizing self-contained pneumatic controllers satisfies Section III.C.3.a.(i).

>>>>>>>

III.C.3.d. Continuous bleed, natural gas-driven pneumatic controllers located at natural gas-processing plants that are not subject to the requirements of Section III.C.2.

III.C.3.d.(i) All pneumatic controllers placed in service on or after January 1, 2023, must have a natural gas bleed rate of zero, unless allowed pursuant to Section III.C.3.a.(iii).

III.C.3.d.(ii) All pneumatic controllers with a bleed rate greater than zero in service prior to January 1, 2023, must be replaced or retrofit such that the pneumatic controller has a natural gas bleed rate of zero by January 1, 2024, unless allowed pursuant to Section III.C.3.a.(iii).

III.C.3.d.(iii) All pneumatic controllers with a natural gas bleed rate greater than zero that remain in service due to safety and/or process purposes must comply with Sections III.D. and III.E.

III.C.3.d.(iii)(A) For pneumatic controllers with a natural gas bleed rate greater than zero in service prior to January 1, 2023, the owner or operator must submit justification for pneumatic controllers to remain in service due to safety and /or process purposes by March 1, 2023.

III.C.3.d.(iii)(B) For pneumatic controllers with a natural gas bleed rate greater than zero placed in service on or after January 1, 2023, the owner or operator must submit justification for pneumatic controllers to be installed due to safety and /or process purposes thirty (30) days prior to installation.

>>>>>>>

III.C.4. (State Only) Non-Emitting Controller Requirements for Well Production Facilities and Natural Gas Compressor Stations

>>>>>>>

III.C.4.e. Pneumatic Controllers That Emit Natural Gas to the Atmosphere Not Subject to Non-Emitting Controller Requirements for Well Production Facilities and Natural Gas Compressor Stations.

III.C.4.e.(i) Pneumatic controllers that emit natural gas to the atmosphere meeting any of the following conditions are not subject to the requirements in Section III.C.4.a. and are not required to be retrofit in order to count the facility or controller as non-emitting for compliance with the company-wide plans under Sections III.C.4.c. and III.C.4.d.

>>>>>>>

III.C.4.e.(i)(D) Pneumatic controllers that emit natural gas to the atmosphere that are used as emergency shutdown devices ~~and~~ or for artificial lift control located on a wellhead: (1) greater than one quarter mile from the associated production facilities for well production facilities that commenced operation on or after May 1, 2021; or (2) not located on the same surface disturbance as the associated production facilities for well production facilities that commenced operation before May 1, 2021.

>>>>>>>

III.D. Monitoring

This section applies to pneumatic controllers identified in Sections III.C.1.c. and III.C.2.c. (State Only: and in Section III.C.3.c.).

>>>>>>>

III.D.4. (State Only) Located at a natural gas processing plants not subject to Section III.D.2.

III.D.4.a. Effective March 1, 2023, each pneumatic controller with a natural gas bleed rate greater than zero must be physically tagged by the owner or operator identifying it with a unique pneumatic controller number that is assigned and maintained by the owner or operator.

III.D.4.b. Effective March 1, 2023, the owner or operator must inspect each pneumatic controller with a natural gas bleed rate greater than zero on a monthly basis, perform necessary maintenance (such as cleaning, tuning, and repairing leaking gaskets, tubing fittings, and seals; tuning to operate over a broader range of proportional band; eliminating unnecessary valve positioners), and maintain the pneumatic controller according to manufacturer specifications to ensure that the controller's natural gas emissions are minimized.

>>>>>>>

III.F. (State Only) Pneumatic Controller Inspection and Enhanced Response

>>>>>>>

III.F.2. Pneumatic controller inspection

>>>>>>>

III.F.2.g. Beginning January 1, 2023, owners or operators of natural gas-driven pneumatic controllers located at natural gas-processing plants must inspect pneumatic controllers at, at least, the most frequent applicable LDAR monitoring frequency in 40 CFR Part 60, Subparts OOOO (August 16, 2012) or OOOOa (June 3, 2016) using an approved instrument monitoring method.

III.F.2.~~g~~h. Where detectable emissions from the pneumatic controller are observed, owners or operators must determine whether the pneumatic controller is operating properly within five (5) working days after detecting emissions. In making this determination, owners or operators may use techniques other than approved instrument monitoring methods.

III.F.2.~~h~~i. For pneumatic controllers not operating properly, the owner or operator must conduct enhanced response or follow manufacturer specifications to return the pneumatic controller to proper operation.

>>>>>>>

III.F.5. Owners or operators of pneumatic controllers at well production facilities or natural gas compressor stations must submit a single annual report on or before May 31st of each year (beginning May 31st, 2019 for facilities in the 8-Hour Ozone Control Area and May 31st, 2021, for facilities outside the 8-Hour Ozone Control Area) that includes, at a minimum, the following information regarding pneumatic controller inspection and enhanced response activities at their subject facilities conducted the previous calendar year.~~:~~

Owners or operators of pneumatic controllers at natural gas processing plants must submit the annual report on or before May 31st of each year beginning 2024.

III.F.5.a. The total number and type of pneumatic controllers returned to proper operation, the types of actions taken to return the pneumatic controllers to proper operation, and the facility type (by inspection frequency tier of well production facility or natural gas compressor station);

III.F.5.b. The number and type of pneumatic controllers on the delayed repair list as of December 31st broken out by the facility type (by inspection frequency tier of well production facility or natural gas compressor station), and the basis for each delay; and

III.F.5.c. The record of all reviews conducted for delayed repairs due to unavailable parts extending beyond 30 days for the previous calendar year.

~~III.F.6. The provisions in Section III.F. will be reassessed by the Division and stakeholders in 2020.~~

>>>>>>>

V. (State Only) Oil and Natural Gas Operations Emissions Inventory

V.A. Applicability

V.A.1. On or before June 30th, 2021 (and on June 30th each year thereafter), the owner or operator of oil and natural gas operations and equipment at or upstream of a natural gas processing plant in Colorado must submit a single annual report that includes actual emissions and specified information in the Division-approved report format.

V.A.2. On or before June 30th, 2022 (and on June 30th each year thereafter), the owner or operator or class II disposal well facilities that are not subject to reporting under Section IV. must submit a single annual report that includes actual emissions and specified information in the Division-approved report format.

V.B. General reporting requirements

V.B.1. The following information must be reported in accordance with Section V.A.

V.B.1.a. Company name, physical street address, and name and contact information of the company representative, for reporting purposes.

V.B.1.b. The date of submittal and the year covered by the report.

V.B.1.c. A list of the activities or equipment, as specified in Section V.C., for which emissions are reported.

V.B.1.d. Beginning with the June 2022 report for calendar year 2021, owners or operators of well production facilities must submit a list of each well production facility, all associated wells by API number and associated location ID as reported to the Colorado Oil and Gas Conservation Commission.

V.B.1.~~d~~e. The company's monthly actual emissions of volatile organic compounds (VOC), oxides of nitrogen (NOx), nitrous oxide (N2O), carbon dioxide (CO2), carbon monoxide (CO), methane, and ethane for each month of May through September, in accordance with Division-approved calculation methods.

V.B.1.~~e~~f. The company's annual actual emissions of VOCs, NOx, N2O, CO2, CO, methane, and ethane for the entire calendar year, in accordance with Division-approved calculation methods.

V.B.1.~~f~~g. The actual emissions of VOCs, NOx, N2~~O~~}, CO2, CO, methane, and ethane for each activity or equipment listed in Section V.C. per facility, or per pipeline between facilities where the pipeline is not located at a stationary source, in accordance with Division-approved calculation methods.

V.B.1.~~f~~g.(i) The report must include the actual emissions from each activity or equipment per month for each month of May through September.

V.B.1.~~f~~g.(ii) The report must include the actual emissions from each activity or equipment for the entire calendar year.

V.B.1.h. Beginning with the June 2022 report for calendar year 2021, if the emissions reported for any activities or equipment, as specified in Section V.C., are calculated using a method other than what would be used to report to the U.S. EPA under the federal Greenhouse Gas Reporting Program (40 CFR Part 98) for the same activity or equipment, the owner or operator must include in the report the emissions information reported to the EPA, an explanation of the difference in emissions reported to the Division, the emission calculation method(s) used to report to the Division, and a justification and supporting documentation for using a method other than that for the Greenhouse Gas Reporting Program. If the Division determines that the use of a different calculation method was not justified, the owner or operator must revise the report accordingly, to use the same calculation method as that reported under the federal Greenhouse Gas Reporting Program.

V.B.1.i. Emission factors, beginning with the June 22 report for calendar year 2021, where emission factors are used to calculate emissions reported pursuant to Section V.B.1.

V.B.1.i.(i) Owners or operators submitting reports under this section must use a Division-approved emission factor.

V.B.1.i.(ii) Owners or operators using a site-specific emission factor must submit documentation to the Division supporting the use of that emission factor.

V.B.1.i.(iii) Owners or operators using a site-specific emission factor must conduct a gas speciation analysis every three (3) years to verify the ongoing accuracy of the site-specific emission factor pursuant to a Division-approved sampling method or protocol.

V.B.1.~~g~~j. A certification by the company representative that supervised the development and submission of the inventory report that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

V.B.2. The owner or operator must submit a revised annual report after discovering that an annual report submitted within the previous two (2) years contained one or more substantive errors. A substantive error is a mass of emissions of any individual pollutant subject to reporting under Section V. that is at least 10% higher or lower than the mass of emissions of the pollutant reported across the owner or operator's activity or equipment, as listed in Section V.C., in Colorado. A refinement of or improvement to an emissions estimation technique or emission factor is not a substantive error but must be noted in the subsequent annual report after the refinement or improvement. Revised annual reports must be submitted by August 31 if the substantive error is discovered between January 1 and June 30, and by February 28 if the substantive error is discovered between July 1 and December 31 of the preceding calendar year.

V.C. Beginning July 1, 2020, and each calendar year thereafter, owners or operators must maintain the following information for inclusion in the annual report, except that beginning January 1, 2021, owners or operators must maintain the information described in Sections V.C.2.g. and V.C.2.h. Beginning May 1, 2021, owners or operators of class II disposal well facilities must maintain the following information for inclusion in the annual report.

V.C.1. AIRS number of the activity or equipment and associated facility or pipeline (if a pipeline between facilities) location, including latitude and longitude coordinates. If the activity or equipment does not have an AIRS number, a description of the activity or equipment.

V.C.2. Actual emissions from each activity or equipment listed, unless otherwise specified in the Division-approved report format, and the emission factor(s), assumptions, ~~and~~ calculation methodology used to calculate the emissions, and other supporting information on the Division-approved form.

V.C.2.a. Abnormal events, except those reported as malfunctions under the Common Provisions or in another activity or equipment.

V.C.2.b. Acid gas removal units.

V.C.2.c. Associated gas venting and flaring, aggregated per facility. Beginning with the June 2023 report for calendar year 2022, owners or operators must measure or estimate the volume of natural gas that is vented or flared during drilling, completion, and production operations.

V.C.2.d. Blowdowns from facility equipment piping where the physical volume of the piping between isolation valves is greater than or equal to 50 cubic feet, aggregated per activity below per facility. Beginning with the June 2024 report for calendar year 2023, owners or operators must report this information for all blowdowns from facility equipment and piping, even where the physical volume between isolation valves is less than 50 cubic feet.

V.C.2.d.(i) Pipeline venting within the facility boundary.

V.C.2.d.(ii) Compressors.

V.C.2.d.(iii) Scrubbers/strainers.

V.C.2.d.(iv) Pig launchers and receivers, through the June 2022 report for calendar year 2021.

V.C.2.d.(v) Emergency shutdowns (regardless of equipment type).

V.C.2.d.(vi) ~~All~~ Until the June 2024 report for calendar year 2023, all other equipment (including pipelines, compressor case or cylinders, manifolds, suction bottles, discharge bottles, and vessels) with a physical volume between isolation valves greater than or equal to 50 cubic feet.

V.C.2.d.(vii) Beginning with the June 2024 report for calendar year 2023, all other equipment (including pipelines, compressor case or cylinders, manifolds, suction bottles, discharge bottles, and vessels), regardless of the physical volume between isolation valves.

V.C.2.d.(viii) Beginning with the June 2024 report for calendar year 2023, best management practices employed pursuant to Section II.H.2.b, per blowdown event.

V.C.2.e. Boilers.

V.C.2.f. Centrifugal compressor leaks or vents, aggregated per facility.

V.C.2.g. Class II disposal well facility fluids accepted for injection. Owners or operators will take periodic, representative samples of the liquids for estimating emissions for the annual report.

V.C.2.h. Class II disposal well facility produced water ponds.

V.C.2.i. Drilling mud and mud pits.

V.C.2.j. Flares and enclosed combustion devices, where not otherwise reported in the emissions of another emissions source category.

V.C.2.k. Fugitive emissions from components, aggregated per facility. Beginning with the June 2022 report for calendar year 2021, gas composition data and component counts used in fugitive emissions calculations must be provided.

V.C.2.l. Hydrocarbon liquid storage tanks.

V.C.2.m. Hydrocarbon liquid loadout.

V.C.2.n. Maintenance and safety, where not otherwise reported in the emissions of another emissions source category. Beginning with the June 2023 report for calendar year 2022, owners or operators must report the basis for each maintenance or safety event.

V.C.2.o. Natural gas dehydration (glycol and desiccant).

V.C.2.p. Natural gas pneumatic controllers, aggregated per facility. Pneumatic controllers at the wellhead must be aggregated with the associated facility.

V.C.2.q. Natural gas pneumatic pumps, aggregated per facility. Pneumatic pumps at the wellhead must be aggregated with the associated facility.

V.C.2.r. Non-road internal combustion engines.

V.C.2.s. Pigging operations, including pig launchers and receivers. Beginning with the June 2023 report for calendar year 2022, emissions from pigging operations must be separately identified in the annual report from other operational activities.

V.C.2.s.(i) Beginning with the June 2024 report for calendar year 2023, capture or control technology or best management practices employed pursuant to Sections II.H.1.a. or II.H.1.b. per pigging event.

V.C.2.~~s~~t. Pipeline segments between facilities.

V.C.2.~~t~~u. Process heaters.

V.C.2.~~u~~v. Produced water storage tanks.

V.C.2.~~v~~w. Produced water loadout.

V.C.2.~~w~~x. Reciprocating compressor leaks or vents, aggregated per facility.

V.C.2.~~x~~y. Separators (e.g., two-phase separators, three-phase separators, high/low pressure separators, heater-treaters, vapor recovery towers, etc.). Beginning with the June 2022 report for calendar year 2021, stages of separation must be identified.

V.C.2.~~y~~z. Stationary combustion turbines.

V.C.2.~~z~~aa. Stationary compression ignition internal combustion engines.

V.C.2.~~aa~~bb. Stationary spark ignition internal combustion engines.

V.C.2.~~bb~~cc. Temporary completion and/or workover equipment (e.g., tanks).

V.C.2.~~cc~~dd. Thermal oxidizing units, where not otherwise reported in the emissions of another emissions source category.

V.C.2.~~dd~~ee. Well completions (includes flowback).

V.C.2.~~ee~~ff. Well workovers.

V.C.2.~~ff~~gg. Wellhead bradenhead.

VI. (State Only) Oil and Natural Gas Pre-Production and Early Production Operations

>>>>>>>

VI.C.2. Recordkeeping and reporting

>>>>>>>

VI.C.2.b. Owners or operators must submit monthly reports of monitoring conducted to the Division by the last day of the month following the previous month of monitoring (e.g., by June 30 for the previous May 1-31), including

VI.C.2.b.(i) The month and year of the monitoring period.

VI.C.2.b.(ii) A description of the monitoring equipment and the pollutant(s) monitored.

VI.C.2.b.(iii) A description of the monitored operations including

VI.C.2.b.(iii)(A) The phase of operation (e.g., prior to pre-production, during pre-production operations, early production) and activities occurring during the monitored period.

VI.C.2.b.(iii)(B) API number of the well(s).

VI.C.2.b.(iii)(C) Location of the operations, including latitude and longitude coordinates.

VI.C.2.b.(iii)(D) Any associated facility or equipment AIRS number(s).

VI.C.2.b.(iii)(E) The date, time, and duration of any monitoring equipment downtime.

VI.c.2.b.(iii)(F) The date, time, and duration of operations malfunctions and shut-in periods or other events investigated for influence on monitoring.

VI.C.2.b.(iv) For the first monthly report after beginning monitoring during pre-production operations, a summary of air quality condition results monitored prior to beginning pre-production operations, including time series of the results at hourly or higher time resolution and a statistical summary of the air quality results monitored prior to beginning pre-production operations, including number of observations, maximum concentrations or levels, periodic averages, and data distributions including 5th, 25th, median, 75th and 95th percentile values.

VI.C.2.b.(v) A summary of monitored air quality results, including time series plots as hourly or higher time resolution and a statistical summary including number of observations, maximum concentrations or levels, periodic averages, and date distributions including 5th, 25th, median, 75th and 95 percentile values.

VI.C.2.b.(vi) A description of responsive action(s) taken as a result of monitoring results, including the date; concentration or level measured; correlations with specific events, activities, and/or monitoring thresholds; and any additional steps taken as a result of the responsive action.

VI.C.2.b.(vii) The results of any speciated or other samples of chemical constituents identified by the Division and collected when site-specific concentrations indicate such samples are necessary.

VI.C.2.b.(viii) A summary of meteorological data, including in the time intervals identified for concentration readings in the air quality monitoring plan during the time period of responsive action(s). If meteorological data is collected on-site, the meteorological data assessed in as close to the sampling and/or measurement intervals as possible.

VI.C.2.b.(ix) A description of how data will be processed, if available from the manufacturer, and summarized for purposes of fulfilling monthly reporting requirements, including whether and how data will be corrected, and how missing data and values that are below detection limits will be treated in statistical summaries.

VI.C.2.b.(x) Beginning May 2023, a list of leaking components requiring repair and the monitoring method(s) used to determine the presence of the leak pursuant to Section II.E.

VI.C.2.b.(xi) In the last monthly report, a certification by the company representative that supervised the development and submission of the monitoring reports that, based on information and belief

formed after reasonable inquiry, the statements and information in the monthly reports are true, accurate, and complete.

VI.C.3. Owners or operators must notify the Division and the local government with jurisdiction over the location of the operations, using the contact provided in Section VI.C.1.b.(iv), within forty-eight (48) hours of responsive action(s) taken as a result of recorded values in excess of the response level.

>>>>>>>

PART FStatements of Basis, Specific Statutory Authority, and Purpose

X. Adopted: December 17, 2021

Revisions to Part D, Sections II., III., V., and VI.

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the State Administrative Procedure Act, § 24-4-103(4), C.R.S., the Colorado Air Pollution Prevention and Control Act, §§ 25-7-110 and 25-7-110.5., C.R.S., and the Air Quality Control Commission's (Commission) Procedural Rules, 5 Code Colo. Reg. §1001-1.

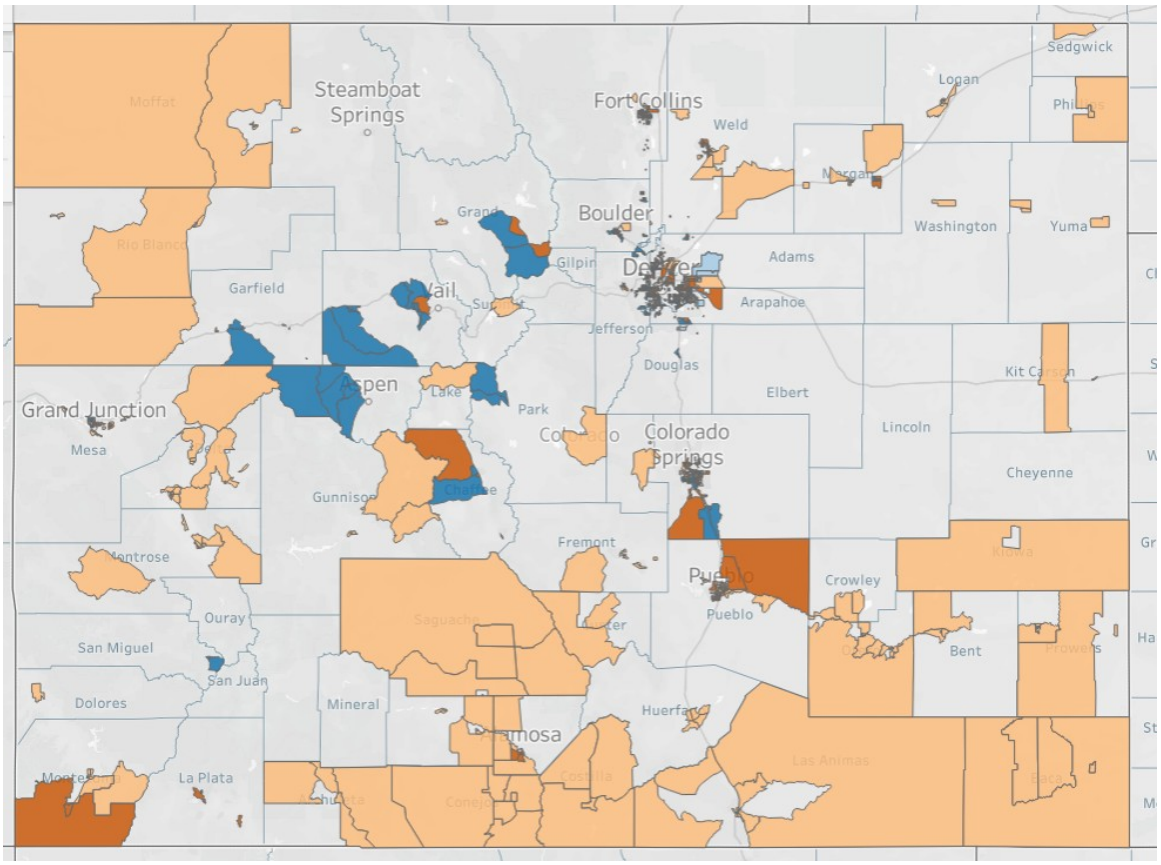
Basis

During the 2019 legislative session, Colorado's General Assembly adopted revisions to several Colorado Revised Statutes in Senate Bill 19-181 (SB 19-181) (Concerning additional public welfare protections regarding the conduct of oil and gas operations) that include directives for both the Oil and Gas Conservation Commission and the Air Quality Control Commission. Further, the General Assembly declared in House Bill 19-1261 (HB 19-1261) that "climate change adversely affects Colorado's economy, air quality and public health, ecosystems, natural resources, and quality of life[,]" acknowledged that "Colorado is already experiencing harmful climate impacts[,]" and that "many of these impacts disproportionately affect" certain disadvantaged communities. Colorado's statewide greenhouse gas (GHG) reduction goals seek a 26% reduction of statewide GHG emissions by 2025; 50% reduction by 2030; and 90% reduction by 2050 as compared to 2005 levels.

In October 2020, the Commission established a target for the O&G Sector of a 36% reduction from the 2005 baseline by 2025 and a 60% reduction from the 2005 baseline by 2030 (an estimated 13 million metric tons (MMT) CO2e by 2025 and 8 MMT CO2e by 2030). Commission targets for the sector including residential, commercial, and industrial combustion emissions (RCI Sector) seek a 20% reduction from 2005 numbers by 2030. House Bill 21-1266 (HB 21-1266), signed into law on July 2, 2021, memorializes percentage reductions in statute, and provides additional requirements for the rulemakings to achieve these goals. The GHG Pollution Reduction Roadmap ("GHG Roadmap") developed by the Colorado Energy Office and CDPHE identifies the largest contributors to state GHG emissions and quantifies the baselines from which these reduction percentages are to be estimated. The oil and gas industry is a large source of GHG emissions, and the largest anthropogenic source of methane in Colorado. For the oil and gas industry, not all of its emissions are found in the "O&G Sector", also referred to as the "Oil & Gas Fugitive Emissions" category of the GHG Roadmap. Methane emissions from upstream and midstream activities, along with estimates of methane "leakage" from pipelines in the transmission & storage and distribution segments, are in the O&G Sector. In contrast, most of the emissions from fuel combustion at oil and gas sources in the upstream and midstream segments are actually found in the "RCI Sector" of the GHG Roadmap (specifically in the "industrial" category, which is the subject of new HB 21-1266).

In this rulemaking action, the Commission has adopted requirements for upstream and midstream segment operations, to reduce GHG emissions from those operations, sufficient - when taken in combination with other regulatory and voluntary actions across the state - to achieve the GHG reduction requirements of HB 21-1266. The Commission did not adopt regulations applicable to the transmission and storage segment or the distribution segment. With regard to the transmission and storage segment, the Commission adopted a performance-based program for this segment in 2019 designed to materially reduce greenhouse gas emissions from transmission and storage operations; reporting of progress has not yet begun under that program and the Commission believes it reasonable to evaluate the progress of that program before modifying it. The Commission did not adopt regulations applicable to the distribution segment because legislation passed in the 2021 session invests the Colorado Public Utility Commission (PUC) with authority over this segment of the oil and gas industry. SB 21-264 requires that gas distribution utilities will submit a comprehensive clean heat plan that demonstrates projected reductions in methane and carbon dioxide emissions that meet prescribed reduction targets. Each clean heat plan must outline the utility's proposal to reduce carbon dioxide and methane emission levels by 4% in 2025 and 22% in 2030. Gas distribution utilities, depending on their size, must submit clean heat plans to the PUC by August 1, 2023, and January 1, 2024. Thus, the Commission believes that the transmission & storage performance program and the clean heat plans are likely to achieve reductions of emissions necessary from these segments to achieve the goals of §25-7-105(1)(e)(XII).

In the 2021 legislative session, in HB 21-1266, the General Assembly determined that "state action to correct environmental injustice is imperative, and state policy can and should improve public health and the environment and improve the overall well-being of all communities… [and] efforts to right past wrongs and move toward environmental justice must focus on disproportionately impacted communities and the voices of their residents." HB 21-1266 also requires the Commission to ensure that there are additional protections for, and reductions of co-pollutants in, disproportionately impacted communities. CDPHE developed a map of the disproportionately impacted communities that meet the definition of HB 21-1266. While this map is expected to change over time, the disproportionately impacted communities that have been identified at the time of this program's adoption are as set forth in the following map:



Specific Statutory Authority

The Colorado Air Pollution Prevention and Control Act, § 25-7-101, C.R.S., et seq. (the State Air Act or the Act), specifically § 25-7-105(1), directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in § 25-7-102 and that are necessary for the proper implementation and administration of Article 7. The Act broadly defines air pollutant to include essentially any gas emitted into the atmosphere and provides the Commission broad authority to regulate air pollutants.

Section 25-7-106 provides the Commission maximum flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106 also authorizes the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution. Section 25-7-106(6) further authorizes the Commission to require owners and operators of any air pollution source to monitor, record, and report information. Section 25-7-109(10) directs the Commission to adopt emission control regulations to minimize emissions of methane, other hydrocarbons, VOC, and NOx from oil and gas operations

Pursuant to HB 21-1266, the Commission must, by January 1, 2022, adopt regulations to ensure that the state meets its greenhouse gas reduction targets for the oil and gas sector (36% by 2025 and 60% by 2030). The Commission must also ensure that industrial sector emissions (including those from oil and gas fuel combustion equipment) are reduced by 20% from the 2015 baseline by 2030. These revisions to Regulation Number 7 will, taking into account other relevant laws and rules (including the revisions to Regulation Number 22 adopted as part of this rulemaking action), as well as voluntary actions taken by local communities and the private sector, achieve the state's GHG reduction goals through 2030 for the oil and gas industry. The revisions include protections for disproportionately impacted communities that ensure reductions of pollutants other than GHGs, additional requirements for monitoring and leak

detection and repair, and improve the state's current emission inventory reporting program in Regulation Number 7, Part D, Section V.

Purpose

The following section sets forth the Commission's purpose in adopting the revisions to Regulation Number 7, Part D, and includes the technological and scientific rationale for the adoption of the revisions.

Definitions: Section II.A.

The Commission has adopted definitions for new terms to facilitate implementation of the new regulatory program. Where these terms are also proposed for definition in Regulation Number 22, these explanations are intended to address both regulations.

The Commission has revised the definition of Approved Instrument Monitoring Method (AIMM) to clarify that when the Division approves an alternative AIMM, the Division's approved AIMM may address both AIMM and AVO leak inspections.

The Commission has defined "disproportionately impacted community" consistent with the definition in HB 21-1266. However, the statute does not specifically identify which communities are considered disproportionately impacted. CDPHE is developing a tool, called "enviroscreen" that will be utilized for members of the public and the regulated community to understand which communities in Colorado are disproportionately impacted. However, this tool was not ready at the time of this rulemaking. Therefore, the Commission has determined that the disproportionately impacted communities existing at the time of adoption of this program, and therefore the communities in which provisions of this program apply, are identified in the map above.

The Commission defined "midstream segment", "natural gas processing segment", "natural gas transmission and storage segment" and "oil and natural gas compression segment" in this regulation to be consistent with definitions in other regulations, including Regulation Number 7, Part D, Section IV. and Regulation Number 22, Part B, Sections III. and IV.

Air Pollution Control Equipment: Section II.B.

The Commission established updated maintenance and performance test requirements for air pollution control equipment in Section II.B.

In Section II.B.2.f., the Commission set forth the weekly visual inspections required for all air pollution control equipment used to comply with Section II. In this context, the Commission intends "weekly" to mean every seven calendar days. These requirements - as they applied to air pollution control equipment controlling storage tanks - were previously located in Section II.C.1.d. of this regulation (in Section II.C.1. and II.C.3., the Commission repealed these provisions that moved to Section II.B.2.); however, to ensure requirements for air pollution control equipment were in one location, the Commission has repealed the provisions of Section II.C.1.d. that are now found in Section II.B.2.f. The Commission does not intend that there is any period of time where air pollution control equipment is not subject to either Section II.C.1.d. or II.B.2.f.

Section II.B.2.g. requires owners and operators to install and operate a flow meter at the inlet to air pollution control equipment covered by this section, with some exceptions. A flow meter is a device that measures the amount of gas entering the enclosed combustion device and can be used to help determine whether an enclosed combustion device is functioning properly. The Commission believes that flow meters are an important tool to help the Division ensure that air pollution control equipment achieves at least 95% control efficiency for hydrocarbons. Flow meters also provide valuable information to help the Division verify the emission calculations for this equipment reported under Regulation Number 7, Part D, Section V. In Section II.B.3.g.(iii)(C), the Commission recognizes that the use of flow meters may not

always be feasible; for example, flow meters can be less effective where the control device is a “low flow” device - i.e. where the flow to the device is not consistent or high enough to achieve generally accurate readings from the meter. The Commission encourages operators to provide alternative mechanisms for tracking flow data to air pollution control equipment for those situations in which flow meters are less efficient or accurate.

In Section II.B.2.h., the Commission established performance testing requirements for enclosed combustion devices. Truly voluntary control equipment is not subject to these provisions. Historically, the Commission has assumed that enclosed combustion devices were achieving at least 95% control efficiency for hydrocarbons. However, the Commission determined that it was appropriate to promulgate regulatory requirements that will additionally ensure that enclosed combustion devices in the state are, in fact, operating at and achieving 95% control efficiency for hydrocarbons. Section II.B.2.h.(ii)(A) contains a table that sets forth the schedule for the initial testing of enclosed combustion devices that commenced operation before December 31, 2021 (unless the Division approves an alternative testing schedule). The Commission prioritized the testing of ECDs in disproportionately impacted communities and, after that, devices in the 8-hour Ozone Control Area/northern Weld County. Some stakeholders wanted the Commission to formally adopt these requirements as part of expanding the nonattainment area boundary for the 2015 ozone NAAQS; however, at the time of the proposal for this regulation, the state was still waiting on final action from the U.S. EPA, and such a change must be accomplished in the state implementation plan, not in Section II of Regulation Number 7, Part D, which contains state-only requirements.

The Commission strongly encourages owners and operators to prioritize the testing of the enclosed combustion devices at the biggest sites and the oldest enclosed combustion devices. The Commission believes that underperforming, older enclosed combustion devices at large sites could be responsible for a larger portion of uncontrolled emissions and, therefore, such devices should be identified sooner rather than later in order to more effectively limit the amount of uncontrolled emissions. In addition, the Commission believes that, due to their age, older enclosed combustion devices are more likely to malfunction and, therefore, underperform than newer enclosed combustion devices. Thus, the Commission believes that a greater amount of uncontrolled emissions could be avoided by prioritizing the testing of higher capacity or older enclosed combustion devices, especially those in DI communities. However, the Commission also recognizes that older enclosed combustion devices may not have been manufactured or installed with appropriate ports for traditional stack test methods, which will affect timing for performance testing where modifications to existing equipment must first be made. Such considerations should be included as operators develop schedules to perform required testing.

With regard to the testing schedule and other testing deadlines set forth in Section II.B.2.h.(ii) (see, for example, Section II.B.2.h.(ii)(C)), an enclosed combustion device that is relocated by an owner or operator to another facility that is also controlled by that same owner or operator may maintain the same testing schedule as if it had not been relocated.

Section II.B.2.h.(iii) provides that owners or operators of enclosed combustion devices subject to Section II.B.2.h.(ii) must submit a notification to the Division with certain specified information no later than July 31, 2022. Such notification must be submitted in writing and may be amended as long as the testing schedule set forth in Section II.B.2.h.(ii) is met. Section II.B.2.h.(iii)(A) identifies some of the specific information that must be included in the notification, including the location of the enclosed combustion device. When providing the location of the enclosed combustion device in a written notification, the owner or operator must also state whether or not the enclosed combustion device is located within a DI community and/or the 8-hour Ozone Control Area/northern Weld County.

The Commission has determined that performance tests must be conducted pursuant to a Division-approved protocol. The Commission intends that as an alternative to a site-specific protocol, operators may submit to the Division a company-specific protocol for approval for that company’s different types of site configurations, to which an operator would certify that it followed for each performance test conducted pursuant to that protocol. The Commission also anticipates that the U.S. EPA will be releasing a protocol for an outlet-only testing method; the Division is directed to consider publishing that protocol on its

website as a pre-approved test protocol for ECD performance testing, to which operators would certify they followed in conducting a performance test. The Division may also develop a statewide protocol that may be followed by any owner or operator. If utilizing the Division's statewide protocol, an owner or operator need only provide a notice prior to conducting testing pursuant to the protocol. The Commission also directs the Division to consider approving different protocols for different types of devices. For example, the Commission would support a different test protocol for devices operating at such low-flow that supplementing the gas stream to the device would be required for purposes of the test.

In Section II.B.2.h.(i)(D), the Commission explained how operators should use the results of the performance test in calculating emissions for purposes of the annual emissions inventory reporting under Sections II.G and V. If a performance test is conducted on June 1, and the ECD fails the test, and a retest is conducted on July 1, and the ECD passes the test, the operator should use the results of the failing performance test for emission calculations from January 1 through June 30, and the results of the passing performance test from July 1 through December 31 of that year.

In Section II.B.2.i and j, the Commission established recordkeeping and reporting requirements. The Commission deferred most of the reporting to the annual emission reports in Section V, but did require some additional reporting. When an ECD fails its performance test, the Commission believes it is critical that the Division be made aware as soon as possible, and so has required notification be provided within fourteen (14) days of a failing test.

Rod packing at natural gas processing plants: Section II.B.3.

In 2014, the Commission recognized that rod-packing replacement is an effective, and cost-effective, method for reducing emissions from this equipment - both VOC and other hydrocarbons. However, the Commission's 2014 action applied only to reciprocating compressors at compressor stations, and not gas plants. In 2017, the Commission adopted rod-packing replacement requirements for compressors at gas plants in the 8-hour Ozone Control Area. In this rulemaking, in Section II.B.3., the Commission expands rod packing replacement requirements to natural gas processing plants statewide except where the reciprocating compressor is subject to the rod packing requirements of NSPS OOOO or NSPS OOOOa. Under these revisions, beginning upon the effective date, anticipated for February 14, 2022, operators will need to track hours of operation for purposes of compliance.

In Section II.B.3.c., the Commission clarified that the rod packing requirements adopted in 2014 did not apply where the compressor was subject to the reciprocating compressor requirements of NSPS OOOO. The revision to specifically identify the rod packing requirements was not a change to the meaning of the provision.

Leak Detection and Repair: Sections II.E. and II.I.

Section II.E. of Regulation Number 7 establishes additional requirements under the leak detection and repair (LDAR) program for well production facilities and natural gas compressor stations. In 2014, 2017, and in 2019, the Commission established LDAR inspection frequencies to identify leaking components and require repairs in a timely fashion to eliminate excess emissions. LDAR inspection frequencies are typically based on the rolling twelve-month tons per year fugitive VOC emission rates of well production facilities and compressor stations and their location.

In 2019, the Commission adopted more stringent inspection and repair requirements for well production facilities in proximity to an occupied area. In this rulemaking action, the Commission increased the frequency of inspections at compressor stations and well production facilities in disproportionately impacted communities (see map above for the specific communities in which these requirements apply). The Commission has determined that faster repair schedules and additional monitoring is required to protect public health and the environment within these disproportionately impacted communities.

In Section II.E.4.f., the Commission has set a static frequency of AIMM inspections for newly constructed well production facilities - regardless of emissions. That is, any newly constructed well production facility will have a monthly AIMM inspection frequency. The Commission does want to encourage the use of alternative technologies, rather than just the traditional infrared (IR) camera. Technological advances in leak detection can outpace regulations. The Commission expects that many new technologies can be approved through the Division's existing alternative AIMM review process. The Commission does note, however, that some alternative AIMM may be appropriate for statewide inspection requirements, but not to supersede SIP inspection requirements (e.g., requirements of Regulation Number 7, Part D, Section I.L.). The Commission encourages the Division to consider, where appropriate, approving technologies as alternative AIMM for purposes of this Section II.E even where the technology may not be approvable as alternative AIMM for Section I.L. The Commission has also recognized two scenarios where new well production facilities need only comply with Table 4 (formerly, Table 3) frequencies and need not conduct monthly AIMM inspections. These scenarios include: 1) where the operator installs and uses systems to continuously monitor and adjust pressures in the storage tanks to prevent venting and to ensure lit pilot lights; and 2) where the operator continues operation of its air quality monitoring plan approved under Regulation Number 7, Section VI., for VOC or methane. For the former, the Commission directs the Division to issue a protocol for the use of these automated systems, based on the Division's work in evaluating closed loop vapor control systems. For both scenarios, if an operator were to cease using either of these scenarios, the facility would revert to a monthly AIMM schedule.

In Section II.I, the Commission determined that natural gas processing plants state-wide must now have LDAR programs consistent with NSPS OOOO or OOOOa, rather than just the gas plants in the 8-hour Ozone Control Area.

Separator Control Requirements: Section II.F.

Section II.F had previously required capture or control of hydrocarbon emissions from separation equipment for a well-constructed, fracked, or recompleted after 2014; in this revision, the Commission required the capture or control of hydrocarbon emissions from all separation equipment, regardless of construction date. This is consistent with the recent Colorado Oil and Gas Conservation Commission (COGCC) mission change rulemaking, which essentially requires capture and prohibits the venting or even flaring of gas from the separation equipment unless a variance is obtained from the COGCC. Where the COGCC determines that a variance for venting (as that term is defined by the COGCC) is appropriate, that operation is exempt from this Section II.F.2. of the Commission's regulation (though not from Section II.F.1. or other applicable provisions, such as Regulation Number 3 reporting and permitting or Regulation Number 7, Part D, Section V. annual emission reporting).

Further, Section II.F. was revised to clarify that all control equipment controlling separators is subject to Section II.B.2. requirements (separators subject to Section II.F were already subject to II.B.1.).

Well Maintenance Requirements: Section II.G.

Certain activities - such as well liquids unloading, well maintenance events, and well plugging - can result in emissions to the atmosphere. The Commission has long required that operators use best management practices to reduce the need to emit during these activities, and to reduce the amount of gas emitted during these activities. However, the Commission has determined that it is necessary to specify some of the practices that must be employed. Section II.G. therefore identifies several best management practices that operators must use to reduce the need for emissions from all these activities. For example, the Commission intends that in constructing a new well production facility, operators must consider how to reduce the need for well liquids unloading or well maintenance over the life of the well, and design accordingly.

The Commission also recognizes that well unloading occurs to remove liquid build-up to restore productivity. When attempting to relieve atmospheric pressure through emitting to the atmosphere to remove liquid buildup in these wells, particularly when the emissions occur multiple times each year over the life of a well, there can be significant hydrocarbon emissions. The Commission considers well

swabbing to be a well liquids unloading event. Technology and practices have advanced such that it is possible to use equipment - including equipment more typically considered process equipment - to reduce the need to emit during well liquids unloading. For example, the use of an artificial lift, such as a plunger lift, can both reduce the need to emit during well liquids unloading and reduce the volume of gas emitted during a manual liquids unloading event.

Pigging and Blowdown Requirements: Section II.H.

The Commission was presented with data reported to EPA and to the Division that generally agrees that the largest sources of greenhouse gas emissions from the midstream segment is the fuel combustion equipment; however, these data sets also agree that emissions (particularly methane emissions) from operations and maintenance activities - such as pigging and blowdowns - are significant, and, the Commission has determined they are cost-effective to address. The Commission recognizes that depressurizing pig launchers and receivers in natural gas gathering operations can emit volatile organic compound (VOC) emissions. This gas released from pigging activities is under the same pressure as the pipeline and contains methane, ethane, and VOCs including benzene, toluene, ethylbenzene, and xylene. Pig receivers can also contain collected condensate liquid that had accumulated in the pipeline.

The Commission mandated that owner/operators capture and recover gas from pigging activities, and if not possible, to request Division approval to install and operate air pollution control equipment, such as vapor recovery, flare/combustors, or a Division-approved alternative to achieve a 95% reduction in hydrocarbon emissions. The requirement to capture or control hydrocarbon emissions associated with pigging operations applies when the operator - across all its operations, not just at one facility - conducts pigging operations more than 12 times per year. Where capture and control are not required, the Commission directs operators to use best management practices to reduce emissions from pigging. The Commission understands from operators that design techniques can minimize the frequency of pigging and the volume of gas emitted during pigging. Because the value of the specific BMPs identified by the Commission may change depending on future design considerations, the Commission has authorized the Division to approve alternatives that achieve equal to or better emission reductions. The Division can issue one or more guidance documents with pre-approved alternatives as understanding of pigging emissions and technologies and practices to reduce them improve.

The Commission mandated recordkeeping and reporting requirements in Sections II.H.3.a. and V. applicable to pigging operations to ensure compliance with and to track the efficacy of the established emission reduction measures. Emissions from pigging must be included in Regulation Number 7, Part D, Section V. annual reports.

In Section II.H.2., the Commission established that midstream segment owners or operators must capture or control hydrocarbon emissions from blowdowns at natural gas compressor stations and natural gas processing plants. For blowdowns along midstream pipelines - where not located within the boundaries of a natural gas compressor station or gas plant - the Commission determined it was appropriate to require the use of BMPs. The Commission does not intend that operators will use each BMP during every midstream pipeline blowdown event, but does intend that these BMPs be used where practicable.

The Commission also updated Section II.C.2.a. and III.C. to reflect that the “operate without venting” mandate, and associated recordkeeping, applies during pigging and blowdown activities where reductions are required. The venting from storage tanks resulting from these operations and maintenance activities at midstream operations are no longer automatically assumed to be appropriate or necessary.

In addition to the recordkeeping and reporting requirements applicable to pigging events, the Commission also required records of blowdowns. The records must outline the cause of blowdowns, the location, date, time, and duration of the emissions and records of best management practices employed to capture or control these blowdown emissions.

Pneumatic Controller Revisions: Section III.

The rule also expands the applicability of controller requirements and inspection and enhanced response requirements state-wide to natural gas processing plants. The Commission's proposal would require new gas plants to install, and existing gas plants to retrofit natural gas driven controllers with, zero-bleed controllers, unless certain safety exemptions are met. The Commission's proposal also requires that any remaining gas-driven controllers be subject to the find and fix program.

In Section III.C.3.a., the Commission clarified a revision made in February 2021. In February, the Commission revised this section to add an end-date of May 1, 2021, given the new requirements in III.C.4. However, the requirements of Section III.C.4. do not apply as widely as Section III.C.3.a., so the Commission here clarified that Section III.C.3.a. continues to apply unless a specific provision of Section III.C.4. is controlling (i.e., under the principle that the more specific controls over the general, in the event of a conflict between Section III.C.3.a. and III.C.4., Section III.C.4. would control).

Annual Emissions Reporting: Section V.

The Commission made several updates to Section V., some for clarification and some to better ensure the accuracy and verifiability of the annual emissions reports. In Sections V.B.1.e. through V.B.1.g., the Commission clarified that operators must use Division-approved calculation methods; the Commission considers this a clarification of the program adopted in 2019, which required operators to use the Division-approved form. The Commission adopted this clarification to ensure that operators are aware of the duty to recalculate and resubmit their annual emissions reports if the Division disapproves of a calculation methodology (if, for example, the methodology was not approved ahead of the report's submission).

In Section V.B.1.h., the Commission expressly required that operators who submit emissions information using a calculation methodology different from that used to submit the annual greenhouse gas reports to the U.S. EPA under the Greenhouse Gas Reporting Program also submit to the Division: 1) the emissions information using the same calculation method as used in the GHGRP program; and 2) a justification for the change in calculation methodology. The Commission believes that flexibility in calculation methodology is an important tool to ensure more accuracy across operations; however, it is necessary to understand deviations from EPA's approved methodology to ensure appropriate comparisons and to provide transparency. The Commission has also recognized again the Division's authority to require recalculation of emissions data if the alternative calculation methodology is not deemed approvable by the Division.

In Section V.B.1.j., the Commission has required that operators using emission factors to calculate emissions must either use Division-approved emission factors or may use a site-specific emission factor. However, the Commission recognizes that gas composition may change over time, and therefore has determined to require periodic gas composition analysis to support the continued use of site-specific emission factors. The Commission expects that the Division will, as appropriate, update any default factors based upon collected gas composition data.

In Section V.C.2., the Commission clarified the type of information that must be submitted. The requirements adopted in 2019 specified that operators must submit information including the emissions, emission factors, assumptions, and calculation methodology. And Section V.B.1.c. required submission of information about the activities and equipment covered by the report. The Commission now clarifies that other information the Division deems necessary to support the emissions reported must be included, to avoid operator reluctance to share this information based upon the previous regulatory language.

In Section V.C.2.d., beginning with the June 2024 report for calendar year 2023, the Commission requires owners or operators to report emissions, along with other supporting information, resulting from blowdowns from facility equipment and piping where the physical volume of the piping between isolation valves is greater than or equal to 50 cubic feet. The Commission notes its interpretation that the 50 cubic foot exemption never applied to blowdowns of pipeline segments between facilities that were previously reported under Section V.C.2.s. (now Section V.C.2.t.). The Commission has also rearranged the requirement to report emissions and other supporting information for pigging operations such that it no longer falls under Section V.C.2.d. and now stands alone under Section V.C.2.s. The allowance to

exclude blowdowns from facility equipment and piping as well as from pigging operations where the physical volume of the piping between isolation valves is greater than or equal to 50 cubic feet continues through the June 2023 report for the 2022 calendar year. The Commission understands that accurate tracking of gas volumes from equipment and piping where the physical volume of the piping between isolation valves is greater than or equal to 50 cubic feet can be difficult. Therefore, the Commission directs the Division to accept appropriate actual and approximated reported volumes for this subcategory of blowdowns.

In Section V.C.2.k., the Commission specified that operators must report component counts and gas speciation data used to support fugitive emission calculations. The Commission acknowledges that component counts can be representative, and are not necessarily specific counts per facility. However, where operators are using representative component counts, that must be noted on the submittal.

The Commission made other clarifications and updates, and included the date of both reporting year and year of report submittal where necessary to ensure that operators have adequate time to capture any new information.

Miscellaneous

In Section II.B.2. and II.B.3., the Commission updated the section regarding requirements for compressors (reciprocating and centrifugal) to reflect that compliance with either NSPS OOOO or NSPS OOOOa is sufficient.

The revisions made to Regulation Number 7 also renumber tables and provisions to accommodate the new requirements, and correct typographical, grammatical, and formatting errors.

Incorporation by Reference

The Commission will update regulatory references as needed as opportunities arrive.

Additional Considerations

The following are additional findings of the Commission made in accordance with the Act:

Section 25-7-110.5(5)(b), C.R.S.

As these revisions exceed and may differ from the federal rules under the federal act, in accordance with Section 25-7-110.5(5)(b), C.R.S., the Commission determines:

(I) Any federal requirements that are applicable to this situation with a commentary on those requirements;

There are existing federal regulations that seek to identify and reduce methane emissions from the oil and gas industry, such as the Greenhouse Gas Reporting Program (Part 98) and NSPS KKK, OOOO, and OOOOa. The EPA will soon release proposals to address greenhouse gas emissions from oil and gas equipment, but EPA's proposal does not address the particular situations addressed by the Commission's revisions here.

Under Regulation Number 7, Part D, Section I.G, natural gas processing plants in the 8-hour Ozone Control Area must comply with the LDAR program in New Source Performance Standard (NSPS) OOOO or NSPS OOOOa. Natural gas processing plants outside the 8-hour Ozone Control Area may also be subject to NSPS OOOO or NSPS OOOOa, depending on the date of construction. In these revisions, the Commission subjected gas plants statewide to requirements that had previously only applied within the 8-hour Ozone Control Area. EPA also has regulations and guidance for compressors

(e.g., rod packing replacement) and pneumatic controllers. Colorado's requirements - both existing and as proposed herein - meet or exceed these federal requirements. For example, many federal requirements are applicable in ozone nonattainment areas, while Colorado's provisions apply statewide.

Through Part D, as revised, the Commission builds upon established federal LDAR requirements and closes additional monitoring gaps by eliminating limits on NSPS OOOOa applicability by location for certain natural gas sources and to establish a more robust LDAR program throughout the state.

EPA also asks states to consider environmental justice as part of their actions, though there are no specific federal regulatory requirements at this time. In this revision, Part B, Sections III and IV expand on environmental justice considerations by incorporating the definition of "disproportionately impacted communities" (DI Community), and seeking to prioritize reductions in DI communities.

(II) Whether the applicable federal requirements are performance-based or technology-based and whether there is any flexibility in those requirements, and if not, why not;

The federal requirements addressing methane reductions from the oil and gas sector (though not applicable in this situation) as described above are both performance-based and technology-based. Current federal requirements for methane reductions speak to achieving a control efficiency, with minimal flexibility. Some requirements also mandate the use of technology to detect methane emissions; however, EPA does provide some flexibility in the technology that can be used.

(III) Whether the applicable federal requirements specifically address the issues that are of concern to Colorado and whether data or information that would reasonably reflect Colorado's concern and situation was considered in the federal process that established the federal requirements;

There are federal requirements that seek to reduce greenhouse gas from oil and gas operations, though none that are addressed to the specific goals of these revisions. The Commission's revisions address Colorado-specific requirements and needs, like those of HB 19-1261 and HB 21-1266, which were not considered in any federal process.

(IV) Whether the proposed requirement will improve the ability of the regulated community to comply in a more cost-effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later;

The proposed midstream and upstream requirements ensure that the regulated community can achieve required GHG emissions reductions in cost-effective ways and reduce the need for costlier retrofits later.

(V) Whether there is a timing issue which might justify changing the time frame for implementation of federal requirements;

This is a state-specific rule that is not implementing federal requirements. Thus, no timing issue exists with respect to implementation of federal requirements.

(VI) Whether the proposed requirement will assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth;

The regulatory provisions allow a reasonable amount of time for affected entities to comply with the new revisions. As such, affected businesses or industrial sectors are afforded a reasonable margin for accommodation of uncertainty and future growth.

(VII) Whether the proposed requirement establishes or maintains reasonable equity in the requirements for various sources;

The Commission's revisions establish and maintain reasonable equity because they subject similar sources statewide with similar emitting activities to similar requirements. Climate change is not a local problem, and these rules demonstrate that the sources everywhere must contribute to the solution.

(VIII) Whether others would face increased costs if a more stringent rule is not enacted;

The Commission believes that the cost of inaction would be greater to industry and the public than the costs associated with the revisions to Regulation Number 7, Part D. Not only with respect to the social cost of climate change, but also more direct costs. These revisions are designed with the maximum flexibility for the regulated community. Under HB 21-1266, if the state is not on track to achieve the emission reduction goals, the Commission must adopt further regulations to achieve those goals. Future efforts are likely to be not as cost-effective as the flexible programs in these revisions.

(IX) Whether the proposed requirement includes procedural, reporting, or monitoring requirements that are different from applicable federal requirements and, if so, why and what the "compelling reason" is for different procedural, reporting, or monitoring requirements;

Reporting requirements beyond those required under federal Part 98 are necessary to effectively quantify and measure Colorado's progress toward statewide GHG reductions and to achieve the public health, safety, and welfare goals set forth in Section 25-7-102, C.R.S. Many of the reporting requirements associated with these programs are in existing Commission regulations, in Regulation Number 7, Part D. However, these revisions do require some additional reporting. Under these requirements, owners and operators of these sources will be required to compile and report directly to the Division information collected by or available to them for business or other regulatory purposes. While this may overlap with some other federal reporting requirements, it is expected there will be reporting beyond what is required federally.

(X) Whether demonstrated technology is available to comply with the proposed requirement;

Demonstrated technology exists to enable compliance with the requirements of these revisions. The Commission has also embedded maximum flexibility to take advantage of future technological developments.

(XI) Whether the proposed requirement will contribute to the prevention of pollution or address a potential problem and represent a more cost-effective environmental gain;

These revisions will cost-effectively reduce statewide GHG emissions to meet the legislative directive of the State Air Act, as revised by SB 19-181, HB 19-1261, and HB 21-1266. As noted above, the General Assembly has acknowledged that climate change impacts Colorado's economy and directed that GHG emissions should be reduced across the many sectors of our economy. Colorado has established specific GHG reduction goals within its statutes. Programs established in this rulemaking action - in both Regulation Numbers 7 and 22 - provide mechanisms for GHG reductions to occur cost-effectively across a specific, high-emitting sector of the state's economy.

(XII) Whether an alternative rule, including a no-action alternative, would address the required standard.

The new regulatory requirements and amendments are needed to achieve the statutorily mandated emission reductions. As noted above, the State Air Act requires the Commission to implement GHG emission reduction strategies in order to secure reductions of pollution consistent with the statewide GHG emission reduction goals. Currently, emissions projections over the next decade demonstrate that a no-action alternative would fall short of achieving Colorado's reduction goals. Additionally, no alternative combination of sector-specific regulations has been identified that is sufficient to meet the state's GHG emissions reductions goals.

Findings of Fact

To the extent that § 25-7-110.8, C.R.S., 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 greenhouse gas and VOC emissions.

(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 reduction in air pollution and provide the regulated entity flexibility.

(V) The selected regulatory alternative will maximize the air quality benefits of regulation in the most cost-effective manner.

COLORADO
Air Quality Control Commission
Department of Public Health & Environment

NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 7 and Regulation Number 22
5 CCR 1001-9 and 5 CCR 1001-26

SUBJECT:
The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 7 and Regulation Number 22 to address legislative and policy directives, that: reduce emissions from the upstream and midstream segments of the oil and gas industry as identified in the oil and gas sector and industrial sector of the Greenhouse Gas (GHG) Roadmap, including potential requirements for Leak Detection and Repair, natural gas processing plants, pigging and blowdown system maintenance operations, midstream fuel combustion equipment, well maintenance operations, and upstream GHG intensity; impose additional practices to ensure the efficacy of air pollution control equipment; impose additional reporting requirements to ensure the verifiability and enforceability of the regulatory requirements; and achieve reductions of GHG and co-pollutants in disproportionately impacted communities.

These revisions to Regulation Numbers 7 and 22 are currently proposed on a state-wide and state-only basis, but the Commission may consider State Implementation Plan (SIP) revisions to Regulation Number 7, specific to flare performance, as necessary to address Ozone Nonattainment Area requirements related to previously submitted SIP revisions. Further, these revisions will include any typographical, grammatical and formatting errors throughout each of the regulations. Alternative proposals to achieve additional GHG reductions or compliance verification from sources and source categories affected by the Division's proposal may also be considered.

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

PUBLIC COMMENT SESSION
DATE: December 14, 2021
TIME: 4:30 p.m. to 7:30 p.m.
PLACE: The hearing will be held online only; there will be no in-person participation. Details related to participation and registration can be found at: https://cdphe.colorado.gov/aqcc

NOTE: The public comment session may end early if all commenters that are registered and in attendance before 6:30 have had an opportunity to speak prior to 7:30.

PARTY TESTIMONY & DELIBERATIONS
DATE: December 15-17, 2021
TIME: To begin at or after 9:00 a.m.

PLACE: The hearing will be held online only; there will be no in-person participation. Details related to participation and registration can be found at: https://cdphe.colorado.gov/aqcc

NOTE: No additional public comment will be taken during this time.
IMPORTANT: As Colorado begins to re-open from COVID-19, the Commission may reestablish conducting meetings at the Colorado Department of Public Health and Environment in its entirety or structured as a hybrid meeting. Any such changes will be noticed on the Commission's website at: https://cdphe.colorado.gov/aqcc

The hearing may be continued at such places and time as the Commission may announce. Any such changes will be noticed on the Commission's website. Interested parties may contact the Commission Office at cdphe.aqcc-comments@state.co.us to confirm meeting details.

PUBLIC COMMENT:
The Commission encourages input from the public, either orally during the public comment session or in writing prior to the hearing. However, oral public comment will generally not be permitted by persons who offer comment on behalf of an entity that is a party. Those persons may, however, submit written public comment. Instructions for registering to provide oral public comment will be posted in the agenda on the Commission's website at https://cdphe.colorado.gov/aqcc on December 3, 2021.

Written comments should be submitted no later than **November 30, 2021** by emailing cdphe.aqcc-comments@state.co.us or mailing to:

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

IMPORTANT DATES AND DEADLINES:

PROCESS DESCRIPTION	DUE DATE & TIME	NOTES
Request for Party Status	October 12, 2021 by 5:00 p.m.	Additional information below
Status Conference	October 14, 2021 at 8:00 a.m.	Virtual Meeting or as noticed on the Commission website at: https://cdphe.colorado.gov/aqcc
Alternate Proposal	October 28, 2021 by 11:59 p.m.	Additional information below
Prehearing Statement	October 28, 2021 by 11:59 p.m.	Additional information below
Prehearing Conference	November 10, 2021 at 1:00 p.m.	Virtual Meeting or as noticed on the Commission website at: https://cdphe.colorado.gov/aqcc

Rebuttal Statement	November 22, 2021 by 12:00 p.m.	Additional information below
Written Public Comments	November 30, 2021 by 11:59 p.m.	Additional information above

Submittals for this hearing should be emailed to cdphe.aqcc-comments@state.co.us unless an exception is granted pursuant to Subsection III.I.3. of the Commissions Procedural Rules.

REQUEST FOR PARTY STATUS:
A request for party status must:

1) identify the applicant (this could be a company and/or contact name);
2) provide the name, address, telephone and email address of the applicant's representative or counsel; 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.

In addition, requests for party status should indicate whether the applicant intends to file an alternate proposal and, if so, describe the scope and nature of the alternate proposal.

The request for party status must be electronically mailed to:

- Air Quality Control Commission staff: theresa.martin@state.co.us
- Air Quality Control Commission attorney: tom.roan@coag.gov
- Air Pollution Control Division staff: stefanie.rucker@state.co.us
- Air Pollution Control Division attorney: jackie.calicchio@coag.gov

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

STATUS CONFERENCE:
Attendance at the status conference is mandatory for anyone who has requested party status, though each party need only have one representative present. The status conference is intended 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. Parties will be confirmed and a party list will be generated and distributed. The status conference will be held virtually via video conference. A registration link will be provided by the Commission's office prior to the status conference. Note that if the Hearing Officer deems the status conference unnecessary, the status conference may be cancelled. Concerns about the scope of alternate proposals as described in a request for party status should be raised at the status conference.

ALTERNATE PROPOSAL:

Alternate proposals will be considered by the Commission “only if the subject matter of the alternative proposal is consistent with and fits within the scope of the notice.” 5 CCR § 1001-1, Section (V)(E)(4)(b). The submittal of an alternate proposal must be accompanied by a separate electronic copy of the alternate proposed rule and statement of basis and purpose language and all other associated documents as required by the Commission’s Procedural Rules, including an economic impact analysis. Alternate proposals and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. Alternate proposals that do not comply with this Notice and the Commission’s Procedural Rules will not be considered by the Commission.

PREHEARING STATEMENTS:
Each party and the Division must submit a prehearing statement. Exhibits to a prehearing statement must be submitted in a separate electronic transmission. Prehearing statements and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. Prehearing statements must contain all the necessary elements described in subsection V.E.6.c of the Commission's Procedural Rules (5 CCR § 1001-1).

PREHEARING CONFERENCE:
Attendance at the prehearing conference is mandatory for all parties to this hearing, though each party need only have one representative present. The prehearing conference will be held virtually, and registration information will be provided by the Commission's office prior to the prehearing conference.

REBUTTAL STATEMENTS:
Rebuttal statements may be submitted by the Division and any party to the hearing to respond to issues and arguments identified in prehearing statements. Rebuttal statements may not raise any issues, or be accompanied by alternate proposals, that could have been raised in the party's prehearing statement. Rebuttal statements and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. The filing of rebuttal statements is optional.

DELIBERATION AND FINAL ACTION:
The Commission intends to deliberate and take final action on the proposed changes to these Regulations at the conclusion of the testimony.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:
The Colorado Air Pollution Prevention and Control Act, § 25-7-101, C.R.S., et seq. (the State Air Act or the Act), specifically § 25-7-105(1), directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in § 25-7-102 and that are necessary for the proper implementation and administration of Article 7. The Act broadly defines air pollutant to include essentially any gas emitted into the atmosphere and provides the Commission broad authority to regulate air pollutants.

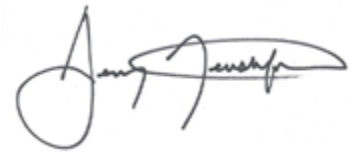
Section 25-7-106 provides the Commission maximum flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106 also authorizes the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution. Section 25-7-106(6) further authorizes the Commission to require owners and operators of any air pollution source to monitor, record, and report information. Section 25-7-109(10) directs the Commission to adopt emission control regulations to minimize emissions of methane, other hydrocarbons, VOC, and NOx from oil and gas operations.

Pursuant to HB 21-1266, the Commission must, by January 1, 2022, adopt regulations to ensure that the state meets its greenhouse gas reduction targets for the oil and gas sector (36% by 2025 and 60% by 2030). The Commission must also ensure that industrial sector emissions (including those from oil and gas fuel combustion equipment) are reduced by 20% from the 2015 baseline by 2030. These revisions will, taking into account other relevant laws and rules (including the revisions to Regulation Numbers 7 and 22 adopted as part of this rulemaking action), as well as voluntary actions taken by local communities and the private sector, achieve the state's GHG reduction goals through 2030 for the oil and gas industry.

The rulemaking hearing will be conducted in accordance with Sections 24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S., as applicable and amended, the Commission's Procedural Rules, all other applicable rules and regulations, 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 September 2021 at Denver, Colorado

Colorado Air Quality Control Commission



Jeremy Neustifter, Administrator

Notice of Proposed Rulemaking

Tracking number

2021-00595

Department

1000 - Department of Public Health and Environment

Agency

1001 - Air Quality Control Commission

CCR number

5 CCR 1001-26

Rule title

REGULATION NUMBER 22 COLORADO GREENHOUSE GAS REPORTING AND EMISSION REDUCTION REQUIREMENTS

Rulemaking Hearing

Date

12/14/2021

Time

04:30 PM

Location

This hearing will be held online only via the Zoom platform; there will be no in-person participation. See Notice for all details.

Subjects and issues involved

To consider revisions to Regulation Number 7 and Regulation Number 22 to address legislative and policy directives, that: reduce emissions from the upstream and midstream segments of the oil and gas industry as identified in the oil and gas sector and industrial sector of the Greenhouse Gas (GHG) Roadmap, including potential requirements for Leak Detection and Repair, natural gas processing plants, pigging and blowdown system maintenance operations, midstream fuel combustion equipment, well maintenance operations, and upstream GHG intensity; impose additional practices to ensure the efficacy of air pollution control equipment; impose additional reporting requirements to ensure the verifiability and enforceability of the regulatory requirements; and achieve reductions of GHG and co-pollutants in disproportionately impacted communities. These revisions to Regulation Numbers 7 and 22 are currently proposed on a state-wide and state-only basis, but the Commission may consider State Implementation Plan (SIP) revisions to Regulation Number 7, specific to flare performance, as necessary to address Ozone Nonattainment Area requirements related to previously submitted SIP revisions.

Statutory authority

Sections 25-7-101; 25-7-102; 25-7-105(1); 25-7-106; 25-7-106(6); 25-7-109(10); and Sections 24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S., as applicable and amended.

Contact information

Name

Stefanie Rucker

Title

Program Supervisor

Telephone

303-692-3188

Email

stefanie.rucker@state.co.us

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 22

Colorado Greenhouse Gas Reporting and Emission Reduction Requirements

5 CCR 1001-26

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

Outline of Regulation

PART A Greenhouse Gas Reporting

PART B Greenhouse Gas Emission Reduction Requirements

PART C General Provisions

PART D Statement of Basis, Specific Statutory Authority, and Purpose

Pursuant to Colorado Revised Statutes Section 24-4-103 (12.5), materials incorporated by reference are available for public inspection during normal business hours, or copies may be obtained at a reasonable cost from the Air Quality Control Commission (the Commission), 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530. The material incorporated by reference is also available through the United States Government Printing Office, online at www.gpo.gov/fdsys. Materials incorporated by reference are those editions in existence as of the date indicated and do not include any later amendments.

Unless otherwise indicated, any incorporation by reference of provisions of Title 40, Part 98, of the Code of Federal Regulations (CFR) are to the edition effective as of July 1, 2019.

>>>>>>>

PART B Greenhouse Gas Emission Reduction Requirements

>>>>>>>

III. Control of Emissions from Oil and Natural Gas Midstream Segment

III.A. Definitions

III.A.1. "8-hour ozone control area" means the Counties of Adams, Arapahoe, Boulder (includes part of Rocky Mountain National Park), Douglas, and Jefferson; the Cities and Counties of Denver and Broomfield; and the following portions of the Counties of Larimer and Weld

III.A.1.a. For Larimer County (includes part of Rocky Mountain National Park), that portion of the county that lies south of a line described as follows: Beginning at a point on Larimer County's eastern boundary and Weld County's western boundary intersected by 40 degrees, 42 minutes, and 47.1 seconds north latitude, proceed west to a point defined by the intersection of 40 degrees, 42 minutes, 47.1 seconds north latitude and

105 degrees, 29 minutes, and 40.0 seconds west longitude, thence proceed south on 105 degrees, 29 minutes, 40.0 seconds west longitude to the intersection with 40 degrees, 33 minutes and 17.4 seconds north latitude, thence proceed west on 40 degrees, 33 minutes, 17.4 seconds north latitude until this line intersects Larimer County's western boundary and Grand County's eastern boundary.

III.A.1.b. For Weld County, that portion of the county that lies south of a line described as follows: Beginning at a point on Weld County's eastern boundary and Logan County's western boundary intersected by 40 degrees, 42 minutes, 47.1 seconds north latitude, proceed west on 40 degrees, 42 minutes, 47.1 seconds north latitude until this line intersects Weld County's western boundary and Larimer County's eastern boundary.

III.A.2. "Company emission reduction plan" or "company ERP" means a plan prepared by a midstream segment owner or operator, consistent with the guidance issued by the midstream steering committee, to achieve that owner or operator's proportionate reductions of greenhouse gas emissions to meet the requirements of Section III.

III.A.3. "Disproportionately impacted community" (DI community) means a community that is in a census block group, as determined in accordance with the most recent United States census, where the proportion of households that are low income (meaning the median household income is less than or equal to two hundred percent of the federal poverty guideline) is greater than forty percent; the proportion of households that identify as minority is greater than forty percent, or the proportion of households that are housing cost-burdened (meaning a household that spends more than thirty percent of its income on housing) is greater than forty percent; or is any other community as identified or approved by a state agency, if: the community has a history of environmental racism perpetuated through redlining, anti-Indigenous, anti-Immigrant, anti-Hispanic, or anti-Black laws; or the community is one where multiple factors, including socioeconomic stressors, disproportionate environmental burdens, vulnerability to environmental degradation, and lack of public participation, may act cumulatively to affect health and the environment and contribute to persistent disparities.

II.A.4. "Midstream fuel combustion equipment" means engines, turbines, process and other heaters, boilers, and reboilers in the midstream segment.

III.A.5. "Midstream segment" means the oil and natural gas compression segment and the natural gas processing segment that are physically located in Colorado and that are upstream of the natural gas transmission and storage segment.

III.A.6. "Midstream segment emission reduction plan" or "segment ERP" means a plan establishing the process and timelines for the midstream segment to achieve twenty percent (20%) reduction in greenhouse gas emissions (in CO2e) from midstream segment fuel combustion equipment no later than December 31, 2030.

III.A.7. "Midstream steering committee" means a committee comprised of members approved by the Division to serve as a technical working group tasked with developing program guidance documents and developing a midstream segment emission reduction plan. To the extent practicable, the committee members will include two members representing the electric utility sector; three members

representing the midstream segment (at least one representing the oil and natural gas compression segment and one representing the natural gas processing segment), or industry trade organizations representing owners or operators; two local government representatives (one from inside the 8-hour ozone control area and northern Weld County and one from outside the 8-hour ozone control area and northern Weld County); two members representing the general public (a representative of an environmental organizations and a representative of a disproportionately impacted community); and at least one Division staff person. The steering committee may also include two additional members: a representative from the Colorado Energy Office and a representative from the Public Utilities Commission.

III.A.8. "Natural gas processing segment" means the operations engaged in the separation of natural gas liquids (NGLs) or non-methane gases from produced natural gas, or the separation of NGLs into one or more component mixtures. Separation includes one or more of the following: forced extraction of natural gas liquids, sulfur and carbon dioxide removal, fractionation of NGLs, or the capture of CO2 separated from natural gas streams. This segment also includes all residue gas compression equipment owned or operated by the natural gas processing plant.

III.A.9. "Natural gas transmission and storage segment" includes onshore natural gas transmission pipelines, onshore natural gas transmission compression, underground natural gas storage, and liquefied natural gas (LNG) storage, as these terms are defined in 40 CFR Part 98, Section 98.230 (October 22, 2015) that are physically located in Colorado.

III.A.10. "Northern Weld County" means the portion of the county that does not lie south of a line described as follows: Beginning at a point on Weld County's eastern boundary and Logan County's western boundary intersected by 40 degrees, 42 minutes, 47.1 seconds north latitude, proceed west on 40 degrees, 42 minutes, 47.1 seconds north latitude until this line intersects Weld County's western boundary and Larimer County's eastern boundary.

III.A.11. "Oil and natural gas compression segment" means the gathering pipelines and other equipment used to collect oil and/or natural gas from gas or oil wells and used to compress, dehydrate, sweeten, or transport the oil and/or natural gas to a natural gas processing facility, a natural gas transmission pipeline, or to a natural gas distribution pipeline. For purposes of Section III., equipment located at a well production facility, including but not limited to compressors, is excluded from the oil and natural gas compression segment.

III.A.12. "Residue gas" and "residue gas compression" mean, respectively, production lease natural gas from which gas liquid products and, in some cases, non-hydrocarbon components have been extracted such that it meets the specifications set by a pipeline transmission company, and/or a distribution company; and the compressors operated by the processing facility, whether inside the processing facility boundary fence or outside the fence-line, that deliver the residue gas from the processing facility to a transmission pipeline.

III.B. Beginning January 1, 2022, each midstream segment owner or operator must participate in this Section III. program to reduce greenhouse gas emissions from midstream fuel combustion equipment by at least twenty percent (20%) over the 2015 baseline as determined by Section 25-7-140(2)(a)(II), C.R.S.

III.C. Creation of the Midstream Steering Committee and Initial Information Collection

III.C.1. By February 28, 2022, the midstream steering committee members will be approved by the Division. The first midstream steering committee meeting will be held no later than March 31, 2022, and thereafter at least monthly at a time and place determined by the midstream steering committee.

III.C.2. By no later than April 30, 2022, the midstream steering committee will initiate an information and data collection process through which it will seek and obtain information additional to the reports provided pursuant to Section III.C.3. necessary to inform its technical analyses and policy considerations and comply with its duties under Section III.

III.C.2.a. The midstream steering committee may request information concerning current electric utility Electric Resource Plans, information regarding the forecast timing of upcoming Electric Resource Plan filings, electric utility energy sales and demand forecasts for 2023 through 2030, and information regarding existing electric energy generation resources and capacity in Colorado.

III.C.2.b. The Division will provide the midstream steering committee with the 2015 baseline CO_2e emissions from the industrial sector identified in Section 25-7-105(1)(e)(XIII), C.R.S. (2021).

III.C.3. By no later than July 31, 2022, each midstream segment owner or operator must provide the following information to the midstream steering committee on a Division-approved form.

III.C.3.a. The facility name, AIRS ID (if applicable), and location (with coordinates) of each of the owner or operator's natural gas processing plants and natural gas compressor stations.

III.C.3.b. An inventory of all midstream fuel combustion equipment owned or operated by the midstream segment owner or operator including midstream fuel combustion equipment not located at a natural gas processing plant or natural gas compressor station. The inventory must include the type of equipment (e.g., engine, boiler) and the total CO_2, methane, and CO_2e emissions from each piece of equipment in calendar years 2020 and 2021 as reported to the Division in accordance with Regulation Number 7, Part D, Section V. If different calculation methods were used to report emissions from midstream fuel combustion equipment to the U.S. EPA under the federal Greenhouse Gas Reporting Program, 40 C.F.R. Part 98, the inventory must include the emissions reported to the U.S. EPA for the equipment included in this inventory and an explanation of the changed method of calculation.

III.C.3.c. An estimate of the total horsepower demand (instantaneous power demand) required for use of the midstream fuel combustion equipment identified in Section III.C.3.b.

III.C.3.d. An inventory of all electric motors driving gas compressors or electric heaters owner or operated by the midstream segment owner or operator including the facility where located (as applicable) and the date the electric equipment commenced operation.

III.C.3.e. An estimate of the total horsepower and heat rate demand being supplied by electric motors and electric heaters identified in Section III.C.3.d.

III.D. Midstream Steering Committee Duties, Guidance, Company ERPs, and Segment ERPs

III.D.1. The midstream steering committee will develop and issue one or more guidance documents for midstream segment owners and operators to submit company ERPs to the steering committee. The guidance will

III.D.1.a. Identify the sources that a midstream segment owner or operator must include in its company ERP, including the facilities, activities, and midstream fuel combustion equipment.

III.D.1.b. Identify the total tons of CO2e reduction to be achieved by the segment ERP, consistent with the requirements of Section 25-7-105(1)(e)(XIII), C.R.S. (2021).

III.D.1.c. Provide a methodology by which each midstream segment owner or operator will determine the total tons of CO2e reduction from midstream fuel combustion equipment to be achieved by that owner or operator. The methodology should take into account the emission reductions from midstream fuel combustion equipment achieved by the owner or operator from that owner or operator's 2015 emission levels and the amount of electrification of midstream fuel combustion equipment achieved by the midstream segment owner or operator.

III.D.1.d. Prescribe how CO2e emissions and emission reductions will be calculated in the company ERP, consistent with, to the extent feasible, the requirements of Sections 25-7-105(1)(e) and -140, C.R.S. (2021) and Regulation Number 7, Part D, Section V. The Division must approve of emission calculation methodologies before they can be included in the midstream steering committee guidance document(s).

III.D.1.e. Identify and describe environmental justice considerations for midstream segment fuel combustion equipment affecting disproportionately impacted communities, including potential air quality impacts or improvements, other non-air environmental benefits or detriments, employment opportunities, and regional economic impacts that must be considered by midstream segment owners or operators in their company ERPs.

III.D.1.f. Identify and describe methods by which midstream segment owners or operators can achieve the emission reductions necessary to comply with the requirements of Section 25-7-105(1)(e)(XIII), C.R.S. (2021), including, but not limited to, equipment replacement, equipment retrofit, equipment shutdown, or electrification.

III.D.1.g. Describe how midstream segment owners or operators can account for changes in and avoid increases to NOx or VOC emissions in securing the CO2e emission reductions necessary to meet the requirements of Section 25-7-105(1)(e)(XIII), C.R.S. (2021).

III.D.1.h. Describe how midstream segment owners or operators should account for costs associated with achieving required emission reductions

from midstream segment fuel combustion equipment in their company ERPs, including capital costs, annualized equipment costs, annual operating costs, and costs in dollars per ton of CO2e reduced.

III.D.1.i. Describe how midstream segment owners or operators should incorporate midstream segment fuel combustion equipment that commences operation after December 31, 2022, into their company ERPs.III.D.2. No later than December 31, 2022, the Division will make the draft midstream steering committee guidance document(s) available for at least 30 days of public comment.

III.D.3. By March 31, 2023, the midstream steering committee will publish its final guidance document(s) for the development of company ERPs.

III.D.4. By September 30, 2023, each midstream segment owner or operator must submit to the midstream steering committee its company ERP, consistent with and containing all the information identified in the guidance issued by the midstream steering committee, to achieve CO2e reductions from the owner or operator's midstream segment fuel combustion equipment. The Division will develop emission reduction requirements for an owner or operator that fails to submit a company ERP.

III.D.5. By March 31, 2024, the midstream steering committee will develop a midstream segment ERP, and provide the proposed midstream segment ERP to the Division for review. The proposed midstream segment ERP will

III.D.5.a. Identify the total tons of CO2e reduction from midstream segment fuel combustion equipment to be achieved by the midstream segment ERP, consistent with the requirements of Section 25-7-105(1)(e)(XIII), C.R.S. (2021).

III.D.5.b. Identify the total tons of CO2e reduction from midstream segment fuel combustion equipment for each midstream segment owner or operator, consistent with the requirements of Section 25-7-105(1)(e)(XIII), C.R.S. (2021).

III.D.5.c. Identify the midstream segment facilities and fuel combustion equipment addressed by the midstream segment ERP.

III.D.5.d. Prescribe the process and timing for midstream segment owners or operators to implement CO2e emission reduction strategies for midstream fuel combustion equipment, including, but not limited to, electrification, retrofit, shut-down, or replacement.

III.D.5.e. Describe how the implementation of the midstream segment ERP will affect disproportionately impacted communities within which midstream fuel combustion equipment is located, including a description of the percentage of CO2e emission reductions in disproportionately impacted communities that will be achieved by the midstream segment ERP as a percentage of total emission reductions to be achieved by the midstream segment ERP.

III.D.5.e. Prescribe how emission reductions will be achieved for midstream segment fuel combustion equipment that is modified, constructed, or relocated to Colorado on or after December 31, 2022.

III.D.5.f. Prescribe any additional recordkeeping and reporting requirements over and above existing provisions of Regulation Number 7, sufficient to ensure enforceability and verification of the midstream segment ERP.

III.D.5.g. To the extent feasible, the midstream segment ERP will report the total estimated cost to midstream segment owners and operators to achieve the CO2e reductions in the midstream segment ERP and the impact on CO2e emissions from electrical generating units in Colorado resulting from electrification of midstream fuel combustion equipment as set forth in the midstream segment ERP.

III.D.5. Following receipt of the midstream segment ERP from the midstream steering committee, the Division will make the midstream segment ERP available for at least 30 days of public comment.

III.D.6. By no later than August 31, 2024, the Division will submit a regulatory proposal based upon the midstream segment ERP to the Air Quality Control Commission and request a rulemaking hearing for no later than December 31, 2024.

III.E. Recordkeeping and Reporting. This Section III.E will be repealed upon adoption by the Air Quality Control Commission of regulations addressing midstream fuel combustion equipment to meet the requirements of Section 25-7-105(1)(e)(XIII), C.R.S. (2021).

III.E.1. Midstream segment owners or operators must retain records of information submitted to the Division or midstream steering committee, including information supporting the company ERP, for three (3) years and make them available for inspection by the Division upon request.

III.E.2. Midstream segment owners or operators must retain records of actions taken after January 1, 2022, to reduce CO2e emissions from their midstream fuel combustion equipment.

III.E.3. The Division will provide an update on the development of this program and initial implementation efforts to the Air Quality Control Commission during a scheduled Air Quality Control Commission meeting in or after July 2023.

IV. Control of Emissions from Petroleum and Natural Gas Upstream Segment

IV.A. Definitions

IV.A.1. “Calendar year” means January 1 up through and including December 31 of the year.

IV.A.2. “Commence[ment] of operation” means when a source first conducts the activity that it was designed and permitted for. In addition, for oil and gas well production facilities, commencement of operation is the date any permanent production equipment is in use and product is consistently flowing to sales lines, gathering lines, or storage tanks from the first producing well at the stationary source, but no later than end of well completion operations (including flowback).

IV.A.3. “Disproportionately impacted community” (DI community) means a community that is in a census block group, as determined in accordance with the most recent United States census, where the proportion of households that are low income (meaning the median household income is less than or equal to two

hundred percent of the federal poverty guideline) is greater than forty percent; the proportion of households that identify as minority is greater than forty percent, or the proportion of households that are housing cost-burdened (meaning a household that spends more than thirty percent of its income on housing) is greater than forty percent; or is any other community as identified or approved by a state agency, if: the community has a history of environmental racism perpetuated through redlining, anti-Indigenous, anti-Immigrant, anti-Hispanic, or anti-Black laws; or the community is one where multiple factors, including socioeconomic stressors, disproportionate environmental burdens, vulnerability to environmental degradation, and lack of public participation, may act cumulatively to affect health and the environment and contribute to persistent disparities.

IV.A.4. "Greenhouse gas intensity" means the sum of preproduction emissions and production emissions in a calendar year in mtCO2e divided by the kBOE for that calendar year, calculated pursuant to Section IV.D.

IV.A.5. "kBOE" means a calendar year production of hydrocarbon liquids and natural gas, measured in thousands of barrels of oil equivalent.

IV.A.6. "mtCO2e" means metric tons of carbon dioxide equivalent, using global warming potential values approved by the Division.

IV.A.7. "Majority operator" means an upstream segment owner or operator with company-wide production of hydrocarbon liquids and natural gas in Colorado in calendar year 2022 of greater than or equal to 10,000 kBOE.

IV.A.8. "Midstream segment" means the oil and natural gas compression segment and the natural gas processing segment that are physically located in Colorado and that are upstream of the natural gas transmission and storage segment.

IV.A.9. "Minority operator" means an upstream segment owner or operator with company-wide production of hydrocarbon liquids and natural gas in Colorado in calendar year 2022 of less than 10,000 kBOE.

IV.A.10. "Preproduction emissions" means the greenhouse gas emitted during the construction and operation of an oil or natural gas well until the well commences operation, including emissions during drilling, fracking, completion, flowback.

IV.A.11. "Production emissions" means the greenhouse gas emitted from and oil or natural gas well and associated equipment and activities after the well commences operation.

IV.A.12. "Upstream segment" means oil and natural gas exploration and production operations physically located in Colorado upstream of the midstream segment.

IV.A.13. "Well production facility" means all equipment at a single stationary source directly associated with one or more oil wells or natural gas wells upstream of the natural gas processing plant. This equipment includes, but is not limited to, equipment used for storage, separation, treating, dehydration, artificial lift, combustion, compression, pumping, metering, monitoring, and flowline.

IV.B. Greenhouse gas intensity targets for the upstream segment.

IV.B.1. Beginning January 1, 2023, upstream segment owners or operators must participate in this greenhouse gas intensity program to reduce preproduction and production emissions in Colorado. An owner or operator that fails to achieve any of the applicable targets in Section IV.B. must achieve additional reductions in preproduction and/or production emissions in the subsequent calendar year to address the difference between the owner or operator's reported intensity for that calendar year and the applicable target.

IV.B.2. For calendar year 2025, owners or operators subject to Section IV.B.1. must achieve the following greenhouse gas intensity targets for preproduction and production emissions.

IV.B.2.a. Majority Operator: 10.94 mtCO2e/kBOE.

IV.B.2.b. Minority Operator: 34.39 mtCO2e/kBOE.

IV.B.3. For calendar year 2027, owners or operators subject to Section IV.B.1. must achieve the following greenhouse gas intensity targets for preproduction and production emissions.

IV.B.3.a. Majority Operator: 8.46 mtCO2e/kBOE.

IV.B.3.b. Minority Operator: 26.60 mtCO2e/kBOE.

IV.B.4. For calendar year 2030, owners or operators subject to Section IV.B.1. must achieve the following greenhouse gas intensity targets for preproduction and production emissions.

IV.B.4.a. Majority Operator: 6.80 mtCO2e/kBOE.

IV.B.4.b. Minority Operator: 21.38 mtCO2e/kBOE.

IV.B.5. In calendar years 2026, 2028, and 2029, owners or operators subject to Section IV.B.1. must achieve a greenhouse gas intensity less than or equal to the applicable preceding year target in Sections IV.B.2. and IV.B.3. (e.g., for calendar year 2026 achieve the target for calendar year 2025).

IV.B.6. Acquisitions. Except as provided below, if an owner or operator acquires or takes over operation of an oil or natural gas well in Colorado after January 1, 2025, that owner or operator must meet the greenhouse gas intensity target in Sections IV.B.2. through IV.B.5. applicable to those assets at the time of the transaction for the calendar years.

IV.B.6.a. If a majority operator merges with, acquires, or takes over operation of an oil or natural gas well in Colorado from a minority operator after January 1, 2025, the majority operator (or surviving entity) must at least comply with the applicable minority operator greenhouse gas intensity target for the preproduction and production emissions from the acquired well(s) for the calendar year of the acquisition. Beginning with the calendar year after the acquisition, the applicable majority owner or operator must comply with the applicable majority operator targets for all its upstream segment operations, including the acquired well(s).

IV.B.6.b. If a minority operator acquires or takes over operation of an oil or natural gas well in Colorado from a majority operator after January 1,

2025, the minority operator must at least comply with the applicable minority operator greenhouse gas intensity target for the preproduction and production emissions from the acquired well(s) for the calendar years of and after the acquisition. If in the year after the acquisition, the acquiring minority operator has production or greater than or equal to than 10,000 kBOE, then beginning with the second calendar year after the acquisition, if the acquiring minority operator becomes a majority operator, the acquiring operator must comply with the applicable majority operator greenhouse gas intensity targets for all its upstream segment operations for all remaining calendar years through 2030.

IV.C. New facility greenhouse gas intensity targets.

IV.C.1. Beginning January 1, 2023, upstream segment owners or operators of well production facilities that commence operation after December 31, 2022, must also meet the new facility greenhouse gas intensity target(s) for those facilities as set forth in Sections IV.C.2. through IV.C.4. in the calendar year of and the calendar year after the well production facility commences operation. These targets are in addition to the targets applicable to all of the owner or operator's upstream segment operations as specified in Section IV.B.

IV.C.1.a. For purposes of Section IV.C., "new facility greenhouse gas intensity" means the production emissions in CO_2e from all well production facilities commencing operation in a calendar year divided by the production of oil and natural gas from those facilities in kBOE for that calendar year.

IV.C.1.b. An owner or operator that did not produce any hydrocarbon liquid or natural gas in Colorado as of December 31, 2022, but who on or after January 1, 2023, drills, fractures, or refractures any oil or natural gas well in Colorado must comply with the new facility greenhouse gas intensity targets in Section IV.C. for all of its upstream segment operations through 2030, including preproduction and production emissions.

IV.C.2. For calendar years 2023 through 2025, the new facility greenhouse gas intensity target is 8.59 $mtCO_2e/kBOE$.

IV.C.3. For calendar years 2026 through 2027, the new facility greenhouse gas intensity target is 6.64 $mtCO_2e/kBOE$.

IV.C.4. For calendar years 2028 through 2030, the new facility greenhouse gas intensity target is 5.34 $mtCO_2e/kBOE$.

IV.D. Determining kBOE.

IV.D.1. Owners or operators must account for production from all well production facilities in which the owner or operator holds more than a 50% interest in the entity operating the well production facility during the time in which the owner or operator holds that interest. If no one owner or operator holds more than a 50% interest in the entity listed as the well production facility operator, the owner or operator with the largest ownership share must account for the production. Production can only be allocated to one owner or operator for the same time period.

IV.D.2. Owners or operators must calculate kBOE by dividing the million standard cubic feet (MMscf) volume of natural gas produced by the conversion rate of 5.8 MMscf/BOE.

IV.E. Company-wide greenhouse gas intensity plans. By January 31, 2023, each upstream segment owner or operator subject to Section IV.B.1. must submit to the Division a proposed greenhouse gas intensity plan demonstrating how the owner or operator intends to meet the applicable greenhouse gas intensity targets in Section IV.B.2.

IV.E.1. The greenhouse gas intensity plan must contain, at a minimum

IV.E.1.a. The facility name; facility AIRS ID, or facility location if the facility does not have an AIRS ID; and entity listed as the operator for all well production facilities covered by the greenhouse gas intensity plan for which production is included as specified under Section IV.D.1.

IV.E.1.b. The owner or operator's greenhouse gas intensity company-wide and per well production facility for calendar year 2021, including intensity calculation methodology.

IV.E.1.c. A list and description of the best management practices (BMPs), control methods, and technologies the owner or operator intends to use to meet the applicable targets in Section IV.B.2.

IV.E.1.d. An estimate of the greenhouse gas emission reductions that each type of BMP, control method, or technology is expected to achieve on a company-wide mass basis and on a company-wide greenhouse gas intensity basis, including calculations methods.

IV.E.1.e. A description of which BMPs, control methods, and technologies will be deployed in DI communities, and how owners or operators will seek to prioritize reductions of greenhouse gas and co-pollutants in DI communities.

IV.E.2. By June 30, 2023, owners and operators must submit an update to their greenhouse gas intensity plans with the greenhouse intensities achieved company-wide and for each well production facility in calendar year 2022, including intensity calculation methodology.

IV.E.3. By June 30 of 2024 through 2026, owners and operators must submit annual updates on a Division-approved form to the Division summarizing the company's greenhouse gas intensity plan implementation during the preceding calendar year. The annual update must include, at a minimum

IV.E.3.a. The company's implementation of the types of BMPs, control measures, and technologies in its greenhouse gas intensity plan, on a site-specific basis (by location name and AIRS ID, if applicable) for each BMP, control method, and technology implemented.

IV.E.3.b. If applicable, an identification of new well production facilities subject to Section IV.C. commencing operation in that calendar year

IV.E.3.c. If applicable, the company's implementation of BMPs, control measures, and technologies to achieve the new facility greenhouse gas

intensity target at all sites subject to Section IV.C. on a site-specific basis (by location name and AIRS ID, if applicable).

IV.E.3.d. Instances of departure from the company-specific greenhouse gas intensity plan, reason(s) for departure, and any modifications of the applicable element(s) of the BMP plan.

IV.E.3.e. Use of any alternative emission reduction approaches not specified in the company-specific greenhouse gas intensity plan.

IV.E.3.f. Identification by location name, AIRS ID (if applicable), well API number, and COGCC location ID (if applicable) of any oil or natural gas wells acquired or divested during the previous calendar year; the date of acquisition or divestment; and the name of the operator from which the well(s) were acquired or to whom the well(s) were divested.

IV.F. Verification.

IV.F.1. By no later than March 2023, the Division will submit a proposed verification plan for how upstream segment owners or operators will demonstrate compliance with applicable greenhouse gas intensity targets in Sections IV.B. and IV.C. to the Air Quality Control Commission and request a rulemaking hearing in 2023. In preparing the proposed verification plan, the Division must

IV.F.1.a. Propose appropriate calculation methodologies for the emissions categories to be included in a demonstration with the greenhouse gas intensity targets in Section IV.

IV.F.1.b. Ensure the proposal addresses the relative completeness and reliability of the annual emission reports submitted pursuant to Regulation Numbers 7, Part D, Sections II.G. and V.

IV.F.1.c. Ensure the proposal addresses the results of the aerial and ground-based method surveys conducted by the Division in 2021 and how those surveys may be used to ensure abnormal operating conditions and other large hydrocarbon emission events are accounted for in the annual emission reports.

IV.F.1.d. Include recommendations to ensure the enforceability of the greenhouse gas targets.

IV.F.1.e. Include recommendations for greenhouse gas intensity plans for the 2027 and 2030 targets in Section IV.B.

>>>>>>>

PART D Statement of Basis, Specific Statutory Authority, and Purpose

>>>>>>>

IV. Adopted: December 17, 2021

Revisions to Regulation Number 22, Part B, Sections III. and IV.

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the State Administrative Procedure Act, § 24-4-101, C.R.S., et seq., the Colorado Air Pollution Prevention and Control Act, § 25-7-101, C.R.S., et seq., and the Air Quality Control Commission's (Commission) Procedural Rules, 5 C.C.R. §1001-1.

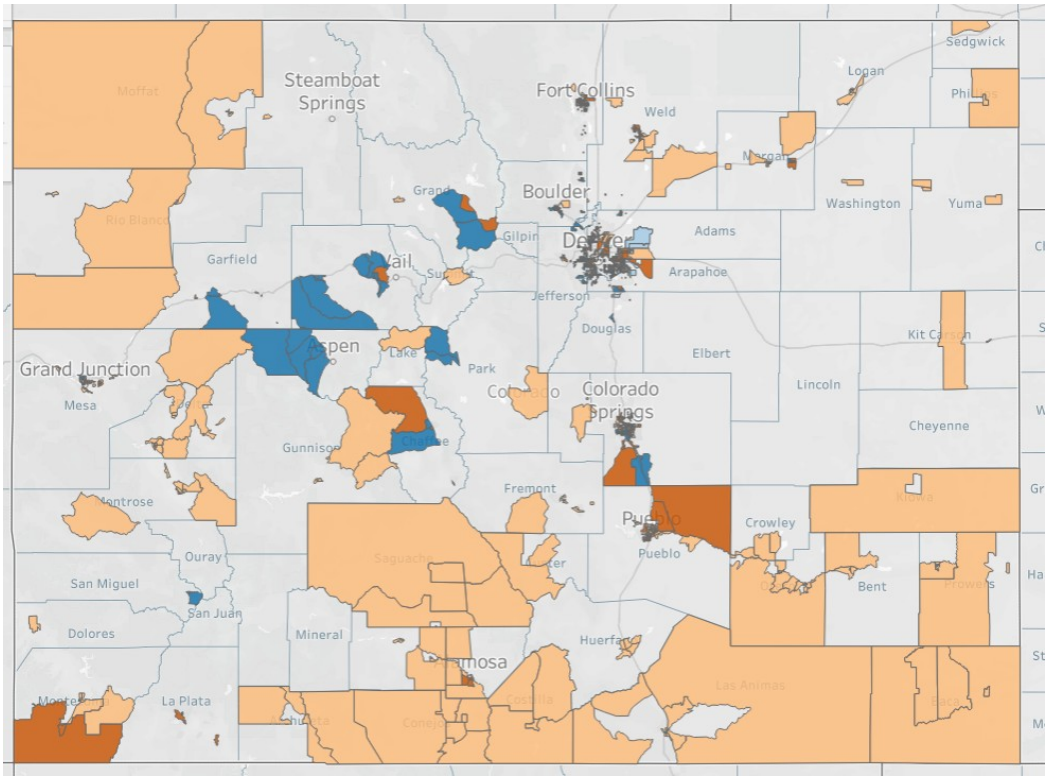
Basis

During the 2019 legislative session, Colorado's General Assembly adopted revisions to several Colorado Revised Statutes in Senate Bill 19-181 (SB 19-181) (Concerning additional public welfare protections regarding the conduct of oil and gas operations) that include directives for both the Oil and Gas Conservation Commission (OGCC) and this Commission. In the same session, the General Assembly adopted House Bill 19-1261 (HB 19-1261), setting statewide greenhouse gas (GHG) reduction goals. The General Assembly declared in HB 19-1261 that "climate change adversely affects Colorado's economy, air quality and public health, ecosystems, natural resources, and quality of life[,]" acknowledged that "Colorado is already experiencing harmful climate impacts[,]" and that "many of these impacts disproportionately affect" certain disadvantaged communities. The goals set in HB 19-1261 seek a 26% reduction of statewide GHG emissions by 2025; 50% reduction by 2030; and 90% reduction by 2050 as compared to 2005 levels. The GHG Pollution Reduction Roadmap ("GHG Roadmap") developed by the Colorado Energy Office and CDPHE identifies the largest contributors to state GHG emissions and quantifies the baselines from which these reduction percentages are to be estimated.

In October 2020, the Commission established a target for the O&G Sector of a 36% reduction from the 2005 baseline by 2025 and a 60% reduction from the 2005 baseline by 2030 (an estimated 13 million metric tons (MMT) CO2e by 2025 and 8 MMT CO2e by 2030). Commission targets for the sector including residential, commercial, and industrial combustion emissions (RCI Sector) include a 20% reduction from 2005 numbers by 2030. House Bill 21-1266 (HB 21-1266), signed into law on July 2, 2021, memorializes these percentage reductions in statute, and provides additional requirements for the rulemakings to achieve these goals. The oil and gas industry is a large source of GHG emissions, and the largest anthropogenic source of methane in Colorado. For the oil and gas industry, not all of its emissions are found in the "O&G Sector", also referred to as the "Oil & Gas Fugitive Emissions" category of the GHG Roadmap. Most methane emissions from upstream and midstream activities, along with estimates of methane "leakage" from pipelines in the transmission & storage and distribution segments, are in the O&G Sector. In contrast, the emissions from fuel combustion at oil and gas sources in the upstream and midstream segments are largely found in the "RCI Sector" of the GHG Roadmap (specifically in the "industrial" category, which is the subject of specific requirements in HB 21-1266).

In this rulemaking action, the Commission has adopted requirements for upstream and midstream segment operations, to reduce GHG emissions from those operations, sufficient - when taken in combination with other regulatory and voluntary actions across the state - to achieve the GHG reduction requirements of HB 21-1266. In this action, the Commission did not adopt regulations applicable to the transmission and storage segment or the distribution segment. With regard to the transmission and storage segment, the Commission adopted a performance-based program for this segment in 2019 designed to materially reduce greenhouse gas emissions from transmission and storage operations; reporting of progress has not yet begun under that program and the Commission believes it reasonable to evaluate the progress of that program before modifying it. The Commission did not adopt regulations applicable to the distribution segment because legislation passed in the 2021 session invests the Colorado Public Utility Commission (PUC) with authority over this segment of the oil and gas industry. Senate Bill 21-264 (SB 21-264) requires that gas distribution utilities will submit a comprehensive clean heat plan that demonstrates projected reductions in methane and carbon dioxide emissions that meet prescribed reduction targets. Each clean heat plan must outline the utility's proposal to reduce carbon dioxide and methane emission levels by 4% in 2025 and 22% in 2030. Gas distribution utilities, depending on their size, must submit clean heat plans to the PUC by August 1, 2023 and January 1, 2024. Thus, the Commission believes that the transmission & storage performance program and the clean heat plans are likely to achieve reductions of emissions necessary from these segments to achieve the goals of § 25-7-105(1)(e)(XII).

In the 2021 legislative session, in HB 21-1266, the General Assembly also determined that "state action to correct environmental injustice is imperative, and state policy can and should improve public health and the environment and improve the overall well-being of all communities… [and] efforts to right past wrongs and move toward environmental justice must focus on disproportionately impacted communities and the voices of their residents." HB 21-1266 also requires the Commission to ensure additional protections for, and reductions of co-pollutants in, disproportionately impacted communities. CDPHE developed a map of the disproportionately impacted communities that meet the definition of HB 21-1266. While this map is expected to change over time, the disproportionately impacted communities that have been identified at the time of this program's adoption are as set forth in the following map:



Specific Statutory Authority

The Colorado Air Pollution Prevention and Control Act, § 25-7-101, C.R.S., et seq. (the State Air Act or the Act), specifically § 25-7-105(1), directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in § 25-7-102 and that are necessary for the proper implementation and administration of Article 7. The Act provides the Commission broad authority to regulate air pollutants, including GHG and its constituent gasses (particularly carbon dioxide, methane, and nitrous oxide).

Section 25-7-106 provides the Commission maximum flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106 also authorizes the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution. Section 25-7-106(6) further authorizes the Commission to require owners and operators of any air pollution source to monitor, record, and report information. Section 25-7-109(10) directs the Commission to adopt emission control regulations to minimize emissions of methane, other hydrocarbons, VOC, and NOx from oil and gas operations.

Pursuant to HB 21-1266, the Commission must, by January 1, 2022, adopt regulations to ensure that the state meets its greenhouse gas reduction targets for the oil and gas sector in the GHG Roadmap (36% by 2025 and 60% by 2030). The Commission must also ensure that industrial sector emissions (including those from oil and gas fuel combustion equipment) are reduced by 20% from the 2015 baseline by 2030. These revisions ensure that the state meets its statutory goals. These revisions to Regulation Number 22 will, taking into account other relevant laws and rules (including the revisions to Regulation Number 7 adopted as part of this rulemaking action), as well as voluntary actions taken by local communities and the private sector, achieve the state's GHG reduction goals through 2030 for the oil and gas industry. The revisions include protections for disproportionately impacted communities that ensure reductions of pollutants other than GHGs, additional requirements for monitoring and leak detection and repair, and improve the state's current emission inventory reporting program in Regulation Number 7, Part D, Section V.

Purpose

The following section sets forth the Commission's purpose in adopting the revisions to Regulation Number 22, and includes the technological and scientific rationale for the adoption of the revisions.

Definitions: Sections III.A. and IV.A.

In Sections III.A and IV.A, the Commission included several defined terms from Regulation Number 7 and intends that the same terms have the same meaning in both regulations unless otherwise specified (i.e., unless the regulation states that a term is defined specifically for purposes of that regulation). The Commission intends that terms used in Sections III or IV, even if only defined in one of those Sections, have the same meaning.

The Commission defined both the midstream segment and the upstream segment of the oil and gas industry. The upstream segment is not intended to necessarily be co-extensive with the use of the term "exploration and production operations" in Regulation Number 7. The Commission recognizes that there is some "compression" undertaken at well production facilities, and intends that those operations are part of the upstream segment, not the midstream segment (even if they would otherwise fall under the gathering and boosting segment as that term is used in the EPA's Greenhouse Gas Reporting Program).

The Commission has defined "disproportionately impacted community" consistent with the definition in HB 21-1266. However, the statute does not call out which communities are considered disproportionately impacted. CDPHE is developing a tool, called "enviroscreen", that will be utilized for members of the public and the regulated community to understand which communities in Colorado are disproportionately impacted. However, this tool was not ready at the time of this rulemaking. Therefore, the Commission has determined that the disproportionately impacted communities existing at the time of this program - and therefore the communities in which provisions of this program apply - are identified in the map above.

The Commission added a definition of "preproduction emissions" and "production emissions". It is the intent of the Commission that all emissions from the well, wellhead equipment (both permanent and temporary), the well production facility, and the piping between the wellhead and the well production facility are accounted for in one of these two definitions.

Midstream Steering Committee for Fuel Combustion Equipment: Part B, Section III.

The Commission recognizes that emissions from midstream fuel combustion equipment are a significant portion of the midstream segment's greenhouse gas emissions. Emissions from fuel combustion equipment covered by this program include not only the carbon dioxide emissions, but also the methane and other greenhouse gases from that same equipment. For example, "methane slip" from engines, meaning the methane that is not combusted and that escapes unburnt into the atmosphere, is included in this program. The Commission also recognizes that reducing emissions from fuel combustion equipment, particularly as it involves electrification of large combustion equipment, will need to be carefully

coordinated to ensure the continued reliability of Colorado's power grid. As a result, the Commission established the Midstream Steering Committee to develop a guidance document for operators on how to develop each operator's company-specific emission reduction plan, addressing the mechanisms and timetable for reducing greenhouse gas from fuel combustion equipment. The Commission adopted minimum requirements for participation on the steering committee, recognizing that the Commission does not have the authority to require participation by the Colorado Energy Office or Public Utilities Commission staff.

The rules adopted by the Commission mandate that midstream segment owners and operators submit certain specified information to the steering committee by July 31, 2022. If the midstream steering committee determines that it needs additional information, it may request it. The rules provide that such additional information should be requested by April 30, 2022; however, this does not limit the Division's authority to use existing statutes and regulatory authority to require the submittal of additional information to the Division or the midstream steering committee. The Division must preserve trade secrets and other confidential business information, if provided to the Division, as required by the Colorado Open Records Act.

The Division will provide the steering committee with the 2015 baseline for industrial greenhouse gas emissions, from which the midstream segment needs to achieve a twenty-percent (20%) reduction by 2030. While the Commission intends that reductions should be achieved as quickly as possible, the Commission does not demand a linear reduction in emissions between 2025 and 2030.

The midstream steering committee will prepare a guidance document (or series of documents) to help midstream segment owners and operators in preparing their own company-specific emission reduction plans. The Commission intends that the guidance document will specify methods for calculating emissions from fuel combustion equipment, and that the Division must approve of the calculation methods before they can be included in the guidance. Specifically, the Commission directs the Division to evaluate calculation methods used in the annual emission reports to the Division under Regulation Number 7, Part D, Section V, compare those with methods used to report to the U.S. EPA under the greenhouse gas reporting program and other available calculation methods, and determine the appropriate methods to be used by operators. The Commission expects consistency in the methods used by operators, as much as practicable.

Operators must submit company emission reduction plans to the steering committee in accordance with the requirements of Section III.D.4 and containing the information specified in the guidance document. The Commission intends that the Division will prepare emission reduction requirements for any midstream owner or operator that does not timely submit its company ERP; however, if a company ERP is submitted late, the Division may nonetheless approve of inclusion of that company ERP into the segment ERP.

The Commission structured the rule such that the midstream steering committee submits a proposed regulatory package - with supporting analysis - to the Division instead of directly to the Commission. The Commission intends that the Division will review the steering committee's proposal, and use its independent judgment as to whether the proposal will ensure compliance with the requirements of §25-7-105(1)(e)(XIII), C.R.S. - i.e. achieves a 20% reduction in CO2e from the 2015 baseline - for the midstream segment. The midstream segment emission reduction plan submitted by the Division to the Commission will therefore be based on the segment-wide emission reduction plan developed by the midstream steering committee, but will take into account the public comments received and the Division's evaluation of whether the steering committee's emission reduction plan will achieve the state's goals for CO2 reductions from midstream segment fuel combustion equipment.

Upstream Greenhouse Gas Intensity: Part B, Section IV.

In these revisions, the Commission has set targets for greenhouse gas intensity that step-down over time to achieve the GHG reductions required of upstream segment operations to meet the requirements of HB 21-1266. There is currently no regulatory greenhouse intensity program in the United States of which the Commission is aware. However, there are a number of voluntary programs, including ONE Future, the

Natural Gas Sustainability Initiative, etc. Multiple Colorado operators are already participating in voluntary methane intensity programs.

The Commission, for consistency across Colorado operations, determined that in converting natural gas production to barrels of oil equivalent, owners and operators should use the conversion factor of 5800 standard cubic feet of natural gas per barrel of oil equivalent. To clarify the calculation for intensity, which requires use of oil and natural gas production in thousand barrels of oil equivalent (kBOE), as well as the common units used for reporting natural gas production of million standard cubic feet (MMscf), operators should divide natural gas production reported in MMscf by 5.8 MMscf/BOE.

The Commission set intensity targets to cover all preproduction emissions and production emissions from upstream oil and gas operations. The intensity program covers emissions in both the “Industrial” sector and the “Oil and Gas” sector in the GHG Roadmap. The Commission recognizes that these sectors have different statutory targets for GHG reductions; the “Industrial” sector must meet a 20% reduction from the 2015 baseline by 2030, and the “Oil and Gas” sector must meet a 36% reduction from the 2005 baseline by 2025 and a 60% reduction from the 2005 baseline by 2030. The Commission adopted the projected throughput from the GHG Roadmap inventory work for purposes of setting these targets. However, the Commission understands that some stakeholders may sponsor a study of production forecasts to further inform and refine the established intensity targets. The Commission is willing to consider the results of such a study, and directs that the Division consider the results of any such study in the 2023 verification rulemaking (discussed below) and propose updating targets as appropriate.

The Commission determined that it was appropriate to set more stringent intensity targets for the larger producers in the state (i.e., “majority producers”), than for the smaller producers (i.e., “minority producers”). The threshold set by the Commission for determining majority producers was based on accounting for the operators representing at least 80% of the state’s oil and natural gas production. The Commission recognizes that the smaller producers - that largely operate wells with declining production - have less opportunity to reduce intensity than the larger operators. However, the Commission does not intend that older facilities with declining production should just be permitted to operate with ever-increasing intensities, and directs the Division to study a potential facility-specific maximum allowable intensity and propose it as part of the 2023 verification rulemaking, if appropriate.

The Commission adopted provisions providing how to adjust operator-specific reduction requirements upon the occurrence of asset transfer or other business realities. Generally, if an owner or operator sells its interest in a well or facility at some point during a calendar year, the owner or operator will report the production and emissions for the time period of its ownership, and the purchasing entity will report the production and emissions for the time period of its ownership, triggered by the closing date of the transaction. However, because majority and minority operators have different targets, the Commission clarifies how those situations should be addressed. First, if a majority operator acquires assets from a minority operator, the majority operator would have some time before the acquired assets would be subject to the majority operator intensity targets. During the year of the acquisition, the majority operator need only demonstrate that the emissions and production from the acquired assets meet the minority operator targets. However, in the calendar year after the acquisition, the majority operator would include the emissions and production from the acquired assets in its company-wide intensity calculation and need to meet the majority operator targets. Second, if a minority operator acquires assets from a majority operator, for the year of and the year following the acquisition, those assets would be included in the company-wide intensity calculation subject to the minority operator target. However, if the minority operator would now otherwise have been a majority operator - i.e., if in the calendar year after the acquisition the minority operator has production over 10,000 kBOE - then in the second full calendar year after the acquisition, the minority operator would become a majority operator and be subject to those targets (and other rules applicable to majority operators). Otherwise, if a majority operator acquires assets (or merges with) a majority operator, the majority targets are still met. Similarly, if a minority operator acquires assets (or merges with) a minority operator, the minority targets are still met. If a majority operator sells assets, the majority operator targets must still be met, even if that operator’s production falls below 10,000 kBOE. If an operator not currently operating in Colorado acquires the assets of a

minority operator, the minority operator targets apply; similarly, if an operator not currently in Colorado acquires the assets of a majority operator, the majority operator targets apply.

The Commission also determined that it was necessary to set a "new facility greenhouse gas intensity" target, to recognize that new well production facilities must continue to improve their performance, and reduce GHG emissions associated with new production. The Commission relied upon studies of intensity at oil and gas operations to determine that a new facility GHG intensity should be approximately 78.5% of the majority operator greenhouse gas intensity target. These new facility targets are in addition to the majority operator/minority operator targets in Section IV.B. So, a majority operator who constructs a new well production facility in 2027 must meet: (1) the greenhouse gas intensity target in Section IV.B.3.a. for all its upstream segment operations including the newly constructed well production facility (and subsequent majority operator targets in Section IV.B.); (2) the new facility greenhouse gas intensity target in Section IV.C.3. for calendar year 2027 for the newly constructed well production facility; and (3) the new facility greenhouse gas intensity target in Section IV.C.4. for calendar year 2028 for the newly constructed well production facility.

In Section IV.E, the Commission requires that owners or operators submit greenhouse gas intensity plans. The primary purpose of these plans is for owners or operators to demonstrate to the Division how they intend to meet the 2025 greenhouse gas intensity targets in Section IV.B.2. The Commission does not intend that these plans be separately enforceable; however, the updates required in Section IV.E.3 are enforceable. For example, if an operator submits in January 2023 a greenhouse gas intensity plan, proposing that the operator will meet the 2025 targets by, among other things, replacing gas driven pneumatic controllers with instrument air controllers at four sites, that January 2023 submittal is not enforceable by the Division. However, if that operator submits an update in June 2024, stating that the company did, in fact, retrofit pneumatic controllers at those four sites, the Division can enforce the operator's obligation to have done that (i.e., if, upon inspection, the Division observes that the operator did not actually replace those gas driven pneumatic controllers consistent with the June 2024 update, the operator would be out of compliance with this regulation). The Commission did not require submittal of plans demonstrating how operators will meet all applicable targets in Section IV.B. Instead, the Commission expects the Division to review the 2023 submittals and propose requirements for plan submittals for future targets as part of the 2023 verification rule.

In Section IV.F, the Commission directs the Division to develop a mechanism to track progress towards meeting the state's GHG reduction goals and to evaluate compliance with the greenhouse gas intensity targets in Sections IV.B and IV.C. The Commission determined that it was advisable to give the Division time in 2021 and 2022 to evaluate the annual emission reports submitted in 2021 and 2022, to evaluate different calculation methodologies for different emitting activities and equipment, and to consider the impact and results of the aerial and grounds-based survey work being conducted by the Division (and contractors) in 2021 (because this data will not be fully available until the spring of 2022). In 2023, the Commission expects that the Division will propose verification requirements after considering the current status of oil and gas GHG emissions, based primarily on Regulation Number 7 reporting and recognizing top-down monitoring results, production increases or decreases based on data reported to the OGCC, the aerial and ground-based survey work, and other important considerations.

Miscellaneous

The revisions made to Regulation Number 22 also correct typographical, grammatical, and formatting errors.

Incorporation by Reference

The Commission will update regulatory references as needed as opportunities arrive.

Additional Considerations

The following are additional findings of the Commission made in accordance with the Act:

Section 25-7-110.5(5)(b), C.R.S.

As these revisions exceed and may differ from the federal rules under the federal act, in accordance with Section 25-7-110.5(5)(b), C.R.S., the Commission determines:

(I) Any federal requirements that are applicable to this situation with a commentary on those requirements;

There are no federal regulations applicable to the situations covered by the provisions of Part B, Sections III and IV. However, there are existing federal regulations that seek to identify and reduce methane emissions from the oil and gas industry, such as the Greenhouse Gas Reporting Program (Part 98) and NSPS KKK, OOOO, and OOOOa. Part B, Sections III and IV do not conflict with any applicable current federal regulations. The EPA will soon release proposals to address greenhouse gas emissions from oil and gas equipment, but EPA's proposal does not address the particular situations addressed by the Commission's revisions here.

EPA also asks states to consider environmental justice as part of their actions, though there are no specific regulatory requirements at this time. In this revision, Part B, Sections III and IV expand on environmental justice considerations by incorporating the definition of "disproportionately impacted communities" (DI Community), and seeking to prioritize reductions in DI communities.

(II) Whether the applicable federal requirements are performance-based or technology-based and whether there is any flexibility in those requirements, and if not, why not;

The federal requirements addressing methane reductions from the oil and gas sector (though not applicable in this situation) as described above are both performance-based and technology-based. Current federal requirements for methane reductions speak to achieving a control efficiency, with minimal flexibility. Some requirements also mandate the use of technology to detect methane emissions; however, EPA does provide some flexibility in the technology that can be used.

(III) Whether the applicable federal requirements specifically address the issues that are of concern to Colorado and whether data or information that would reasonably reflect Colorado's concern and situation was considered in the federal process that established the federal requirements;

There are federal requirements that seek to reduce greenhouse gas from oil and gas operations, though none that are addressed to the specific goals of Part B, Sections III and IV. The Commission's revisions address Colorado-specific requirements and needs, like those of HB 19-1261 and HB 21-1266, which were not considered in any federal process.

(IV) Whether the proposed requirement will improve the ability of the regulated community to comply in a more cost-effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later;

The proposed midstream and upstream programs will ensure that the regulated community can achieve required GHG emissions reductions in cost-effective ways by giving covered entities options to reduce emissions through direct regulation and development of company-specific plans to ensure compliance with state targets.

(V) Whether there is a timing issue which might justify changing the time frame for implementation of federal requirements;

This is a state-specific rule that is not implementing federal requirements. Thus, no timing issue exists.

(VI) Whether the proposed requirement will assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth;

The regulatory provisions allow a reasonable amount of time for affected entities to comply with the new revisions. As such, affected businesses or industrial sectors are afforded a reasonable margin for accommodation of uncertainty and future growth.

The rules adopted by the Commission establish a new midstream steering committee to assist in analyzing the technical feasibility and economic reasonability of future means of reducing emissions in this segment. The midstream steering committee will prepare a guidance document (or series of documents) to help midstream segment owners and operators in preparing their own company-specific emission reduction plans, thus allowing for additional time to achieve compliance. The upstream intensity program also accommodates uncertainty, by allowing for an additional year (at least) to consider and develop a verification program.

(VII) Whether the proposed requirement establishes or maintains reasonable equity in the requirements for various sources;

With respect to any sources already operating within the upstream segment, the rule establishes reasonable equity because it takes into account the size of the operator, the percentage of ownership each operator claims, and the location of the facility. With respect to any new well production facilities subject to the upstream statewide intensity program requirements, the rule establishes reasonable equity as requirements are the same for each source type based on age of the production well. This is also demonstrated for the midstream segment with the establishment of the midstream steering committee to ensure equity across operators based on location and utility provider.

(VIII) Whether others would face increased costs if a more stringent rule is not enacted;

The Commission believes that the cost of inaction would be greater to industry and the public than the costs associated with the revisions to Part B, Sections III and IV. Not only with respect to the social cost of climate change, but also more direct costs. These revisions are designed with the maximum flexibility for the regulated community. Under HB 21-1266, if the state is not on track to achieve the emission reduction goals, the Commission must adopt further regulations to achieve those goals. Future efforts are likely to be not as cost-effective as the flexible programs in these revisions.

(IX) Whether the proposed requirement includes procedural, reporting, or monitoring requirements that are different from applicable federal requirements and, if so, why and what the “compelling reason” is for different procedural, reporting, or monitoring requirements;

Reporting requirements beyond those required under federal Part 98 are necessary to effectively quantify and measure Colorado’s progress toward statewide GHG reductions and to achieve the public health, safety, and welfare goals set forth in Section 25-7-102, C.R.S. Many of the reporting requirements associated with these programs are in existing Commission regulations, in Regulation Number 7, Part D. However, these revisions do

require some additional reporting. Under these requirements, owners and operators of these sources will be required to compile and report directly to the Division information collected by or available to them for business or other regulatory purposes. While this may overlap with some other federal reporting requirements, it is expected there will be reporting beyond what is required federally.

(X) Whether demonstrated technology is available to comply with the proposed requirement;

Demonstrated technology exists to enable compliance with the requirements of these revisions.

(XI) Whether the proposed requirement will contribute to the prevention of pollution or address a potential problem and represent a more cost-effective environmental gain;

These revisions will cost-effectively reduce statewide GHG emissions to meet the legislative directive of the State Air Act, as revised by SB 19-181, HB 19-1261, and HB 21-1266. As noted above, the General Assembly has acknowledged that climate change impacts Colorado's economy and directed that GHG emissions should be reduced across the many sectors of our economy. Colorado has established specific GHG reduction goals within its statutes. Programs established in this rulemaking action - in both Regulation Numbers 7 and 22 - provide mechanisms for GHG reductions to occur cost-effectively across a specific, high-emitting sector of the state's economy.

(XII) Whether an alternative rule, including a no-action alternative, would address the required standard.

The new regulatory requirements and amendments are needed to achieve the statutorily mandated emission reductions. As noted above, the State Air Act requires the Commission to implement GHG emission reduction strategies in order to secure reductions of pollution consistent with the statewide GHG emission reduction goals. Currently emissions projections over the next decade demonstrate that a no-action alternative would fall short of achieving Colorado's reduction goals. Additionally, no alternative combination of sector-specific regulations has been identified that is sufficient to meet the state's GHG emissions reductions goals.

Findings of Fact

To the extent that § 25-7-110.8, C.R.S., 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 greenhouse gas and VOC emissions.

(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 reduction in air pollution and provide the regulated entity flexibility.

(V) The selected regulatory alternative will maximize the air quality benefits of regulation in the most cost-effective manner.

COLORADO
Air Quality Control Commission
Department of Public Health & Environment

NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 7 and Regulation Number 22
5 CCR 1001-9 and 5 CCR 1001-26

SUBJECT:
The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 7 and Regulation Number 22 to address legislative and policy directives, that: reduce emissions from the upstream and midstream segments of the oil and gas industry as identified in the oil and gas sector and industrial sector of the Greenhouse Gas (GHG) Roadmap, including potential requirements for Leak Detection and Repair, natural gas processing plants, pigging and blowdown system maintenance operations, midstream fuel combustion equipment, well maintenance operations, and upstream GHG intensity; impose additional practices to ensure the efficacy of air pollution control equipment; impose additional reporting requirements to ensure the verifiability and enforceability of the regulatory requirements; and achieve reductions of GHG and co-pollutants in disproportionately impacted communities.

These revisions to Regulation Numbers 7 and 22 are currently proposed on a state-wide and state-only basis, but the Commission may consider State Implementation Plan (SIP) revisions to Regulation Number 7, specific to flare performance, as necessary to address Ozone Nonattainment Area requirements related to previously submitted SIP revisions. Further, these revisions will include any typographical, grammatical and formatting errors throughout each of the regulations. Alternative proposals to achieve additional GHG reductions or compliance verification from sources and source categories affected by the Division's proposal may also be considered.

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

PUBLIC COMMENT SESSION
DATE: December 14, 2021
TIME: 4:30 p.m. to 7:30 p.m.
PLACE: The hearing will be held online only; there will be no in-person participation. Details related to participation and registration can be found at: https://cdphe.colorado.gov/aqcc

NOTE: The public comment session may end early if all commenters that are registered and in attendance before 6:30 have had an opportunity to speak prior to 7:30.

PARTY TESTIMONY & DELIBERATIONS
DATE: December 15-17, 2021
TIME: To begin at or after 9:00 a.m.

PLACE: The hearing will be held online only; there will be no in-person participation. Details related to participation and registration can be found at: https://cdphe.colorado.gov/aqcc

NOTE: No additional public comment will be taken during this time.
IMPORTANT: As Colorado begins to re-open from COVID-19, the Commission may reestablish conducting meetings at the Colorado Department of Public Health and Environment in its entirety or structured as a hybrid meeting. Any such changes will be noticed on the Commission's website at: https://cdphe.colorado.gov/aqcc

The hearing may be continued at such places and time as the Commission may announce. Any such changes will be noticed on the Commission's website. Interested parties may contact the Commission Office at cdphe.aqcc-comments@state.co.us to confirm meeting details.

PUBLIC COMMENT:
The Commission encourages input from the public, either orally during the public comment session or in writing prior to the hearing. However, oral public comment will generally not be permitted by persons who offer comment on behalf of an entity that is a party. Those persons may, however, submit written public comment. Instructions for registering to provide oral public comment will be posted in the agenda on the Commission's website at https://cdphe.colorado.gov/aqcc on December 3, 2021.

Written comments should be submitted no later than **November 30, 2021** by emailing cdphe.aqcc-comments@state.co.us or mailing to:

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

IMPORTANT DATES AND DEADLINES:

PROCESS DESCRIPTION	DUE DATE & TIME	NOTES
Request for Party Status	October 12, 2021 by 5:00 p.m.	Additional information below
Status Conference	October 14, 2021 at 8:00 a.m.	Virtual Meeting or as noticed on the Commission website at: https://cdphe.colorado.gov/aqcc
Alternate Proposal	October 28, 2021 by 11:59 p.m.	Additional information below
Prehearing Statement	October 28, 2021 by 11:59 p.m.	Additional information below
Prehearing Conference	November 10, 2021 at 1:00 p.m.	Virtual Meeting or as noticed on the Commission website at: https://cdphe.colorado.gov/aqcc

Rebuttal Statement	November 22, 2021 by 12:00 p.m.	Additional information below
Written Public Comments	November 30, 2021 by 11:59 p.m.	Additional information above

Submittals for this hearing should be emailed to cdphe.aqcc-comments@state.co.us unless an exception is granted pursuant to Subsection III.I.3. of the Commissions Procedural Rules.

REQUEST FOR PARTY STATUS:
A request for party status must:

1) identify the applicant (this could be a company and/or contact name);
2) provide the name, address, telephone and email address of the applicant's representative or counsel; 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.

In addition, requests for party status should indicate whether the applicant intends to file an alternate proposal and, if so, describe the scope and nature of the alternate proposal.

The request for party status must be electronically mailed to:

- Air Quality Control Commission staff: theresa.martin@state.co.us
- Air Quality Control Commission attorney: tom.roan@coag.gov
- Air Pollution Control Division staff: stefanie.rucker@state.co.us
- Air Pollution Control Division attorney: jackie.calicchio@coag.gov

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

STATUS CONFERENCE:
Attendance at the status conference is mandatory for anyone who has requested party status, though each party need only have one representative present. The status conference is intended 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. Parties will be confirmed and a party list will be generated and distributed. The status conference will be held virtually via video conference. A registration link will be provided by the Commission's office prior to the status conference. Note that if the Hearing Officer deems the status conference unnecessary, the status conference may be cancelled. Concerns about the scope of alternate proposals as described in a request for party status should be raised at the status conference.

ALTERNATE PROPOSAL:

Alternate proposals will be considered by the Commission “only if the subject matter of the alternative proposal is consistent with and fits within the scope of the notice.” 5 CCR § 1001-1, Section (V)(E)(4)(b). The submittal of an alternate proposal must be accompanied by a separate electronic copy of the alternate proposed rule and statement of basis and purpose language and all other associated documents as required by the Commission’s Procedural Rules, including an economic impact analysis. Alternate proposals and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. Alternate proposals that do not comply with this Notice and the Commission’s Procedural Rules will not be considered by the Commission.

PREHEARING STATEMENTS:
Each party and the Division must submit a prehearing statement. Exhibits to a prehearing statement must be submitted in a separate electronic transmission. Prehearing statements and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. Prehearing statements must contain all the necessary elements described in subsection V.E.6.c of the Commission's Procedural Rules (5 CCR § 1001-1).

PREHEARING CONFERENCE:
Attendance at the prehearing conference is mandatory for all parties to this hearing, though each party need only have one representative present. The prehearing conference will be held virtually, and registration information will be provided by the Commission's office prior to the prehearing conference.

REBUTTAL STATEMENTS:
Rebuttal statements may be submitted by the Division and any party to the hearing to respond to issues and arguments identified in prehearing statements. Rebuttal statements may not raise any issues, or be accompanied by alternate proposals, that could have been raised in the party's prehearing statement. Rebuttal statements and associated exhibits must be emailed to all persons listed on the party status list or otherwise provided through an approved method of electronic transmission. The filing of rebuttal statements is optional.

DELIBERATION AND FINAL ACTION:
The Commission intends to deliberate and take final action on the proposed changes to these Regulations at the conclusion of the testimony.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:
The Colorado Air Pollution Prevention and Control Act, § 25-7-101, C.R.S., et seq. (the State Air Act or the Act), specifically § 25-7-105(1), directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in § 25-7-102 and that are necessary for the proper implementation and administration of Article 7. The Act broadly defines air pollutant to include essentially any gas emitted into the atmosphere and provides the Commission broad authority to regulate air pollutants.

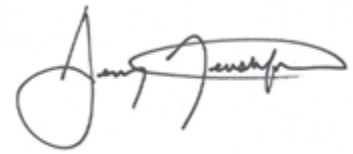
Section 25-7-106 provides the Commission maximum flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106 also authorizes the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution. Section 25-7-106(6) further authorizes the Commission to require owners and operators of any air pollution source to monitor, record, and report information. Section 25-7-109(10) directs the Commission to adopt emission control regulations to minimize emissions of methane, other hydrocarbons, VOC, and NOx from oil and gas operations.

Pursuant to HB 21-1266, the Commission must, by January 1, 2022, adopt regulations to ensure that the state meets its greenhouse gas reduction targets for the oil and gas sector (36% by 2025 and 60% by 2030). The Commission must also ensure that industrial sector emissions (including those from oil and gas fuel combustion equipment) are reduced by 20% from the 2015 baseline by 2030. These revisions will, taking into account other relevant laws and rules (including the revisions to Regulation Numbers 7 and 22 adopted as part of this rulemaking action), as well as voluntary actions taken by local communities and the private sector, achieve the state's GHG reduction goals through 2030 for the oil and gas industry.

The rulemaking hearing will be conducted in accordance with Sections 24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S., as applicable and amended, the Commission's Procedural Rules, all other applicable rules and regulations, 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 September 2021 at Denver, Colorado

Colorado Air Quality Control Commission



Jeremy Neustifter, Administrator

Notice of Proposed Rulemaking

Tracking number

2021-00592

Department

1000 - Department of Public Health and Environment

Agency

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

CCR number

5 CCR 1006-1

Rule title

VITAL STATISTICS

Rulemaking Hearing

Date

11/17/2021

Time

10:00 AM

Location

Via Zoom: https://us02web.zoom.us/meeting/register/tZIsce-trD8jHdLfU9scrz_eoSjt9VO0HE3n

Subjects and issues involved

Senate Bill 20-166 updates the requirements for minors when submitting a request to change their sex as presented on their birth certificates. The new requirements state that the minor must present a statement from a healthcare provider attesting that the designated sex indicated on the birth certificate is in misalignment with the minors gender identity. The proposed amendments reflect this change.

Statutory authority

Section 25-2-103, C.R.S.

Contact information

Name

Alex Quintana

Title

State Registrar and Director of Vital Records

Telephone

303-692-2164

Email

alex.quintana@state.co.us

COLORADO
Department of Public Health & Environment

To: Members of the State Board of Health

From: A. Alex Quintana, State Registrar, CHED
Gabriel Thorn, Vital Records Operations Manager, CHED

Through: Chris Wells, Division Director, CHED CW

Date: September 1, 2021

Subject: Request for a Rulemaking Hearing concerning 5 CCR 1006-1

The department is implementing SENATE BILL 20-166 (Short Title "Simplifying Requirements for New Birth Certificate") which updates the requirements for minors when submitting a request to change their sex as presented on their birth certificates. The new requirements supersede those which previously required minors to provide a statement from a professional medical or health care provider stating that the minor had undergone treatment for gender transition. The new requirements only state that the minor must present a statement from a healthcare provider attesting that the "sex designation on the birth certificate does not align with the minor's gender identity."

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for New Rule
Senate Bill 20-166
CRS 25-2-113.8

Basis and Purpose.
The Vital Statistics Act of 1984 (Title 25, Article 2), hereinafter "Act," governs the administration of vital event registration and vital statistics reporting. The Act contains specific requirements for the department and its designees. The Act also authorizes the Board of Health to promulgate any rules needed to implement the statute. Overall, the rule does not repeat the statutory requirements; rather, the rule elaborates upon the statute to provide direction and clarity for those performing these public health services. To the extent the statute is repeated, this occurs to ensure the program maintains alignment between current and best practices, and the statutory directive.

The department reviewed the rule pursuant to Section 24-4-103.3, C.R.S. Several technical edits to improve readability and update the rule to align with current practice are proposed. These changes:

- Remove language that contradicts the revised statute: 25-2-113.8

The proposed rule also includes substantive changes. These include:

- The current rule concerning birth certificate sex change for minors is being updated. Under the rule, minors needed to obtain a statement from licensed healthcare provider which stated that the minor had undergone "surgical, hormonal, or other treatment in order to obtain the birth certificate sex change." Under the changes brought about by SB 20-166, minors only need a statement signed by a healthcare provider in good standing stating that the sex designation on their birth certificate does not align with the minor's gender identity. This will be a change to Section 5.5 C. 2. c. I. of 5 CCR 1006-1.

The proposed rule updates the language to ensure that it reflects the updated requirements in C.R.S. 25-2-113.8.

Specific Statutory Authority.
Statutes that require or authorize rulemaking: C.R.S. 25-2-103

Is this rulemaking due to a change in state statute?
____X__ Yes, the bill number is ___ SB20-166___. Rules are ___ authorized
__X_ required.
_____ No

Does this rulemaking include proposed rule language that incorporate materials by reference?
_____ Yes ___ URL
___X___ No

Does this rulemaking include proposed rule language to create or modify fines or fees?
_____ Yes

___X___ No

Does the proposed rule language create (or increase) a state mandate on local government?

_X__ No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule 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

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

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.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/CLG/S/B
• Clerk and Recorder Offices • U.S. Department of State • Colorado Department of Motor Vehicles • LGBTQ individuals and advocacy organizations	64	S S S B

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

C = individuals/entities that implement or apply the rule.
S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

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

The only economic impact anticipated is reduced costs upon the families of minors seeking to change sex designation on birth certificates due to no longer requiring surgical, hormonal or other treatments.

<u>Economic outcomes</u>
Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, any financial benefits.

C and CLG: Clarifies by legislation how Vital Records should process change of sex birth certificate change requests. As Vital Records was already processing change requests in a similar fashion, this should have minimal economic impact on the department.

Please describe any anticipated financial costs or benefits to these individuals/entities.

S: NA

B: NA

Non-economic outcomes
Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

C: Slight increase in Vital Records workload due to easing the ability to change minor birth certificates

S: DMV and Department of State are interested in the change in fraud potential for changing sex on birth certificates. While any additional ability to change a portion of a birth certificate opens up additional danger for fraud, there is no evidence to show that allowing transgender individuals to change sex on a birth certificate places any greater danger for fraud than any other ability to change any other portion that has been made in the past.

B: The new rule eases the process for minors to change their sex designation on their birth certificate. The only concern that remains even with the updated requirements is that this change can only be made once without a court order, and so minors need to understand this is the case before making this decision.

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:

Anticipated increases in operating costs are negligible, and are covered by standard Birth Modification fees

Anticipated CDPHE Revenues:
N/A

B. Anticipated personal services, operating costs or other expenditures by another state agency:

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.

Along with the costs and benefits discussed above, the proposed revisions:

___ Comply with a statutory mandate to promulgate rules.
_X_ Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
___ Maintain alignment with other states or national standards.

___ Implement a Regulatory Efficiency Review (rule review) result
___ Improve public and environmental health practice.
_X_ Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

1. Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO2e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO2e per year by June 30, 2020 and to 113.144 million metric tons of CO2e by June 30, 2023. ___ Contributes to the blueprint for pollution reduction ___ Reduces carbon dioxide from transportation ___ Reduces methane emissions from oil and gas industry ___ Reduces carbon dioxide emissions from electricity sector
2. Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023. ___ Reduces volatile organic compounds (VOC) and oxides of nitrogen (NOx) from the oil and gas industry. ___ Supports local agencies and COGCC in oil and gas regulations. ___ Reduces VOC and NOx emissions from non-oil and gas contributors
3. Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020 and by 12,207 by June 30, 2023. ___ Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes. ___ Increases physical activity by promoting local and state policies to improve active transportation and access to recreation. ___ Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.
4. Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023. ___ Ensures access to breastfeeding-friendly environments.
5. Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023. ___ Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023. ___ Performs targeted programming to increase immunization rates. ___ Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).

6. Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.

___ Creates a roadmap to address suicide in Colorado.
_X_ Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate.
___ Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries.
___ Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.

7. The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.

___ Conducts a gap assessment.
___ Updates existing plans to address identified gaps.
___ Develops and conducts various exercises to close gaps.

8. For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.

___ Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident.
___ Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment.
___ Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.

9. 100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023.

___ Implements the CDPHE Digital Transformation Plan.
___ Optimizes processes prior to digitizing them.
___ Improves data dissemination and interoperability methods and timeliness.

10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561 metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023.

___ Reduces emissions from employee commuting
___ Reduces emissions from CDPHE operations

11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023.

___ Used a budget equity assessment

___ Advance CDPHE Division-level strategic priorities.

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

These changes are required to bring the rules into alignment with changes made by Senate Bill 20-166.

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. The specific revisions proposed in this rulemaking were developed in conjunctions with stakeholders. The benefits, risks and costs of these proposed revisions were compared to the costs and benefits of other options. The proposed revisions provide the most benefit for the least amount of cost, are the minimum necessary or are the most feasible manner to achieve compliance with statute.

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

The changes are required by Senate Bill 20-166, no other alternatives were considered.

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.

This rulemaking is required by Senate Bill 20-166. Consequences of not undertaking this rulemaking would result in the department not meeting its statutory obligations.

STAKEHOLDER ENGAGEMENT
For New Rule
Senate Bill 20-166
CRS 25-2-113.8

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:

Stakeholder	**Representative**
One Colorado	Michael Crews
U.S Department of State	Lanissa Larson, Fraud Program Manager
Colorado Division of Motor Vehicles	Francine Gonzalez, Chief Investigations
Colorado Clerk and Recorders	Email distribution
The GLBT Community Center of Colorado	Susan Doontz
The Gender Identity Center of Colorado	Sable Schultz
PFLAG Denver	Levi Teachey, Board President
Trans Youth Education & Support	info@youthseen.org
State Senator Dominick Moreno	State Senator Dominick Moreno
State Representative Daneya Esgar	State Senator Daneya Esgar

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.

This rule is being directed by the Colorado State Legislature, and as such they have debated the policy merits and benefits and passed it on to the State Registrar to carry out.

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.

X	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.	X	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.
	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:_____ _____

SENATE BILL 20-166

BY SENATOR(S) Moreno, Bridges, Donovan, Fenberg, Fields, Ginal, Gonzales, Hansen, Lee, Pettersen, Rodriguez, Story, Todd, Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Esgar, Arndt, Bird, Buentello, Caraveo, Cutter, Duran, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Tipper, Titone, Valdez A., Weissman, Woodrow, Young, Becker.

CONCERNING SIMPLIFYING THE REQUIREMENTS FOR A MINOR TO OBTAIN A NEW BIRTH CERTIFICATE FROM THE STATE REGISTRAR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25-2-113.8, **amend** (3)(b)(II) and (9) as follows:

25-2-113.8. Birth certificate modernization act - new birth certificate following a change in gender designation - short title. (3) The state registrar shall issue a new birth certificate to a person who was born in this state and who has a gender different from the sex denoted on that person's birth certificate when the state registrar receives:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) (II) If the person is a minor under the age of eighteen, a statement, in a form or format designated by the state registrar, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or with an equivalent license in good standing from another jurisdiction, stating ~~that:~~ THE SEX DESIGNATION ON THE BIRTH CERTIFICATE DOES NOT ALIGN WITH THE MINOR'S GENDER IDENTITY. THIS SUBSECTION (3)(b)(II) DOES NOT REQUIRE A MINOR TO UNDERGO ANY SPECIFIC SURGERY, TREATMENT, CLINICAL CARE, OR BEHAVIORAL HEALTH CARE.

~~(A) The minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly; or~~

~~(B) The minor has an intersex condition, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly.~~

(9) When the state registrar receives the documentation described in ~~subsection (3)~~ SUBSECTION (3) OR (4) of this section, the state registrar shall issue a new birth certificate reflecting the new gender designation and, if applicable, the person's new name. Notwithstanding section 25-2-115 (1), the new birth certificate supersedes the original as the official public record and must not be marked as amended or indicate in any other manner that the gender designation or name on the certificate has been changed.

SECTION 2. In Colorado Revised Statutes, 42-2-107, **amend** (2)(a)(II) as follows:

42-2-107. Application for license or instruction permit - anatomical gifts - donations to Emily Keyes - John W. Buckner organ and tissue donation awareness fund - legislative declaration - rules - annual report - repeal. (2) (a) (II) The department shall issue a new driver's license to a person who has a gender different from the sex denoted on that person's driver's license when the department receives A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION 25-2-113.8 OR WHEN THE DEPARTMENT RECEIVES:

(A) A statement, in a form or format designated by the department, from the person, or from the person's parent if the person is a minor, or from the person's guardian or legal representative, signed under penalty of law, confirming the sex designation on the person's driver's license does not align with the person's gender identity; and

(B) If the person is a minor under the age of eighteen, a statement, in a form or format designated by the department, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or with an equivalent license in good standing from another jurisdiction, stating that ~~the minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly, or the minor has an intersex condition, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly; or~~ THE SEX DESIGNATION ON THE BIRTH CERTIFICATE DOES NOT ALIGN WITH THE MINOR'S GENDER IDENTITY. THIS SUBSECTION (2)(a)(II)(B) DOES NOT REQUIRE A MINOR TO UNDERGO ANY SPECIFIC SURGERY, TREATMENT, CLINICAL CARE, OR BEHAVIORAL HEALTH CARE.

~~(C) A new birth certificate issued pursuant to section 25-2-113.8.~~

SECTION 3. In Colorado Revised Statutes, 42-2-302, **amend** (2.5)(a) as follows:

42-2-302. Department may or shall issue - limitations - rules. (2.5) (a) The department shall issue a new identification card to a person who has a gender different from the sex denoted on that person's identification card when the department receives A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION 25-2-113.8 OR WHEN THE DEPARTMENT RECEIVES:

(I) ~~(A)~~ A statement, in a form or format designated by the department, from the person, or from the person's parent if the person is a minor, or from the person's guardian or legal representative, signed under penalty of law, confirming the sex designation on the person's identification card does not align with the person's gender identity; and

~~(B)~~ (II) If the person is a minor under the age of eighteen, a

statement, in a form or format designated by the department, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or with an equivalent license in good standing from another jurisdiction, stating that ~~the minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly, or the minor has an intersex condition, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly; or~~ THE SEX DESIGNATION ON THE BIRTH CERTIFICATE DOES NOT ALIGN WITH THE MINOR'S GENDER IDENTITY. THIS SUBSECTION (2.5)(a)(II) DOES NOT REQUIRE A MINOR TO UNDERGO ANY SPECIFIC SURGERY, TREATMENT, CLINICAL CARE, OR BEHAVIORAL HEALTH CARE.

~~(II) A new birth certificate issued pursuant to section 25-2-113.8.~~

SECTION 4. In Colorado Revised Statutes, 42-2-505, **amend** (1.5)(a) as follows:

42-2-505. Identification documents - individuals not lawfully present - rules. (1.5) (a) The department shall issue a new identification document to a person who has a gender different from the sex denoted on that person's identification document when the department receives A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION 25-2-113.8 OR WHEN THE DEPARTMENT RECEIVES:

(I) ~~(A)~~ A statement, in a form or format designated by the department, from the person, or from the person's parent if the person is a minor, or from the person's guardian or legal representative, signed under penalty of law, confirming the sex designation on the person's identification document does not align with the person's gender identity; and

~~(B)~~ (II) If the person is a minor under the age of eighteen, a statement, in a form or format designated by the department, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or with an equivalent license in good standing from another jurisdiction, stating that ~~the minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards,~~

~~and, in the provider's professional opinion, the minor's gender designation should be changed accordingly, or the minor has an intersex condition, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly; or~~ THE SEX DESIGNATION ON THE BIRTH CERTIFICATE DOES NOT ALIGN WITH THE MINOR'S GENDER IDENTITY. THIS SUBSECTION (1.5)(a)(II) DOES NOT REQUIRE A MINOR TO UNDERGO ANY SPECIFIC SURGERY, TREATMENT, CLINICAL CARE, OR BEHAVIORAL HEALTH CARE.

~~(II) A new birth certificate issued pursuant to section 25-2-113.8.~~

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 13, 2020 at 1:40 pm
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Center for Health and Environmental Data

VITAL STATISTICS

5 CCR 1006-1

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

Adopted by the Board of Health on September 18, 2019; Effective January 1, 2020.

***

SECTION 5.5 Amendment of the Sex Designation

Before changing the sex designation on the birth certificate, the State Registrar must:

A. Confirm the registrant is eighteen years of age or older, or an emancipated minor, or, if the registrant is under the age of eighteen, confirm that the person requesting the amendment is a parent on the birth record, a legal guardian, or an attorney or other authorized agent, as determined by the State Registrar.

B. Confirm the name on the birth certificate and the name of the individual for whom the amendment is requested match, or can be linked through the submitted documentation in instances such as where the registrant is changing their name and sex designation at the same time, and

C. 1. Receive: a certified copy of an order of a court of competent jurisdiction changing the sex of the applicant, or

2. a. A written request from the person, or from the person's parent, if the person is a minor, or from the person's guardian or legal representative, signed under penalty of law, to issue a new birth certificate with a gender designation that differs from the sex designated on the person's original birth certificate; and,

b. A statement, in a form or format designated by the State Registrar, from the person or from the person's parent, if the person is a minor, or from the person's guardian or legal representative, signed under penalty of law, confirming the sex designation on the person's birth certificate does not align with the person's gender identity; and,

c. If the person is a minor under the age of eighteen, a statement, in a form or format designated by the State Registrar, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or an equivalent license in good standing from another jurisdiction, stating that: ~~the~~ the sex designation on the birth certificate does not align with the minor's gender identity.

~~I. The minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly; or,~~

~~II. The minor has an intersex condition, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly.~~

3. The State Registrar shall change the sex designation pursuant to a request made under Section 5.5(C)(2) only once during an individual's lifetime. Any further amendment to the sex designation on a birth record or certificate requires a court order pursuant to Section 5.5(C)(1).

4. Pursuant to Section 25-2-113.8(7), C.R.S., if a new birth certificate is issued pursuant to this Section 5.5, the certificate will also be amended to reflect any legal name change made before or simultaneous with the change in gender designation, as long as appropriate documentation of the name change is submitted.

***

COLORADO
Board of Health
Department of Public Health & Environment

Notice of Public Rule-Making Hearing
November 17, 2021

NOTICE is hereby given pursuant to the provisions of Section 24-4-103, C.R.S., that the Colorado Board of Health will conduct a public rule-making hearing on November 17, 2021 at 10 a.m. remotely via Zoom, to consider the amendments to 5 CCR 1006-1, Vital Statistics. The amendments are proposed by the Center for Health and Environmental Data of the Colorado Department of Public Health and Environment pursuant to Section 25-2-103, C.R.S.

The agenda for the meeting and the proposed repeal will also be available on the Board's website, https://cdphe.colorado.gov/board-of-health at least seven (7) days prior to the meeting. The proposed rule, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available for inspection at the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 at least five working days prior to the hearing. Copies of the proposed rules may be obtained by contacting the Colorado Department of Public Health and Environment, Center for Health and Environmental Data, 4300 Cherry Creek Drive S., Denver, CO 80246, 303-692-2164.

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments. Written testimony is encouraged; oral testimony will be received only to the extent the Board finds it necessary. For those that are permitted to provide oral testimony, the time may be limited to 3 minutes or less. Testimony is limited to the scope of the rulemaking hearing. Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rulemaking hearing. Written testimony must be received by 5:00 p.m., Thursday, November 11, 2021. Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Board of Health 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

Dated this 16th day of September, 2021.

Alexandra S. Haas
Alexandra Haas
Board of Health Administrator

Notice of Proposed Rulemaking

Tracking number

2021-00593

Department

1000 - Department of Public Health and Environment

Agency

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

CCR number

6 CCR 1011-1 Chapter 08

Rule title

CHAPTER 8 - FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

Rulemaking Hearing

Date

11/17/2021

Time

10:00 AM

Location

Via Zoom: https://us02web.zoom.us/meeting/register/tZIsce-trD8jHdLfU9scrz_eoSjt9VO0HE3n

Subjects and issues involved

In 2019, the Department reviewed the existing rule and identified a number of substantial changes that occurred related to the provision of services in these facilities since the last comprehensive update, in addition to changes in statutory definitions and the related federal Conditions of Participation. These proposed changes will update the wording, organization, and readability of the rules, as well as adding needed definitions and ensuring standards exist should a private-pay group home ever submit an application for licensure.

Statutory authority

Sections 25-1.5-103, 25-3-101, 25-1.5-301, and 25.5-10-218 through 225, C.R.S.

Contact information

Name

Grace Sandeno

Title

Policy Advisor

Telephone

303-692-2859

Email

grace.sandeno@state.co.us

COLORADO
Department of Public Health & Environment

To: Members of the State Board of Health

From: Kara Johnson-Hufford, Associate Division Director, Health Facilities and Emergency Medical Services Division

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

Date: September 15, 2021

Subject: Request for a Rulemaking Hearing concerning 6 CCR 1011-1, Chapter 8 – Facilities for Persons with Intellectual and Developmental Disabilities

---

The Department licenses a wide range of facilities pursuant to Section 25-3-101, C.R.S. Chapter 8 of 6 CCR 1011-1 houses the requirements for two different facility types for persons with intellectual and developmental disabilities—Intermediate Care Facilities for Individuals with Intellectual Disabilities and Group Homes.

Pursuant to Section 24-4-103.3, C.R.S., and Department policy, the Department must review its rules every five to seven years to ensure the rules continue to be efficient, effective, and essential. Accordingly, in 2019 the Department reviewed the existing 6 CCR 1011-1, Standards for Hospitals and Health Facilities, Chapter 8 – Facilities for Persons with Intellectual and Developmental Disabilities. During this review, the Department identified a number of substantial changes that occurred related to the provision of services in these facilities since the last comprehensive update, in addition to changes in statutory definitions and the related federal Conditions of Participation. This rulemaking is needed to update and clarify the rules in response issues identified during the regulatory review and feedback solicited during a subsequent stakeholder process. This rule update modifies Chapter 8 to update the wording, organization, and readability of the rules, as well as adding needed definitions and ensuring standards exist should a private-pay group home ever submit an application for licensure.

The Department respectfully requests the Board of Health set a rulemaking hearing for updates to 6 CCR 1011-1, Chapter 8 – Facilities for Persons with Intellectual and Developmental Disabilities.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to 6 CCR 1011-1, Chapter 8 –
Facilities for Persons with Intellectual and Developmental Disabilities

Basis and Purpose.

Chapter 8 of 6 CCR 1011-1 contains the licensing requirements for two distinct types of facilities for persons with intellectual and developmental disabilities:

- Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID), which are residential facilities certified by the Centers for Medicare and Medicaid (CMS) to provide active treatment, and habilitative, therapeutic, and specialized support services to adults with intellectual and developmental disabilities.
- Group Homes, which are licensed group living situations accommodating between four and eight people in which services and supports are provided to persons with intellectual and developmental disabilities.

The majority of the rules in Chapter 8 apply to both types of facilities. However, there are certain requirements where the standards differ (e.g., administrator qualifications).

The proposed changes to Chapter 8 resulted from a regulatory review and the subsequent stakeholder process undertaken to identify needed changes. Throughout the chapter, language changes were made for consistency, accuracy, and to have rules reflect the requirements of the CMS Home and Community Based Services (HCBS) Settings Final Rule. The CMS rule, released in 2014 and still in its implementation period, codifies a shift toward person-centered care (e.g., emphasizing the person's perspective and preferences in the service planning and provision process). It also requires providers to ensure individuals receiving services have opportunities to be fully integrated into their communities, control their personal resources, and exercise personal choice regarding services and supports.

Definitions were added to ensure an understanding of terms used in the rules, and existing definitions were updated for consistency with statutory changes. The proposed changes also include reorganizations, both within parts and across parts, to improve readability and flow. Requirements related to group home administrator qualifications, criminal history record checks, and specialized care were added to ensure the health, safety, and welfare of the residents in these facilities. The proposed changes also include the elimination of rules that are no longer necessary regarding incorporation by reference and licensing requirements that are duplicative of 6 CCR 1011-1, Chapter 2 – General Licensure Standards, which applies to all licensed facilities.

While the Department is proposing several changes to Chapter 8, it is important to note that, substantively, much remains the same. The following section highlights the substantive changes and the notable word change/organization changes.

<u>Wording changes:</u>
"Practitioner" replaces provider and physician, as appropriate.
"Group Home" replaces community residential home.
"Resident" replaces patient and individual.

Additions and substantive changes:

Part 1-Statutory Authority and Applicability. Rule chapters related to medication administration, medical waste, and hazardous waste were added to the list of regulations specifically called out for providers to follow. While these are not new requirements for providers, the stakeholder group and Department felt there was value in adding them into Chapter 8 to serve as a reminder. Language related to incorporation by reference at Part 1.3 is being struck, as it is no longer needed.

Part 2-Definitions. Modified the definition of community residential home to reflect the common vernacular of group home and updated the definition of intellectual and developmental disability to reflect changes in the statutory definition. Added definitions for practitioner, self-administration (of medication), service plan, special diet, staff, and volunteer, to reflect the need for a clear understanding of those terms as they are used throughout the chapter.

Part 3-Licensing Requirements. The previous Part 3.3, regarding the license term (length), is being struck. When the oversight functions for group homes were transferred to the Department under House Bill 13-1314, the Department kept the license term of two years for those facilities, to hold them harmless in the move from the Department of Human Services. However, at present, group homes are the only health facilities not renewing their licenses annually. Continuing to allow such two-year license terms conflicts with the statutory provision in Section 25-3-102(1)(d), C.R.S., which specifies that "[t]he license expires one year from the date of issuance." Stakeholders agreed that changing the group home licensing term to annually was appropriate, as long as the fee could be adjusted appropriately. Therefore, the proposed change at Part 3.3 sets the annual license fee for group homes at half the fee of the two-year license. With the proposed changes to the group home license term, there is no longer a need for the rule related to license term, as 6 CCR 1011-1, Chapter 2-General Licensure includes rules on the license term that apply to all facilities.

Part 4-Governing Body. While there are not new substantive responsibilities for the governing board, this part has been reorganized, and a rule has been added at Part 4.2, which consolidates governing body responsibilities previously scattered throughout Chapter 8 into one part. A new rule was added at Part 4.5 to clarify that the governing board is responsible for ensuring that a criminal history record check is performed on the administrator.

Part 5-Administrator. Similar to Part 4, while there are few changes to the administrator's responsibilities, the part is reorganized for ease of understanding, and a new rule was added at Part 5.3 to outline the administrator responsibilities that were previously scattered through the remaining parts of the rule. Part 5.2 expands options for administrator qualifications for an ICF-IID and adds administrator qualifications for group homes.

Part 6-Personnel and Staffing. Language regarding criminal history record check requirements was updated at Part 6.2. There are also additions to clarify the following: the content required for personnel records (Part 6.4) and personnel policies (Part 6.6); restrictions on staff working while sick (Part 6.3); and requirements for ensuring sufficient trained staff is on duty (Part 6.8).

Part 7-Training. Part 7.1 was updated to add specific minimum training topics and it clarifies which training/topics are necessary as part of an initial orientation and which training can be given prior to unsupervised contact with residents. Required orientation topics added include the care and services provided by the facility, assignment of duties, infection prevention and control, emergency response policies, reporting requirements, resident rights, prevention of abuse and neglect, and an overview of the facility's policies. Training prior to having unsupervised contact includes training on each specific resident, person-centered care concepts, food safety, and medication administration policies, procedures, and responsibilities.

Part 8-Admissions. No substantive changes were made in this part. Rule language was updated for ease of understanding without altering the meaning of the rules.

Part 9-Resident Rights. Considerable discussion with stakeholders took place regarding the requirements at Part 9.2(F) regarding facility investigations of alleged incidents of abuse, mistreatment, neglect, exploitation, or injuries of unknown origin. Some stakeholders requested that the Department lengthen the time allowed for a facility to complete its investigation, in part due to the length of time it takes outside agencies (e.g. law enforcement, adult protective services) to complete investigations. In reviewing the request, the Department determined failing to complete the investigation report was cited as a deficiency only three times in the past ten years. As such, the Department is proposing the addition of a rule requiring an addendum to the facility's report after the completion of an investigation by an appropriate oversight authority. Additionally, language was updated throughout Part 9 and minor clarifying changes were made.

Part 10-Resident Funds. Language was updated to clarify that facility policies regarding resident funds shall be consistent with legal and regulatory requirements (Part 10.1) and to reflect changes in who can access information regarding resident funds (Part 10.3), which has changed due to the HCBS Settings Final Rule.

Part 11-Resident Records. Additions were made to require documentation of resident's interaction in the community, individual preferences, and any special diet requirements as part of the resident record. Minor wording changes were made for accuracy and clarity.

Part 12-Infectious Disease Prevention and Control. Proposed changes include updating Part 12.1 to require a facility's infectious disease control program be based on nationally recognized standards for infection control and adding requirements commonly found in other facility licensure chapters, such as requiring a facility to have access to an individual trained in infection control. Part 12 was also reorganized for ease of use.

Part 13-Dietary Services. Proposed changes include the addition of Part 13.3, requiring food safety training for staff that handle, prepare, or serve food. Part 13 also includes updates to wording to reflect requirements for resident choice in meals and snacks, as well as residents being allowed to cook unless determined to be incapable of cooking in a safe manner. The wording related to special diet requirements at Part 13.14 was also updated.

Part 14-Medications. The previous Part 14.1 definition of medication is being struck, as the statutory definition referenced in the rules was repealed in 2012. Language was modified at the new Part 14.1 (previously 14.2) to require the monitoring of residents who are self-administering medications be done by a licensed provider who is legally

authorized to monitor medications within their own scope of practice. Part 14.5 includes the addition of requirements to be included in facility policies regarding medication administration, including:

- All medications, including medications administered on an "as needed" basis, shall be administered only by persons as authorized by law.
- Residents may self-administer medications unless they are determined to be incapable of safe self-administration. Additional requirements related to reporting non-compliance or other self-administration problems have also been added.
- Facilities may use qualified medication administration persons (QMAPs) to administer medications provided the facility complies with Sections 25-1.5-301 through 303, C.R.S. and 6 CCR 1011-1 Chapter 24-Medication Administration.

Part 15-Medical Services, Therapeutic Services, and Equipment, Supplies, and Assistive Technology. Part 15 has been reorganized for ease of use, grouping rules pertaining to similar requirements together. Definitions for therapeutic services (Part 15.8) and serious and significant changes in weight (Part 15.6) were added for clarity. Other proposed changes include additions to the requirements related to the use of unlicensed staff in providing therapeutic services, including training, monitoring, and documentation requirements. Also included is a new requirement for the facility to document if a resident refuses to use aids such as dentures or eyeglasses.

Part 16-Nursing Services, Specialized Care, and Social Services. In reviewing this part, the Department discovered that rules related to specialized care were inadvertently removed from Chapter 8 when it was modified during the implementation of House Bill13-1314. After consulting the stakeholders, these regulations were added back into the chapter at Part 16.2. This addition includes a list of services that are considered specialized care (e.g., catheter care, tracheostomy care, oxygen saturation monitoring), and the use, training, and monitoring of unlicensed staff in providing specialized care services.

Part 17-Gastrostomy Services. Specific requirements were added in Part 17.2 to clarify the components that are expected to be included in a resident's written, individualized gastrostomy service protocol. Language in the remainder of Part 17 was updated for clarity.

Part 18-Facility Reporting Requirements. No changes were made.

Part 19-Emergency Management Plan and Procedures. Language was updated to add specificity when evaluating the risks to the facility that must be addressed by the emergency management plan (Part 19.1) and also to add specific requirements to the emergency plan itself (Part 19.2).

Part 20-Compliance with FGI Guidelines. The only update to Part 20 was striking an effective date that has passed and thus is no longer needed.

Part 21-Physical Environment. Proposed changes in Part 21 include an updated regulatory citation at Part 21.4, striking Part 21.5(C), which is now in conflict with the Final Settings rule and person-centered care, and minor language updates that improve readability without altering the meaning of the existing rules.

Specific Statutory Authority.

Statutes that require or authorize rulemaking:

Section 25-1.5-103, C.R.S.
Section 25-3-101, C.R.S.

Other Relevant Statutes:

Section 25-1.5-301, C.R.S.
Sections 25.5-10-218 through 225, 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 include proposed rule language that incorporate materials by reference?

_____ Yes ___ URL
___x___ No

Does this rulemaking include proposed rule language to create or modify fines or fees?

___x___ Yes—Renewal fees for Group Homes are being halved as the license renewal will now take place annually, instead of every two years.
_____ No

Does the proposed rule language create (or increase) a state mandate on local government?

_x__ No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

REGULATORY ANALYSIS
for Amendments to 6 CCR 1011-1, Chapter 8 –
Facilities for Persons with Intellectual and Developmental Disabilities

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.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/S/B
Licensed Group Homes	107	C
Licensed Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IIDs)	23	C
Residents of Group Homes and ICF-IIDs	955*	B
Advocacy organizations, parents/guardians of residents, and groups of similar nature	unknown	S
* There are 221 licensed ICF-IID beds and 734 Group Home beds		

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

C = individuals/entities that implement or apply the rule.
S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

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.

Economic outcomes
Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, any financial benefits.

C: Chapter 8 licensees may incur costs of compliance with the proposed rules, but such costs are generally not expected to be substantial, as new standards represent practices that are already being carried out in the facilities. Increased costs were generally not a concern raised during the stakeholder process. However, there is expected to be additional administrative burden on group homes, as they will now need to complete the license renewal application annually instead of every two years.

Please describe any anticipated financial costs or benefits to these individuals/entities.

S: N/A

B: N/A

Non-economic outcomes
Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

C: The proposed rule changes increase the readability and clarity of the rules, helping providers have a clear understanding of the standards related to the two distinct types of facilities governed under the chapter. The expansion of administrator qualifications for the ICF-IID facilities should benefit those facilities in improving the pool of qualified candidates for those difficult-to-fill positions, and the addition of qualifications for group home administrators will provide clear expectations on who is considered qualified for those positions.

B: A number of changes will have a non-economic benefit to the residents of the facilities, generally resulting in improved quality of life, but also providing additional safeguards around the care received. The changes to align the rules with a person-centered care approach ensuring the residents have the opportunity for maximum independence and personal choice, including food choices and preparation, activities and community engagement, and self-administration of medication. Including the person-centered language in rules ensures that individuals with developmental disabilities have their preferences respected in their daily lives. The addition of administrator qualifications for group homes has the potential to improve the overall management and environment in those facilities, and the addition of criminal history record check requirements and staff requirements related to first aid and CPR abilities increase the safety of the group home environment.

While this effort to update rules was not specifically targeted toward improving outcomes for previously disenfranchised, un-served or underserved, or marginalized populations, the residents of facilities governed by Chapter 8 receive services funded through Medicaid, as well as have intellectual or developmental disabilities. Historically this population could be considered underserved or marginalized.

No non-favorable non-economic outcomes were identified.

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:

The proposed changes are not expected to increase personnel services, operating costs, or other expenditures, since the licensing, survey, and oversight functions driving those costs remain the same. The move from a 2-year license to an annual license for group homes will result in an additional 50 license renewal applications

annually. However, the additional work is expected to be absorbed within existing resources.

Anticipated CDPHE Revenues:

The Department does not expect any additional revenues as a result of the rulemaking. While Group Home license renewal is moving from every 2 years to an annual renewal, the fee associated with the renewal is being halved, resulting in the same amount of revenue.

B. Anticipated personal services, operating costs or other expenditures by another state agency:

Anticipated Revenues for another state agency:

None

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

Along with the costs and benefits discussed above, the proposed revisions:

___ Comply with a statutory mandate to promulgate rules.
_x__ Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
___ Maintain alignment with other states or national standards.
_x_ Implement a Regulatory Efficiency Review (rule review) result
_x__ Improve public and environmental health practice.
_x__ Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

1. Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO2e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO2e per year by June 30, 2020 and to 113.144 million metric tons of CO2e by June 30, 2023. ___ Contributes to the blueprint for pollution reduction ___ Reduces carbon dioxide from transportation ___ Reduces methane emissions from oil and gas industry ___ Reduces carbon dioxide emissions from electricity sector
2. Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023. ___ Reduces volatile organic compounds (VOC) and oxides of nitrogen (NOx) from the oil and gas industry. ___ Supports local agencies and COGCC in oil and gas regulations. ___ Reduces VOC and NOx emissions from non-oil and gas contributors
3. Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020

and by 12,207 by June 30, 2023.

___ Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes.
___ Increases physical activity by promoting local and state policies to improve active transportation and access to recreation.
___ Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.

4. Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023.

___ Ensures access to breastfeeding-friendly environments.

5. Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.

___ Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.
___ Performs targeted programming to increase immunization rates.
___ Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).

6. Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.

___ Creates a roadmap to address suicide in Colorado.
___ Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate.
___ Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries.
___ Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.

7. The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.

___ Conducts a gap assessment.
___ Updates existing plans to address identified gaps.
___ Develops and conducts various exercises to close gaps.

8. For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.

___ Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident. ___ Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment. ___ Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.
9. 100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023. ___ Implements the CDPHE Digital Transformation Plan. ___ Optimizes processes prior to digitizing them. ___ Improves data dissemination and interoperability methods and timeliness.
10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561 metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023. ___ Reduces emissions from employee commuting ___ Reduces emissions from CDPHE operations
11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023. ___ Used a budget equity assessment

_x__ Advance CDPHE Division-level strategic priorities.

- Regulatory review

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

There are multiple non-economic costs of inaction:

- For the Department, inaction would prolong a lack of compliance with statutory requirements for an annual license renewal and limit the ability to cite deficiencies around gastrostomy services, specialized care, and infection control.
- For licensed facilities, inaction increases the potential for misunderstanding and misapplication of outdated and unclear rules and a continued difficulty in finding administrators for the ICF-IIDs.
- For facility residents, inaction prevents regulatory alignment with current practices and philosophies, thus reducing the ability for the Department to hold providers accountable for providing services commensurate with the current standard of care.

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. The specific revisions proposed in this rulemaking were developed in conjunction with stakeholders. The benefits, risks, and costs of these proposed revisions were compared to the costs and benefits of other options. The proposed revisions provide the most benefit for the least amount of cost, are the minimum necessary, or are the most feasible manner to achieve compliance with statute.

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

Stakeholders advocated for qualified medication administration persons (QMAPs) to be allowed to administer medications on a *pro re nata* (PRN), or "as needed," basis. In reviewing Section 25-1.5-301(1), C.R.S., the Department determined that to allow such administrations would be noncompliant with the definition of medication administration for a QMAP, which specifies, "'administration' does not include judgement, evaluation, or assessments…" Therefore, the rules specify that medication administration should be compliant with the statute.

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.

Information sources include: the Center for Medicare and Medicaid Services Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities, Department of Health Care Policy and Financing rules at 10 CCR 2505-10 8.500 and 8.600, deficiency information from past state licensure surveys, and information regarding person-centered care concepts. These sources informed the Department's determination of best practices to incorporate into the proposed revisions.

STAKEHOLDER ENGAGEMENT
for Amendments to 6 CCR 1011-1, Chapter 8 –
Facilities for Persons with Intellectual and Development Disabilities

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:

Organization	Representative Name and Title (if known)
Listserv for Licensed Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IIDs)	23
Listserv for Licensed Group Homes	107
Individuals Participating in the Stakeholder Meetings	
Mountain Valley Developmental Services	Adam Juul
Bethesda	Alexander Nourse
Bethesda	Annette Rowell
North Metro Community Services	Beth Clark, Nurse Case Manager
Starpoint Program Approved Service Agency	Bonnie Stumph
The Resource Exchange	Brandi Griffiths
Mountain Valley Developmental Services	Brent Basham
CO Dept. of Health Care Policy and Financing	Cassandra Keller
Bethesda	Catherine Bradbury
Bethesda	Chad Wietrick
Continuum of Colorado	Charlene Cobb
CO Dept of Public Safety, Div of Fire Prev and Control	Chris Brunette
StarPoint	Christi Baxter
Continuum of Colorado	Cindy Dutton
Blue Peaks Developmental Services	Cindy Espinoza
CO Dept. of Health Care Policy and Financing	Cody Hickman
Support, Inc.	Dani Gordon
Argus Home Health Care	Danny Manzanares
Southeastern Developmental Services	David Harbour
Disability Law Colorado	David Monroe
Colorado Department of Human Services	Dawn Jacobs, Deputy Dir of Regional Centers
Bethesda	Dawn Julius, AD
North Metro Community Services	Deb Henkelman, Residential Program Manager
Continuum of Colorado	D'Shaun Fitch
Southern Colorado Development Disability Services	Duane Roy
Alliance Colorado	Ellen Jensby
C.A.R.E. Inc.	Ellie Gibson
	Erin Lehman
Dynamic Dimensions	Ginny Hallagin
Strive	Grant Jackson
Colorado Department of Human Services	Grant Reefer, QA Health Facilities
	J. Henao
Development Disabilities Resource Center	Jeanne Terrell
C.A.R.E. Inc.	Jenna Wolfe
Imagine!	Jennifer Garcia
Community Options, Inc.	Jennifer Pelligra
North Metro Community Services Residential	Jessica Bailey, Associate Director

Community Options, Inc.	Jim Womeldorf
CO Department of Human Services, OAADS/ DRCO	Jodi Merrill Brandt, Dir of Community Services
Mountain Valley Developmental Services	John Klausz
CO Dept. of Health Care Policy and Financing	John Laukkanen
Voyager Home Health Care	Jordan Jaquin
Alliance Colorado	Josh Rael
Developmental Disabilities Resource Center	Judy Loftis
Colorado Department of Human Services	Julie Ketchem-Smith
Developmental Disabilities Resource Center	Kelly Hulstrom
Colorado Department of Human Services	Kodjo Akakpo
Developmental Disabilities Resource Center	Kristie Braaten
Developmental Disabilities Resource Center -Lakewood	Kristy Riley
CO Dept. of Health Care Policy and Financing	Leah Pogoriler
Southeastern Developmental Services, Inc.	Linda Gonzales
ECS	L Key
Colorado Department of Human Services	Lynne Miller, CDHS Quality Assurance,
Horizons Specialized Services	Madeline Landgren
Alliance	Maria Jasso
Bethesda Lutheran Communities	Marvin Mays
CO Dept. of Health Care Policy and Financing	Mary Mangelsen
North Metro Community Services and CO Association of Nurses for the Developmentally Disabled	Melissa Brassington
CO Dept. of Health Care Policy and Financing	Michele Craig
CO Dept of Human Svcs, Div for Regional Center Ops	Mindy Gates
Continuum of Colorado	Nickell Jennings, Associate Director
Argus Home Health	Patti DeGeorge
Continuum of Colorado	Rachel Enkey
Elderhaus Adult Day Program in Ft Collins	Reesa Hanck, Assistant Director
Eastern CO Services for the Developmentally Disabled	Rhonda Roth
CO Dept of Public Safety – Div of Fire Prev and Control	Robert Sontag
Eastern CO Services for the Developmentally Disabled	Rochelle Ralston
Bethesda	Rose Works
North Metro Community Services	Ryan Grygiel
Argus Home Health	Sandy Martin
Mountain Valley Developmental Services (CCB)	Sara Sims
Southeastern Developmental Services, Inc.	Sarah Ortiz-Settles
Colorado Department of Human Services	Sharon Devine
Blue Peaks Developmental Services, Inc.	Socorro Herrera
Cheyenne Village	Steven Stock
CO Dept. of Health Care Policy and Financing	Trisha Creech
Continuum	Tom Knost
Imagine! Colorado	Vicki Thaler
Imagine! Colorado	Victoria Thorne
Southern Colorado Developmental Disabilities Services	Yetty Adeyelu
Horizons Specialized Services	Yvonne Truelove
Unidentified Individuals Participating in Stakeholder Meetings (phone # only) = 8	
Additional Individuals Requesting Information on Listserv	
Continuum of Colorado	Alexa Lanpher
CO Dept of Human Svcs, Div for Regional Center Ops	Angela Green
Program Approved Service Agency (Cheyenne Village)	Jenna Koch
Family Home Health	Kaitlin Stanton
Colorado Hospital Association	Kevin Caudill
Alliance 4 Homecare	Larisa Livitz, Administrator
Support, Inc.	Laura Viers
STRIVE	Mary Burdick

Roundup Fellowship	Mindy Watrous
Continuum of Colorado	Pamela Blomquist
Area Agency on Aging	Raegan Moldonado
	Sharon Sackey
Bridge Community	Veronica Saykally

The Department convened a public stakeholder process including 11 public meetings held remotely via Zoom between September 2, 2020, and August 4, 2021. The meetings took place on the first Wednesday of each month from 1:30-4:30 p.m., except for January when the meeting was canceled. The Department ensured that information was available to stakeholders via the following methods:

- Official public notice to all regulated facilities.
- Public notice posted on the Department's blog.
- Official public notice to all individuals who signed up for an email list for Chapter 8.
- A page on CDPHE's website: https://cdphe.colorado.gov/chapter-8-idd-rewrite-workgroup
- A google drive for working documents where all interested parties could access them: https://drive.google.com/drive/folders/1hehmcHWVwnL5n2FblvaJUtOrvZDgfRTv?usp=sharing

The Department reached out to individual stakeholders, stakeholder associations, or interested parties as certain topics were discussed. For example, subject matter experts in building standards were specifically encouraged to attend during the discussion of physical plant standards.

Prior to each meeting, Department staff reviewed the relevant sections of the rules and compare those rules to: the comments gathered during the regulatory review, current practice, other similar health-care facility rules, federal requirements (where applicable), regulations at other departments, and statutes, then used that information to draft new language where necessary. During the meetings, staff presented draft language for stakeholder discussion. Alternatively, on issues where there was a lack of clarity, the issue was presented, and the changes were guided by the stakeholder group. Staff facilitated discussion on any points that required modification, elimination, or addition. Staff and stakeholder meeting attendees provided input and worked toward consensus language. In most instances, the Department and stakeholders agreed on the negotiated language.

These proposed rules do not contain any local government mandates.

Staff provided information regarding the Board of Health process at the final meeting and will provide this information again via the listserv at an appropriate date.

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 update to 6 CCR 1011-1, Chapter 8 – Facilities for Persons with Intellectual and Development Disabilities includes updates to language in each of the 21 parts of the rule. Since this is a comprehensive update, there were significant discussions throughout the stakeholder process. Issues or questions raised by stakeholders were discussed and resulted in either updated language, retention of existing language, or striking of unnecessary language, generally with consensus between the Department and stakeholders. However, there were two topics where consensus was not reached:

- **Timeline for the investigation of alleged incidents of abuse, mistreatment, neglect, exploitation, or injuries of unknown origin.** Standards, along with any proposed changes are found in section Chapter 8, Part 9.2.

  Current language requires that, "All alleged incidents of abuse, mistreatment, neglect, injuries of unknown origin or exploitation shall be thoroughly investigated within five (5) working days." The Department is not proposing a change to the 5-day timeline; however, some stakeholders suggested that this timeline was too aggressive and not realistic. Concerns were voiced that such a rapid timeline could lead to numerous citations if the investigation was not thorough enough, or was not completed in a timely manner. There were also concerns that this would be interpreted to mean that the investigation, a report, and all recommendations must be implemented within that timeframe. Staff and stakeholders suggested that the Department pull data from previous surveys to see how many citations had been issued on this topic for group homes or ICF-IDD facilities and that the data be the basis for additional discussion at the next month's meeting.

  The information obtained from Departmental records showed that CDPHE normally cites a deficiency in this area this based on a lack of evidence to show a thorough investigation was completed. Several other citations were for investigations related to injuries of unknown origin. The current regulation has been cited 42 times over the past 10 years, but only 3 of those were related to timeframe: first in 2013 because investigation wasn't completed after 30 days, second in 2016—related to repeated injuries resulting in a citation for immediate jeopardy, and third in 2018 because the investigation had not been started for 30 days. The remaining 38 citations were due to information missing from the report. Thus it appears that this regulation has not been cited extensively, indicating that compliance with this standard is not an issue for the majority of facilities. Additionally, this 5-day requirement mirrors federal requirements for the ICF-IIDs.

  The Department believes it to be in the best interest of public health and safety for the 5-day requirement to remain in place with a minor modification to indicate that a timeline for all actions to be taken must be established in this report, but

that not all actions must be completed during this 5-day period. An additional rule was added to clarify that the internal investigation can be, and may need to be, updated if other investigations are ongoing that will inform additional facility actions (e.g. Adult Protective Services, law enforcement).

- **Medication administration, particularly medication administration by Qualified Medication Administration Persons (QMAPs).** Medications and medication administration are dealt with in Part 14 of proposed Chapter 8.

  The statutory authorization for QMAPs comes from Sections 25-1.5-301 through 25-1.5-303, C.R.S. and includes very prescriptive language regarding the role of QMAPs:

  > "(1) "Administration" means assisting a person in the ingestion, application, inhalation, or, using universal precautions, rectal or vaginal insertion of medication, including prescription drugs, according to the legibly written or printed directions of the attending physician or other authorized practitioner or as written on the prescription label and making a written record thereof with regard to each medication administered, including the time and the amount taken, but **"administration" does not include judgment, evaluation, or assessments** or the injections of medication, the monitoring of medication, or the self-administration of medication, including prescription drugs and including the self-injection of medication by the resident." 25-1.5-301, C.R.S. (emphasis added).

  Since the definition of administration in the QMAP statute specifically precludes the use of judgment, evaluation, or assessment, the Department has included several items within Chapter 8 regulation to clarify the limited role of QMAPs. This may not be how some facilities have traditionally viewed the role of QMAPs; and stakeholders wanted to allow QMAPs to administer medications on a *pro re nata* (PRN), or "as needed" basis. However, the Department determined it could not accommodate stakeholder preferences due to the statutory definition not allowing the use of judgement, evaluation, or assessments. The proposed language specifies who may administer medications at Part 14.5(A), and provides the standards for the use of QMAPs at Part 14.5(C).

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.	x	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.
	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

Health Facilities and Emergency Medical Services Division

STANDARDS FOR HOSPITALS AND HEALTH FACILITIES CHAPTER 8 - FACILITIES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

6 CCR 1011-1 Chapter 8

PART~~Section~~ 1 – Statutory Authority and Applicability

1.1 The statutory authority for the promulgation of these rules is set forth in S~~s~~ections 25-1.5-103, 25-3-100.5, *et seq.*, and 25.5-10-214(2) and (5), C.R.S.

1.2 A facility for persons with intellectual and developmental disabilities, as defined herein, shall comply with all applicable federal, ~~and~~ state, AND LOCAL statutes and regulations, including, but not limited to~~, the following~~:

(A) This Chapter 8 as it applies to the type of facility licensed.

(B) 6 CCR, 1011-1, Chapter 2~~,~~ – General Licensure Standards, unless otherwise modified herein.

(C) 6 CCR, 1011-1, CHAPTER 24 – MEDICATION ADMINISTRATION REGULATIONS.

(D) 6 CCR 1007-2, PART 1, REGULATIONS PERTAINING TO SOLID WASTE DISPOSAL SITES AND FACILITIES, SECTION 13, MEDICAL WASTE.

(E) 6 CCR 1007-3, PART 262, STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

~~1.3 These regulations incorporate by reference (as indicated within) materials originally published elsewhere. Such incorporation does not include later amendments to or editions of the referenced material. The Department of Public Health and Environment maintains copies of the complete text of the incorporated materials for public inspection during regular business hours, and shall provide certified copies of the incorporated material at cost upon request. Information regarding how the incorporated material may be obtained or examined is available from:~~

~~Division Director~~
~~Health Facilities and Emergency Medical Services Division~~
~~Colorado Department of Public Health and Environment~~
~~4300 Cherry Creek Drive South~~
~~Denver, CO 80246~~
~~Phone: 303-692-2800~~

~~Copies of the incorporated materials have been provided to the State Publications Depository and Distribution Center, and are available for interlibrary loan. Any incorporated material may be examined at any state publications depository library.~~

Commented [A1]: Rule no longer necessary—no materials are incorporated by reference.

PART~~Section~~ 2 – Definitions

2.1 "Administrator" MEANS ~~A~~ A person who is responsible for the overall operation and daily administration, management, and maintenance of the facility.

~~2.2 Community Residential Home a group living situation accommodating at least four, but no more than eight, persons which is licensed by the state and in which services and supports are provided to persons with intellectual and developmental disabilities.~~

Commented [A2]: Now using "group home" instead of "community residential home" and the definition has been moved to Part 2.5.

2.~~3~~2 "Department" MEANS the Colorado Department of Public Health and Environment or its designee.

2.4~~3~~ "Facility for Persons with Intellectual and Developmental Disabilities" MEANS a facility specially designed for the active treatment and habilitation of persons with intellectual and developmental disabilities or a ~~community residential home~~GROUP HOME.

2.~~5~~4 "Governing Body" MEANS the individuals~~,~~ OR service agency ~~or community centered board when acting as a service agency~~ that has the ultimate authority and legal responsibility for the management and operation of the facility.

2.5 "GROUP HOME" MEANS A GROUP LIVING SITUATION ACCOMMODATING AT LEAST FOUR (4), BUT NO MORE THAN EIGHT (8), PERSONS WHICH IS LICENSED BY THE STATE AND IN WHICH SERVICES AND SUPPORTS ARE PROVIDED TO PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES. GROUP HOME MEANS THE SAME AS "COMMUNITY RESIDENTIAL HOME," AS THE TERM IS USED IN SECTION 25.5-10-214, C.R.S.

Commented [A3]: Now using "group home" instead of "community residential home. Moved from Part 2.2, and reference to community residential home definition and use added.

2.6 "Intellectual and Developmental Disability" MEANS a disability that ~~is manifested~~ MANIFESTS before the person reaches twenty-two years of age, that constitutes a substantial disability to the affected ~~individual~~ PERSON, and that is attributable to ~~mental retardation~~ AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY or related conditions, ~~which include~~INCLUDING PRADER-WILLI SYNDROME, cerebral palsy, epilepsy, autism, or other neurological conditions when ~~those~~ THE CONDITION OR conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with ~~mental retardation~~AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

Commented [A4]: Changes made to reflect the updated statutory definition found at Section 25.5-10-202(26)(a), C.R.S.

2.7 "Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)" MEANS a residential facility that is certified by the Centers for Medicare and Medicaid SERVICES (CMS) to provide ACTIVE TREATMENT, AND habilitative, therapeutic, and specialized support services to adults with intellectual and developmental disabilities.

2.8 "PRACTITIONER" MEANS A PHYSICIAN, PHYSICIAN ASSISTANT, OR ADVANCE PRACTICE NURSE (I.E., NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST) WHO HAS A CURRENT, UNRESTRICTED LICENSE TO PRACTICE AND IS ACTING WITHIN THE SCOPE OF SUCH AUTHORITY.

2.9 "Resident" MEANS an individual ~~admitted to~~ LIVING IN and receiving services from a facility for persons with intellectual and developmental disabilities.

2.10 "SELF-ADMINISTER" MEANS THE ABILITY OF A RESIDENT TO TAKE MEDICATION INDEPENDENTLY WITHOUT ANY ASSISTANCE FROM ANOTHER PERSON.

Commented [A5]: Definition from Section 25-1.5-301(5), C.R.S.

2.11 "SERVICE PLAN" MEANS A WRITTEN DOCUMENT THAT SPECIFIES IDENTIFIED AND NEEDED SERVICES, REGARDLESS OF FUNDING SOURCE OR PROVIDER, TO ASSIST A PERSON TO REMAIN SAFELY IN THE COMMUNITY. FOR THE PURPOSES OF THIS CHAPTER, THE TERM SERVICE PLAN INCLUDES, BUT IS NOT LIMITED TO: SERVICE PLANS, INDIVIDUALIZED PLANS, INDIVIDUAL SERVICE AND SUPPORT PLANS, AND PERSON-CENTERED SUPPORT PLANS AS USED WITHIN 10 CCR 2505-10.

Commented [A6]: Based on 10 CCR 2505-10, 8.500 definition, but broadened.

2.12 "SPECIAL DIET" MEANS A DIET WITH SPECIFIC REQUIREMENTS, PROVIDED IN ACCORDANCE WITH A PRACTITIONER'S OR REGISTERED DIETITIAN'S ORDER.

2.13 "STAFF" MEANS INDIVIDUALS PROVIDING SERVICES ON BEHALF OF AND/OR UNDER THE CONTROL OF THE FACILITY, EITHER AS AN EMPLOYEE, THROUGH A CONTRACT BETWEEN THE FACILITY AND THE INDIVIDUAL, OR THROUGH A STAFFING AGENCY.

2.14 "VOLUNTEER" MEANS AN UNPAID INDIVIDUAL PROVIDING SERVICES ON BEHALF OF AND/OR UNDER THE CONTROL OF THE FACILITY.

Commented [A7]: From Ch. 7, ALR and Ch. 3 Behavioral Health Entities.
Definition needed for requirements related to background checks, training, etc.

PART~~Section~~ 3 – Licensing Requirements

3.1 ~~License Types~~

~~(A)~~ ~~A facility for persons with intellectual and developmental disabilities shall be licensed as either an Intermediate Care Facility for Individuals with Intellectual Disabilities or a Community Residential~~ GROUP Home, depending upon the size of the facility and the services offered.

3.2 General License Requirements

(A) A facility for persons with intellectual and developmental disabilities shall demonstrate compliance with local building and zoning codes prior to initial licensure and license renewal.

(B) A facility for persons with intellectual and developmental disabilities shall comply with the LICENSURE requirements of 6 CCR 1011-1, Chapter 2. ~~, regarding license application procedures, the process for change of ownership and the continuing obligations of a licensee.~~

~~3.3 License Term~~

Commented [A8]: No longer needed as the license term is covered in 6 CCR 1011-1, Chapter 2- General Licensure

~~(A) The license for an Intermediate Care Facility for Individuals with Intellectual Disabilities be valid for twelve (12) months unless suspended or revoked.~~

~~(B) The license for a Community Residential Home shall be valid for twenty-four months unless otherwise suspended or revoked.~~

~~(C) In the event of a denial, suspension, or revocation of a facility's license or the facility's program approval, the Department shall assist the Department of Health Care Policy and Financing in overseeing the relocation of the residents.~~

3.4~~3~~ License Fees

All license fees are non-refundable. More than one fee may apply depending upon the circumstances. The total fee shall be submitted with the appropriate license application.

(A) Initial License

(1) ~~Community Residential~~ GROUP Home: $2,612.62.

(2) Intermediate Care Facility for Individuals with Intellectual Disabilities: $6,270.31.

(B) License Renewal. Effective July 1, ~~2020~~2022, the ANNUAL renewal fee shall be:

(1) ~~Community Residential~~GROUP Home: ~~$783.79~~ $391.90.

(2) Intermediate Care Facility for Individuals with Intellectual Disabilities: $1,672.08.

(C) Change of O~~o~~wnership. Change of ownership shall be determined in accordance with the criteria set forth in 6 CCR 1011-1, Chapter 2, Part 2.6. The change of ownership fee shall be:

(1) ~~Community Residential~~ GROUP Home: $2,612.62.

(2) Intermediate Care Facility for Individuals with Intellectual Disabilities: $6,270.31.

(D) Revisit F~~f~~ee

(1) A facility's renewal license fee may be increased as the result of a licensure inspection or substantiated complaint investigation where a deficient practice is cited that has either caused harm, or has the potential to cause harm, to a consumer and the agency has failed to demonstrate appropriate correction of the cited deficiencies at the first on-site revisit.

(2) The fee shall be 50 percent of the facility's renewal license fee and shall be assessed for the second on-site revisit and each subsequent on-site revisit pertaining to the same deficiency.

PART~~Section~~ 4 – Governing Body

4.1 THE FACILITY SHALL HAVE A GOVERNING BODY THAT IS RESPONSIBLE FOR THE MANAGEMENT AND OVERSIGHT OF THE FACILITY, INCLUDING: POLICY, BUDGET, AND OPERATIONAL DIRECTION.

(A) The governing body shall establish a policy that defines its composition and authority.

(B) THE GOVERNING BODY MAY OVERSEE MORE THAN ONE FACILITY, IN WHICH CASE IT SHALL MAINTAIN SEPARATE DOCUMENTATION CONCERNING THE OVERSIGHT OF EACH FACILITY, RECOGNIZING THE UNIQUE CHARACTERISTICS OF EACH LOCATION.

4.2 ~~The governing body shall oversee the policy, budget and operational direction of the facility. If a governing board oversees more than one facility, it shall maintain documentation concerning the oversight of each facility.~~

Commented [A9]: Moved from previous 4.2

Commented [A10]: Moved from previous 4.2

Commented [A11]: Moved to 4.1 header language

Commented [A12]: Moved to 4.1(B)

4.2 THE GOVERNING BODY SHALL DEVELOP WRITTEN POLICIES, INCLUDING, BUT NOT LIMITED TO, THOSE REQUIRED IN OTHER PARTS OF THESE RULES:

(A) ADMISSION AND DISCHARGE POLICIES THAT FULLY COMPLY WITH STATE AND FEDERAL LAW AND THAT MEET THE REQUIREMENTS OF PART 8.1 OF THESE RULES, INCLUDING THAT THE FACILITY SHALL ONLY ADMIT THOSE INDIVIDUALS WHOSE NEEDS CAN BE MET WITHIN THE ACCOMMODATIONS AND SERVICES THE FACILITY PROVIDES.

Commented [A13]: From 4.5 below

Commented [A14]: From 8.1

(B) POLICIES REGARDING THE HIRING OR CONTINUED SERVICE OF ANY ADMINISTRATOR, STAFF, OR VOLUNTEER WHOSE CRIMINAL HISTORY RECORDS INCLUDE A CONVICTION OR PLEA, OR OTHERWISE DEMONSTRATE CONDUCT THAT COULD POSE A RISK TO THE HEALTH, SAFETY, OR WELFARE OF THE RESIDENT. AT A MINIMUM, THE POLICIES SHALL REQUIRE CONSIDERATION OF:

Commented [A15]: From Chapters 7 and 4, modified

(1) THE HISTORY OF CONVICTIONS AND PLEAS OF GUILTY OR NO CONTEST;

(2) THE NATURE AND SERIOUSNESS OF THE CRIME(S);

(3) THE TIME THAT HAS ELAPSED SINCE THE CONVICTIONS OR PLEAS;

(4) WHETHER THERE ARE ANY MITIGATING OR AGGRAVATING FACTORS; AND

(5) THE NATURE OF THE POSITION TO WHICH THE INDIVIDUAL WILL BE ASSIGNED.

(C) PERSONNEL POLICIES, AS REQUIRED BY PART 6.

(D) RESIDENT RIGHTS POLICIES, IN COMPLIANCE WITH PART 9.1.

(E) RESIDENT FUNDS POLICIES, AS REQUIRED BY PART 10.1.

(F) POLICIES THAT ENSURE THE APPROPRIATE PROCUREMENT, STORAGE, ADMINISTRATION, AND DISPOSAL OF MEDICATIONS, IN ACCORDANCE WITH PART 14.6.

(G) POLICIES FOR MEDICAL SERVICES AND THERAPEUTIC SERVICES, AS REQUIRED BY PART 15.1.

(H) A POLICY FOR MONITORING RESIDENTS' WEIGHTS, IN ACCORDANCE WITH PART 15.6.

(I) POLICIES FOR THE PROVISION OF NURSING SERVICES, IN ACCORDANCE WITH PART 16.1.

4.3 The governing body shall establish a system for monitoring and reviewing the PHYSICAL, BEHAVIORAL, AND SOCIAL NEEDS AND CARE ~~medical care and health~~ of the residents receiving services at the facility.

4.4 THE GOVERNING BODY SHALL ENSURE COMPLIANCE WITH THE REQUIREMENTS IN PART 19 – EMERGENCY MANAGEMENT PLAN AND PROCEDURES.

4.4~~5~~ The governing body shall appoint an administrator WHO MEETS THE MINIMUM ADMINISTRATOR REQUIREMENTS AT PART 5.2, ~~who shall have the~~ TO WHOM THE GOVERNING BODY SHALL DELEGATE authority to implement the facility policies and procedures, and ~~be~~ IS responsible for the day-to-day management of the facility.

~~(A) An administrator appointed to manage an intermediate care facility for individuals with intellectual disabilities shall have an active, unrestricted Colorado nursing home administrator license.~~

Commented [A16]: Moved to administrator requirements

4.6 THE GOVERNING BODY SHALL ENSURE THAT A NAME-BASED CRIMINAL HISTORY RECORD CHECK IS PERFORMED FOR THE ADMINISTRATOR PRIOR TO THEIR EMPLOYMENT, AS FOLLOWS:

(A) IF THE ADMINISTRATOR HAS LIVED IN COLORADO FOR MORE THAN THREE (3) YEARS AT THE TIME OF APPLICATION, THE FACILITY SHALL OBTAIN A NAME-BASED CRIMINAL HISTORY RECORD CHECK CONDUCTED BY THE COLORADO BUREAU OF INVESTIGATION.

(B) IF THE ADMINISTRATOR HAS LIVED IN COLORADO FOR THREE (3) YEARS OR LESS AT THE TIME OF APPLICATION, THE FACILITY SHALL OBTAIN A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR EACH STATE IN WHICH THE APPLICANT HAS LIVED DURING THE PAST THREE YEARS, CONDUCTED BY THE RESPECTIVE STATE'S BUREAU OF INVESTIGATION OR EQUIVALENT STATE-LEVEL LAW ENFORCEMENT AGENCY OR OTHER NAME-BASED REPORT, AS DETERMINED BY THE DEPARTMENT.

(C) IF THE CRIMINAL HISTORY RECORD CHECK REVEALS ANY CONVICTIONS OR PLEAS, THE INFORMATION SHALL BE CONSIDERED IN ACCORDANCE WITH THE POLICIES DEVELOPED BY THE GOVERNING BODY IN ACCORDANCE WITH PART 4.2(B) OF THESE RULES.

(D) IF THE GOVERNING BODY BECOMES AWARE OF INFORMATION THAT INDICATES THE ADMINISTRATOR COULD POSE A RISK TO THE HEALTH, SAFETY, AND/OR WELFARE OF THE RESIDENTS, THE GOVERNING BODY SHALL REQUEST AN UPDATED CRIMINAL HISTORY RECORD CHECK FROM THE COLORADO BUREAU OF INVESTIGATION AND/OR OTHER RELEVANT LAW ENFORCEMENT AGENCY.

Commented [A17]: Similar to requirement for ALRs

4.5 ~~The governing body shall create policies and procedures for admission and discharge of residents that fully comply with state and federal law.~~

Commented [A18]: Moved to 4.2 (A)

PART~~Section~~ 5 – Administrator

5.1 The administrator shall be responsible on a full time basis to the governing body for planning, organizing, developing, and controlling the operations of the facility, INCLUDING, BUT NOT LIMITED TO:

(A) ~~The administrator shall ensure~~ ENSURING that a recognized system of accounting is used to accurately reflect the ~~details of the business.~~ FINANCIAL OPERATIONS OF THE FACILITY AND THAT ~~A~~ A fiscal audit, including resident funds that are managed by the facility, ~~shall be~~ IS performed at least annually by a qualified INDEPENDENT auditor. ~~independent of the facility.~~

Commented [A19]: Moved from 5.4

(B) ENSURING THE MAINTENANCE OF FACILITY RECORDS, INCLUDING, BUT NOT LIMITED TO, A DAILY CENSUS OF CURRENT RESIDENTS, ADMISSION AND DISCHARGE RECORDS, AND A MASTER RESIDENT DATABASE.

Commented [A20]: From 5.5

(C) ENSURING A DESIGNEE IS AVAILABLE TO FULFILL THE REQUIREMENTS OF THE ADMINISTRATOR DURING PERIODS WHEN THE ADMINISTRATOR IS NOT ON-SITE OR OTHERWISE AVAILABLE VIA ANOTHER METHOD WITHIN A REASONABLE AMOUNT OF TIME.

5.2 THE ADMINISTRATOR SHALL MEET THE MINIMUM QUALIFICATIONS, AS APPROPRIATE FOR THE TYPE OF FACILITY.

(A) THE ADMINISTRATOR OF AN INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES SHALL MEET AT LEAST ONE OF THE FOLLOWING COMBINATIONS OF EDUCATION, EXPERIENCE, AND/OR CREDENTIALS:

(1) AN ACTIVE, UNRESTRICTED COLORADO NURSING HOME ADMINISTRATOR LICENSE;

(2) A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY IN EDUCATION, SOCIAL WORK, PSYCHOLOGY, OR A RELATED FIELD WITH AT LEAST FOUR (4) YEARS OF WORK EXPERIENCE IN THE INTELLECTUAL DISABILITY/DEVELOPMENTAL DISABILITY

(ID/DD) FIELD OR OTHER RELEVANT HUMAN SERVICES FIELD, INCLUDING AT LEAST TWO (2) YEARS OF RELATED SUPERVISORY EXPERIENCE; OR

(3) AN ASSOCIATE'S DEGREE IN NURSING, WITH A CURRENT COLORADO LICENSE AS A REGISTERED NURSE AND AT LEAST FOUR (4) YEARS OF WORK EXPERIENCE IN THE ID/DD FIELD, INCLUDING AT LEAST TWO (2) YEARS OF RELATED SUPERVISORY EXPERIENCE.

(B) THE ADMINISTRATOR OF A GROUP HOME SHALL MEET ONE OF THE COMBINATIONS OF EDUCATION, EXPERIENCE, AND/OR CREDENTIALS LISTED BELOW:

(1) EITHER OF THE COMBINATIONS OF EDUCATION AND EXPERIENCE IN (2) OR (3) IN SUBPART (A), ABOVE;

(2) A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY IN EDUCATION, SOCIAL WORK, PSYCHOLOGY, OR A RELATED FIELD, WITH AT LEAST ONE YEAR OF WORK EXPERIENCE IN HUMAN SERVICES;

(3) AN ASSOCIATE'S DEGREE FROM AN ACCREDITED COLLEGE IN EDUCATION, SOCIAL WORK, PSYCHOLOGY, OR A RELATED FIELD, WITH AT LEAST TWO YEARS OF WORK EXPERIENCE IN HUMAN SERVICES;

(4) FOUR YEARS OF WORK EXPERIENCE IN HUMAN SERVICES; OR

(5) CURRENT EMPLOYMENT AS A GROUP HOME ADMINISTRATOR AS OF DECEMBER 31, 2021.

5.3 THE ADMINISTRATOR SHALL BE RESPONSIBLE FOR DEVELOPING PROCEDURES AND PROCESSES FOR THE IMPLEMENTATION OF ALL FACILITY POLICIES DEVELOPED BY THE GOVERNING BODY AND FOR ENSURING COMPLIANCE WITH THE REQUIREMENTS OF THESE RULES, INCLUDING, BUT NOT LIMITED TO:

(A) PERSONNEL REQUIREMENTS FOUND IN PART 6;

(B) STAFF TRAINING AND EVALUATION, IN COMPLIANCE WITH PARTS 7;

(C) RESIDENT RIGHTS, INVESTIGATION, AND REPORTING REQUIREMENTS FOUND IN PART 9.2;

(D) AN INFECTION PREVENTION AND CONTROL PROGRAM AND RELATED INFECTION-CONTROL PROCESSES AS REQUIRED IN PART 12;

(E) POLICIES AND PROCEDURES RELATED TO CONTROLLED MEDICATION RECEIPT, STORAGE, ADMINISTRATION AND DISPOSAL, AS REQUIRED IN PART 14.6;

(F) POLICIES AND PROCEDURES REGARDING MEDICAL SERVICES AND THERAPEUTIC SERVICES, IN ACCORDANCE WITH PART 15.1;

(G) POLICIES FOR MONITORING THE WEIGHT OF RESIDENTS, AS REQUIRED IN PART 15.6; AND

(H) THE EMERGENCY PREPAREDNESS PLAN, INCLUDING FAMILY/GUARDIAN NOTIFICATION AND TRAINING DOCUMENTATION REQUIREMENTS, AS REQUIRED IN PART 19.

~~5.2 The administrator shall develop a written plan of organization detailing the authority, responsibility, and functions of each category of personnel.~~

Commented [A21]: Moved to part 6

~~5.3 Reserved.~~

~~5.4 The administrator shall ensure that a recognized system of accounting is used to accurately reflect the details of the business. A fiscal audit, including resident funds that are managed by the facility, shall be performed at least annually by a qualified auditor independent of the facility.~~

Commented [A22]: Moved to 5.1

~~5.5 The administrator shall ensure that the facility maintains the following records:~~

~~(A) A daily census,~~

~~(B) Admission and discharge records, and~~

~~(C) A master resident database.~~

Commented [A23]: Moved to 5.1(B)

PART~~Section~~ 6 – Personnel and Staffing

6.1 The administrator shall ~~only employ~~ ENSURE staff members ~~who~~ AND VOLUNTEERS are qualified by education, training, and/OR experience.

6.2 The administrator, OR THEIR DESIGNEE, shall ensure that a ~~background~~NAME-BASED CRIMINAL HISTORY RECORD check is performed for each ~~unlicensed~~ staff member OR VOLUNTEER providing direct care, SUPERVISION, OR HAVING UNSUPERVISED CONTACT WITH A RESIDENT, prior to THEIR EMPLOYMENT OR ACCEPTANCE AS A VOLUNTEER~~the staff member's contact with residents~~.

(A) IF THE APPLICANT HAS LIVED IN COLORADO FOR MORE THAN THREE (3) YEARS AT THE TIME OF APPLICATION, THE FACILITY SHALL OBTAIN A NAME-BASED CRIMINAL HISTORY RECORD CHECK CONDUCTED BY THE COLORADO BUREAU OF INVESTIGATION.

(B) IF THE APPLICANT HAS LIVED IN COLORADO FOR THREE (3) YEARS OR LESS AT THE TIME OF APPLICATION, THE FACILITY SHALL OBTAIN A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR EACH STATE IN WHICH THE APPLICANT HAS LIVED DURING THE PAST THREE YEARS, CONDUCTED BY THE RESPECTIVE STATE'S BUREAU OF INVESTIGATION OR EQUIVALENT STATE-LEVEL LAW ENFORCEMENT AGENCY OR OTHER NAME-BASED REPORT, AS DETERMINED BY THE DEPARTMENT.

(C) IF THE CRIMINAL HISTORY RECORD CHECK REVEALS ANY CONVICTIONS OR PLEAS, THE INFORMATION SHALL BE CONSIDERED IN ACCORDANCE WITH THE POLICIES DEVELOPED BY THE GOVERNING BODY IN ACCORDANCE WITH PART 4.2(B) OF THESE RULES.

(D) IF THE ADMINISTRATOR BECOMES AWARE OF INFORMATION THAT INDICATES A STAFF MEMBER OR VOLUNTEER COULD POSE A RISK TO THE HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS, THE ADMINISTRATOR SHALL REQUEST AN UPDATED CRIMINAL HISTORY RECORD CHECK FROM THE COLORADO BUREAU OF INVESTIGATION AND/OR OTHER RELEVANT LAW ENFORCEMENT AGENCY.

Commented [A24]: Similar to requirement for ALRs

(E) IF THE FACILITY CONTRACTS WITH A STAFFING AGENCY FOR THE PROVISION OF RESIDENT SERVICES, IT SHALL REQUIRE THE STAFFING AGENCY TO MEET THE REQUIREMENTS OF THIS PART.

~~(A) If any background check reveals prior convictions of a violent, fraudulent, or abusive nature, the administrator shall inquire further to determine the potential impact on resident safety in accordance with facility policy.~~

~~(B) If an individual is hired despite a background check that reveals a prior conviction of a violent, fraudulent or abuse nature, the administrator shall document the reasons for hire and plans for supervision.~~

Commented [A25]: Now included in governing body policy

6.3 THE FACILITY SHALL ESTABLISH WRITTEN POLICIES CONCERNING PRE-EMPLOYMENT PHYSICAL EVALUATIONS AND EMPLOYEE HEALTH. THOSE POLICIES SHALL INCLUDE, AT A MINIMUM:

(A) TUBERCULIN SKIN TESTING OF EACH STAFF MEMBER OR VOLUNTEER PRIOR TO DIRECT CONTACT WITH RESIDENTS; AND

(B) THE IMPOSITION OF WORK RESTRICTIONS ON DIRECT CARE STAFF OR VOLUNTEERS WHO ARE KNOWN TO HAVE ANY ILLNESS IN A COMMUNICABLE STAGE, INCLUDING, AT A MINIMUM, THAT SUCH INDIVIDUALS BE BARRED FROM DIRECT CONTACT WITH RESIDENTS OR RESIDENT FOOD.

6.34 The facility shall maintain personnel records on each staff member AND VOLUNTEER. SUCH RECORDS SHALL BE AVAILABLE FOR DEPARTMENT REVIEW AND SHALL includE~~ing~~, BUT NOT BE LIMITED TO: ~~employment application, resume of employee's training and experience, verification of credentials, and evidence regarding the absence or control of communicable diseases such as tuberculosis or hepatitis B.~~

(A) APPLICATION AND/OR RESUME, DATE OF HIRE OR ACCEPTANCE OF VOLUNTEER SERVICE, AND DATE DUTIES STARTED;

(B) DOCUMENTATION OF ORIENTATION AND TRAINING, INCLUDING FIRST AID AND CPR CERTIFICATION, IF APPLICABLE;

(C) VERIFICATION OF CREDENTIALS;

(D) RESULTS OF CRIMINAL HISTORY RECORD CHECKS AND FOLLOW-UP, IF APPLICABLE; AND

(E) EVIDENCE REGARDING THE ABSENCE OR CONTROL OF COMMUNICABLE DISEASES, INCLUDING TUBERCULOSIS OR HEPATITIS B, AS APPLICABLE.

~~5.2~~6.5 THE ADMINISTRATOR SHALL DEVELOP A WRITTEN PLAN OF ORGANIZATION DETAILING THE AUTHORITY, RESPONSIBILITY, AND FUNCTIONS OF DIFFERENT TYPES OF PERSONNEL.

6.46 There shall be written personnel policies including, but not limited to:~~, job descriptions that clarify the type of functions to be performed, the conditions of employment, management of employees and the quality and quantity of resident services to be maintained.~~

(A) JOB DESCRIPTIONS AND ASSIGNED RESPONSIBILITIES;

(B) CONDITIONS OF EMPLOYMENT OR VOLUNTEER SERVICE;

(C) MANAGEMENT OF EMPLOYEES AND VOLUNTEERS; AND

(D) RESTRICTIONS OF ON-SITE ACCESS BY STAFF OR VOLUNTEERS WITH DRUG OR ALCOHOL USE THAT WOULD ADVERSELY IMPACT THEIR ABILITY TO PROVIDE RESIDENT CARE AND SERVICES.

6.57 The administrator shall ENSURE THAT EACH STAFF MEMBER IS provided notice of the personnel policies ~~to each staff member~~ when hired and shall ENSURE THE POLICY IS explaineD ~~the policy~~ during the initial ~~staff~~ orientation ~~period~~ AND AFTER ANY POLICY CHANGES ARE MADE. ~~If changes are made to the personnel policies, the facility shall notify employees of the changes in a timely manner and document the date of such notification.~~

6.68 The administrator shall ensure that there is sufficient trained staff on duty to meet the needs OR POTENTIAL NEEDS of all residents at all times, CONSIDERING INDIVIDUAL NEEDS SUCH AS THE RISK OF ACCIDENT, HAZARDS, OR OTHER CHALLENGING EVENTS.

Commented [A26]: Moved from Part 12 with significant rewording, and expanded to include work restrictions whenever the worker is sick (Part B)

Commented [A27]: From Ch. 7, ALR

Commented [A28]: Reorganized and added some items from Ch. 7, Parts 7.9-7.12.

Commented [A29]: Moved from Part 5

Commented [A30]: Cross-referenced in 4.2

Commented [A31]: Similar to Ch. 7, Part 7.7, discussed as an addition at the November stakeholder meeting

Commented [A32]: Language added is from Ch. 7, Part 8.4

(A) THE ADMINISTRATOR SHALL ENSURE THAT THE FACILITY DOES NOT DEPEND UPON RESIDENTS TO PERFORM STAFF FUNCTIONS.

(B) A FACILITY MAY USE VOLUNTEERS, BUT ANY VOLUNTEER SHALL NOT BE INCLUDED IN THE FACILITY'S STAFFING PLAN IN LIEU OF EMPLOYEES.

Commented [A33]: Moved from below at 6.7 and 6.8

(C) THE FACILITY SHALL ENSURE THAT AT LEAST ONE STAFF MEMBER WITH CURRENT CERTIFICATION IN FIRST AID IS AVAILABLE ON SITE WHEN RESIDENTS ARE PRESENT, UNLESS SUCH RESIDENTS ARE UNSUPERVISED IN ACCORDANCE WITH THEIR SERVICE PLAN.

Commented [A34]: (C) and (D) added in response to stakeholder discussion. Similar to requirements in Ch. 7, Parts 8.6-8.7)

(D) THE FACILITY SHALL ENSURE THAT AT LEAST ONE STAFF MEMBER WITH CURRENT CERTIFICATION IN CARDIOPULMONARY RESUSCITATION (CPR) AND OBSTRUCTED AIRWAY TECHNIQUES IS AVAILABLE ON SITE WHEN RESIDENTS ARE PRESENT, UNLESS SUCH RESIDENTS ARE UNSUPERVISED IN ACCORDANCE WITH THEIR SERVICE PLAN.

6.9 EACH STAFF MEMBER AND VOLUNTEER SHALL BE PHYSICALLY AND MENTALLY ABLE TO ADEQUATELY AND SAFELY PERFORM ALL FUNCTIONS ESSENTIAL TO THEIR ASSIGNED RESPONSIBILITIES.

Commented [A35]: Similar to Ch. 7, 7.4.

~~A resident may be allowed to remain unsupervised in the facility only when all of the following criteria are met:~~

~~(A) The resident's individual plan allows for the unsupervised time;~~

~~(B) The resident has telephone access to a staff member who shall be immediately available by telephone and able to arrive at the facility within 15 minutes, if necessary;~~

~~(C) The unsupervised period does not exceed four (4) hours at a time unless a longer unsupervised period is specified in the resident's individual plan;~~

~~(D) No more than one resident at a time shall be left unsupervised unless there has been an evaluation that two or more residents may be unsupervised at the same time; and~~

~~(E) Any unsupervised time is not merely for the convenience of the staff.~~

~~6.7 The administrator shall ensure that the facility does not depend upon residents to perform staff functions.~~

~~6.8 A facility may use volunteers, but any volunteer shall not be included in the facility's staffing plan in lieu of employees.~~

Commented [A36]: Moved to 6.8 (A)

Commented [A37]: Moved to 6.8(B)

PART~~Section~~ 7 – Training

7.1 The administrator shall develop and implement a policy and procedure for the initial orientation and on-going training of staff AND VOLUNTEERS to ensure that all duties and responsibilities are accomplished in a competent manner. The policy and procedure shall include, but not be limited to~~, the following~~:

Commented [A38]: Cross-referenced at 5.2

(A) ~~The extent and type of orientation for all new staff prior to unsupervised contact with residents.~~ ENSURING EACH STAFF MEMBER OR VOLUNTEER COMPLETES AN INITIAL ORIENTATION PRIOR TO PROVIDING ANY CARE OR SERVICES TO A RESIDENT. SUCH ORIENTATION SHALL INCLUDE, AT A MINIMUM:

Commented [A39]: New language similar to Ch. 7, Part 7.8

(1) THE CARE AND SERVICES PROVIDED BY THE FACILITY;

(2) ASSIGNMENT OF DUTIES AND RESPONSIBILITIES SPECIFIC TO THE STAFF MEMBER OR VOLUNTEER;

(3) INFECTION PREVENTION AND CONTROL AND UNIVERSAL PRECAUTIONS, AS REQUIRED IN PART 12.2;

(4) EMERGENCY RESPONSE POLICIES AND PROCEDURES, INCLUDING:

(A) RECOGNIZING EMERGENCIES;

(B) RELEVANT EMERGENCY CONTACT NUMBERS;

(C) FIRE RESPONSE, INCLUDING FACILITY EVACUATION PROCEDURES;

(D) BASIC FIRST AID;

(E) AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE, IF APPLICABLE; AND

(F) SERIOUS ILLNESS, INJURY, AND/OR DEATH OF A RESIDENT.

(5) REPORTING REQUIREMENTS, INCLUDING OCCURRENCE REPORTING PROCEDURES WITHIN THE FACILITY AND REPORTING ABUSE, NEGLECT, MISTREATMENT, OR EXPLOITATION;

(6) RESIDENT RIGHTS;

(7) PREVENTION OF ABUSE AND NEGLECT; AND

(8) AN OVERVIEW OF THE FACILITY'S POLICIES AND PROCEDURES AND HOW TO ACCESS THEM FOR REFERENCE.

(B) ENSURING EACH STAFF MEMBER OR VOLUNTEER RECEIVES TRAINING ON THE FOLLOWING TOPICS PRIOR TO THAT STAFF MEMBER OR VOLUNTEER HAVING UNSUPERVISED CONTACT WITH RESIDENTS: ~~Job training specific to the residents' needs shall be provided to each staff member prior to that staff member working unsupervised with any resident. Such training shall include, at a minimum, medical protocols, therapy programs, activities of daily living needs, special services, and each resident's evacuation capabilities.~~

(1) TRAINING SPECIFIC TO EACH INDIVIDUAL RESIDENT, AS RELEVANT TO THEIR JOB DUTIES, INCLUDING, BUT NOT LIMITED TO:

(A) MEDICAL PROTOCOLS AND THERAPY PROGRAMS;

(B) NEEDS RELATED TO ACTIVITIES OF DAILY LIVING;

(C) SPECIALIZED SERVICES;

(D) INDIVIDUAL INTERESTS AND PREFERENCES;

(E) INDIVIDUAL EVACUATION CAPABILITIES; AND

(F) DIETARY AND NUTRITIONAL NEEDS.

(2) PERSON-CENTERED CARE;

(3) MAINTENANCE OF A CLEAN, SAFE, AND HEALTHY ENVIRONMENT, INCLUDING APPROPRIATE CLEANING TECHNIQUES, AS APPLICABLE;

(4) FOOD SAFETY, IN COMPLIANCE WITH PART 13.3, AS APPLICABLE TO JOB DUTIES; AND

Commented [A40]: Added to increase focus on person-centered care

(5) MEDICATION ADMINISTRATION POLICIES, PROCEDURES, AND RESPONSIBILITIES.

(C) ~~Within the first 30 days of employment, staff shall receive training in resident rights, abuse and neglect prevention, reporting abuse, neglect, mistreatment, and exploitation.~~

(C) TRAINING AND DRILLS FOR EMERGENCY MANAGEMENT AS REQUIRED IN 19.2.

(D) TRAINING AND ORIENTATION DOCUMENTATION REQUIREMENTS, INCLUDING THAT SUCH ORIENTATION AND TRAINING BE DOCUMENTED IN THE STAFF MEMBER'S OR VOLUNTEER'S PERSONNEL FILE.

7.2 The administrator shall develop and implement a process for staff monitoring. ~~including~~

(A) THERE SHALL BE an annual written evaluation of staff competency specific to the duties required at the facility and resident needs.

(~~A~~B) If a staff member fails the annual competency evaluation, the administrator shall, at a minimum, provide AND DOCUMENT retraining, and reevaluate to demonstrate competency is achieved.

~~7.3 The administrator shall document that orientation and training in emergency procedures has been provided for each new staff member and each newly admitted resident capable of self-preservation.~~

~~7.4 The administrator shall document all staff training including in-service training.~~

7.3 THE ADMINISTRATOR SHALL DOCUMENT THAT ORIENTATION AND TRAINING IN EMERGENCY PROCEDURES HAS BEEN PROVIDED FOR EACH NEW STAFF MEMBER, EACH VOLUNTEER, AND EACH NEWLY ADMITTED RESIDENT CAPABLE OF SELF-EVACUATION. TRAINING SHALL OCCUR WITHIN SEVEN (7) WORKING DAYS OF EMPLOYMENT OR MOVING INTO TO THE GROUP HOME.

PART~~Section~~ 8 – Admissions

8.1 The facility shall have AND IMPLEMENT a written policy that specifies that it will only admit those individuals whose needs can be met within the accommodations and services the facility provides.

8.2 ~~Prior to or upon admission of a resident, t~~The facility shall ensure that it obtains the essential information pertinent to the care AND SUPPORT of the resident, including a medical evaluation report, EITHER PRIOR TO OR UPON ADMISSION OF A RESIDENT.

~~8.3 Upon admission, adequate measure shall be taken to insure the proper identification of the resident.~~

8.~~4~~3 THE FACILITY SHALL ONLY ADMIT RESIDENTS TO REGULARLY DESIGNATED BEDROOMS. ~~No resident shall be admitted for care to any room or area other than one regularly designated as a bedroom.~~

8.4 ~~There shall be no more~~ THE FACILITY SHALL ENSURE THE NUMBER OF residents admitted to a ~~than~~ EACH bedroom DOES NOT EXCEED THE the number for which the room is designed and equipped.

PART~~Section~~ 9 – Resident Rights

9.1 Each facility shall ~~have~~ DEVELOP AND IMPLEMENT written policies and procedures for residents' rights WHICH~~. Those policies and procedures~~ shall address the ~~patient~~CLIENT rights set forth in 6 CCR 1011-1, Chapter 2, Part 7, and Section 25.5-10-218 through 225, C.R.S. ~~(Effective March 1,~~

Commented [A41]: All topics moved to orientation.

Commented [A42]: Cross-referenced at 5.2

Commented [A43]: Moved to 7.1

Commented [A44]: Moved from Part 19.4

Commented [A45]: Cross-referenced at 4.2

Commented [A46]: Cross-referenced at 4.2

~~2014), which is incorporated by reference.~~ Such policies and procedures shall also include specific provisions regarding ~~the following~~:

(A) The right to have medications administered in a manner consistent with state and federal law and regulation.

(B) The right to resident notice at least ~~15~~ 30 days prior to the effective date when there is a decision to terminate services or transfer the resident, REGARDLESS OF WHO INITIATED THE TERMINATION OR TRANSFER.

(C) Assurance that any resident transfer, INCLUDING BETWEEN FACILITIES OR WITHIN THE SAME FACILITY, shall be in the best interests of the resident and not for the convenience of the facility.

(D) An effective monitoring mechanism to detect instances of abuse, mistreatment, neglect, and exploitation. Monitoring shall include, at a minimum, a review of ~~the following items~~:

(1) Incident AND/OR OCCURRENCE reports;

(2) Verbal and written reports from residents, advocates, families, guardians, friends of residents, or others; ~~and~~

(3) Verbal and written reports of unusual or dramatic changes in behaviors or residents; AND

(4) A plan for ~~frequent~~ unannounced supervisory visits to each residence or facility on all shifts, NO LESS THAN QUARTERLY.

(E) Procedures for identifying, reporting, reviewing, and investigating all allegations of abuse, mistreatment, neglect, and exploitation CONSISTENT WITH APPLICABLE LEGAL AND REGULATORY REQUIREMENTS.

(F) Procedures for timely and appropriate disciplinary action up to and including termination of staff and appropriate legal recourse against any staff member OR VOLUNTEER who has engaged in abuse, mistreatment, neglect, or exploitation of a resident.

9.2 The facility administrator shall ensure implementation of the following: ~~items.~~

Commented [A47]: Cross-ref in part 5

(A) All staff members AND VOLUNTEERS are aware of applicable state law and facility policies and procedures related to abuse, mistreatment, neglect, and exploitation.

(B) The facility adheres to federal and state law along with the facility's own policies and procedures for residents' rights.

(C) The facility demonstrates that the residents are informed of their rights and those rights are protected.

(D) THE FACILITY ENSURES ~~I~~IMMEDIATE reporting to the facility administrator or designee by any staff member OR VOLUNTEER who observes or is aware of abuse, mistreatment, neglect, or exploitation of a resident, and DOCUMENTATION OF prompt action to protect the safety of the affected resident and all other residents in the facility.

(E) THE FACILITY REPORTS ~~Reporting of~~ any alleged incident or occurrence to THE INDIVIDUAL(S) LEGALLY AUTHORIZED TO RECEIVE THE INFORMATION ~~the parent, guardian, or authorized representative~~ within 24 hours~~,~~ and to the ~~d~~Department by the next business day, consistent with 6 CCR 1011-1, Chapter 2, PART~~Section~~ 4.2.~~; and~~

(F) All alleged incidents of abuse, mistreatment, neglect, EXPLOITATION, OR injuries of unknown origin ~~or exploitation~~ shall be thoroughly investigated within five (5) working days.

(1) An investigative report shall be prepared that includes, at a minimum:

(~~1~~A) The preliminary results of the investigation;

(~~2~~B) A summary of the investigative procedures utilized;

(~~3~~C) The ~~full~~ investigative findings, including recommendations;

(~~4~~D) The administrative review; AND

(~~5~~E) TIMELINE FOR THE~~The~~ action(s) TO BE taken.

(2) IF THE ALLEGED INCIDENT IS SUBJECT TO EXTERNAL INVESTIGATION BY LAW ENFORCEMENT, ADULT PROTECTIVE SERVICES, OR OTHER APPROPRIATE OVERSIGHT AUTHORITY, THE FACILITY SHALL SUBMIT AN ADDENDUM TO THE DOCUMENTATION OF ITS INVESTIGATION WITHIN FIVE (5) WORKING DAYS AFTER THE COMPLETION OF SUCH EXTERNAL INVESTIGATION.

Commented [A48]: 5-day requirement mirrors CMS ICF-IID requirements. Based on Department survey data, we normally cite this based on a lack of evidence to show a thorough investigation was completed to fully close the loop on any MANE investigations. Several were for investigations related to injuries of unknown origin. Has been cited 42 times over the past 10 years, but only 3 of those were related to timeframe: first in 2013 because investigation wasn't completed after 30 days, second in 2016—related to repeated injuries resulting in an IJ, third in 2018 because the investigation had not been started for 30 days. The remaining 38 citations were due to information missing from the report.

PART~~Section~~ 10 – Resident Funds

10.1 The facility shall develop and implement written policies and procedures CONSISTENT WITH LEGAL AND REGULATORY REQUIREMENTS regarding resident funds. THESE PROCEDURES SHALL INCLUDE THE ABILITY FOR RESIDENTS TO ACCESS FUNDS AT ANY TIME.

Commented [A49]: Cross-referenced at 4.2

10.2 The facility shall establish and maintain an accounting system that ensures a full, complete, and separate accounting, according to generally accepted accounting principles, of each resident's personal fund~~s~~ entrusted to the facility on the resident's behalf.

(A) The facility shall ensure that its accounting system precludes any commingling of resident funds with facility funds or with the funds of any person other than another resident.

(B) The facility shall regularly monitor its accounting system to ensure the policies and procedures are being appropriately implemented and resident funds are protected from misuse.

10.3 Upon request, the facility shall make a resident's financial record available to the resident OR OTHER INDIVIDUAL LEGALLY AUTHORIZED TO RECEIVE THE INFORMATION WITHIN A REASONABLE AMOUNT OF TIME, NOT TO EXCEED THIRTY (30) DAYS~~, the resident's parents, or legal guardian~~.

Commented [A50]: Revisions due to HCBS Settings Final Rules, parent/guardian no longer automatically entitled to reports

PART~~Section~~ 11 – Resident Records

11.1 ALL RECORDS SPECIFICALLY REQUIRED BY THESE STANDARDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT FOR PURPOSES OF ENFORCING THESE REGULATIONS. IF RECORDS ARE MAINTAINED ELECTRONICALLY, THEY SHALL BE MADE AVAILABLE TO THE DEPARTMENT IN A MANNER THAT ALLOWS FOR A TIMELY, EFFICIENT, AND COMPLETE REVIEW.

Commented [A51]: Moved from current 11.2 (C)

11.~~1~~2 Initial Record Requirements

(A) The following minimum information shall be recorded in the resident's program or medical record upon admission to the facility for persons with INTELLECTUAL OR developmental disabilities:

(1) Name, previous address, and birth date;

(2) Name, address, and phone number of legal guardian (if any), person to contact in an emergency, ~~physician~~PRIMARY CARE PRACTITIONER, dentist, and case manager; and

(3) Special needs, allergies, SPECIAL DIET REQUIREMENTS, and current medication. If a resident has an allergy to any substance, a notice shall be placed in a conspicuous place on the resident's record.

(B) To the extent possible, the following shall also be obtained:

(1) The results of assessments conducted within the previous 12 months;

(2) All ~~individual service and support plans (ISSP) and service/individualized plans (SP/IP)~~ SERVICE PLANS, as appropriate, developed within the previous 12 months;

(3) Record of prescriptions of medications PRESCRIBED within the previous 12 months;

(4) Dates and descriptions of illnesses, accidents, significant changes of condition, treatments thereof, and immunizations for the previous 12 months;

(5) Summary of hospitalizations for the previous 12 months, to include recommendations for follow-up and treatment; ~~and~~

(6) Any other information relevant to the health of the resident; AND

(7) INDIVIDUAL INTERESTS AND PREFERENCES, INCLUDING COMMUNITY ACTIVITIES.

11.~~2~~3 Continuing Record Requirements

(A) Each facility shall maintain ~~active~~ CURRENT AND ACCURATE program and medical records for individual residents that also contain ~~the following~~:

(1) All information required by PART~~Section~~ 11.1 of this chapter;

(2) A record of the use of the resident's funds including all debits, credits, and a description of purchases if supervised by the licensee;

(3) Current ~~individualized plan and individual service and support plans~~SERVICE PLANS, as appropriate, along with documentation of their implementation and progress toward meeting the goals;

(4) DOCUMENTATION OF RESIDENT INTERACTION IN THE COMMUNITY, INCLUDING ACTIVITIES OFFERED AND RESIDENT PARTICIPATION;

(~~4~~5) Current photo of resident;

(~~5~~6) General physical characteristics;

(~~6~~7) General description of personality characteristics;

(~~7~~8) Quarterly weight and annual height measurement ~~of all residents~~;

(~~8~~9) Records of interventions and treatments provided by ~~physician~~PRACTITIONERs, therapists, nurses, and other professional staff;

(~~9~~10) Records of prescriptions ordered and medication administered in the previous 12 months; ~~and~~

(1~~0~~1) Date, time, and circumstances of resident's death, when applicable~~.~~; AND

(12) DOCUMENTATION RELATED TO SPECIAL DIETS, AS REQUIRED IN PART 13.

(B) All entries in any resident record shall be dated and authenticated. Acceptable authentication shall be the staff's written signature, identifiable initials, computer key, or other appropriate technological means.

~~(C) All records specifically required by these standards shall be made available to the department for purposes of enforcing these regulations. If records are maintained electronically, they shall be made available to the Department in a manner that allows for a timely, efficient, and complete review.~~

11.3~~4~~ Medical Record Retention

(A) Medical records are those records pertaining to the health status and related medical services and treatments of the resident. Such records do not include documents involving services and programs.

(B) All medical records for adults (persons eighteen (18) years of age or older) shall be retained for no less than ten (10) years after the last date of service or discharge from the facility. All medical records for minors shall be retained after the last date of service or discharge from the facility for the period of minority plus ten (10) years.

PART~~Section~~ 12 – Infectious Disease Prevention and Control

12.1 The administrator shall develop and implement an infectious disease control program WITH ~~that includes~~ PROCEDURES THAT REFLECT THE SCOPE AND COMPLEXITY OF THE SERVICES PROVIDED IN THE FACILITY. THE PROGRAM SHALL BE BASED ON NATIONALLY RECOGNIZED STANDARDS FOR INFECTION CONTROL AND SHALL REQUIRE THE ADEQUATE INVESTIGATION, CONTROL, AND PREVENTION OF INFECTIONS. TOPICS ADDRESSED SHALL INCLUDE, BUT NOT BE LIMITED TO:~~to track and trend infections that are known or become known among staff and residents that may affect the safety of the residents, and in-service training programs for microbial and infectious disease control.~~

Commented [A52]: Moved below

~~12.2 The administrator shall develop and implement a procedure for tuberculin screening of staff that is consistent with the Centers for Disease Control "Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Settings, 2005," U.S. Department of Health and Human Services Centers for Disease Control and Prevention, which is incorporated by reference.~~

Commented [A53]: Moved to Part 6 with substantial re-wording

(A) A REQUIREMENT THAT AT LEAST ONE INDIVIDUAL TRAINED IN INFECTION CONTROL SHALL BE EMPLOYED BY OR AVAILABLE TO THE FACILITY;

(B) METHODS FOR IDENTIFYING AND TRACKING INFECTION PATTERNS AND TRENDS AMONG EMPLOYEES, VOLUNTEERS, OR RESIDENTS AND INITIATING A RESPONSE;

Commented [A54]: From above

(C) PROCEDURES FOR HANDLING SOILED LINEN AND CLOTHING, STORING PERSONAL CARE ITEMS, AND GENERAL CLEANING WHICH MINIMIZE THE SPREAD OF PATHOGENIC ORGANISMS;

(D) MAINTENANCE OF A SANITARY ENVIRONMENT;

Commented [A55]: From below

(E) MITIGATION OF RISKS ASSOCIATED WITH INFECTIONS AND THE PREVENTION OF THE SPREAD OF COMMUNICABLE DISEASE, INCLUDING, BUT NOT LIMITED TO: HAND HYGIENE, BLOODBORNE AND AIRBORNE PATHOGENS, AND RESPIRATORY HYGIENE AND COUGH ETIQUETTE FOR RESIDENTS AND STAFF;

(F) COORDINATION WITH OTHER FEDERAL, STATE, AND LOCAL AGENCIES INCLUDING, BUT NOT LIMITED TO, A METHOD TO DETERMINE WHEN TO SEEK ASSISTANCE FROM A MEDICAL PROFESSIONAL AND/OR THE LOCAL HEALTH DEPARTMENT;

(G) THE REPORTING OF DISEASES AS REQUIRED BY THE DEPARTMENT'S RULES AND REGULATIONS PERTAINING TO EPIDEMIC AND COMMUNICABLE DISEASE CONTROL, 6 CCR 1009-1; AND

(H) THE PROTECTIVE ISOLATION OF RESIDENTS WHO HAVE AN INFECTIOUS DISEASE.

~~12.3 The facility shall develop and implement procedures for handling soiled linen and clothing, storing personal care items, and general cleaning which minimizes the spread of pathogenic organisms.~~

~~12.4 The facility shall have written policies addressing infectious disease control including, but not limited to, the following:~~

~~(A) Environmental controls to prevent or limit the spread of infection;~~

~~(B) The protective isolation of residents who have an infectious disease; and~~

~~(C) The reporting of diseases as required by the Department's Rules and Regulations Pertaining to Epidemic and Communicable Disease Control, 6 CCR 1009-1.~~

~~12.5 Personnel shall practice universal precautions.~~

12.2 THE FACILITY SHALL PROVIDE INITIAL AND ONGOING TRAINING FOR STAFF ON THE PRINCIPLES OF INFECTION PREVENTION AND CONTROL; UNIVERSAL PRECAUTIONS; MANAGEMENT OF BLOOD, OTHER BODY FLUIDS, OR POTENTIALLY INFECTIOUS WASTE; AND CLEANING AND DISINFECTION TECHNIQUES.

PART~~Section~~ 13 – Dietary Services

13.1 All food shall be procured, stored, and prepared safely.

13.2 At least a three-day supply of food AND DRINKING WATER shall be available in the facility in case of emergency.

13.3 STAFF HANDLING, PREPARING, OR SERVING FOOD SHALL COMPLETE FOOD SAFETY TRAINING AND MAINTAIN EVIDENCE OF COMPLETION AS PART OF THE PERSONNEL FILE IN ACCORDANCE WITH PART 7.1(D). FOOD SAFETY TRAINING SHALL BE PROVIDED BY RECOGNIZED FOOD SAFETY EXPERTS OR AGENCIES, SUCH AS THE DEPARTMENT'S DIVISION OF ENVIRONMENTAL HEALTH AND SUSTAINABILITY, LOCAL PUBLIC HEALTH AGENCIES, OR COLORADO STATE UNIVERSITY EXTENSION SERVICES. AT A MINIMUM, A CERTIFICATE OF COMPLETION OF THE AVAILABLE ONLINE MODULES IS SUFFICIENT TO COMPLY WITH THIS PART. THE SUCCESSFUL COMPLETION OF OTHER ACCREDITED FOOD SAFETY COURSES IS ALSO ACCEPTABLE.

13.2~~4~~ ~~Meals shall be planned in a manner that incorporates resident involvement.~~ THE FACILITY SHALL ENSURE RESIDENTS HAVE THE OPPORTUNITY TO BE INVOLVED IN PLANNING MEALS AND CHOOSING AVAILABLE SNACKS.

13.3~~5~~ Meals shall provide a nutritionally adequate diet for all residents CONSISTENT WITH GENERALLY RECOGNIZED NATIONAL OR STATE DIETARY STANDARDS AND/OR GUIDELINES.~~, based upon the Dietary~~

Commented [A56]: From below

Commented [A57]: From below

Commented [A58]: Moved above

Commented [A59]: From Ch. 7, ALR—standard applicable to facilities with 19 or fewer beds.

~~Guidelines for Americans, 2005, U.S. Department of Health and Human Services and U.S. Department of Agriculture, 6th Edition, which is incorporated by reference.~~

~~(A) The facility shall ensure that the meals provided maintain acceptable parameters of nutritional status such as body weight and protein level unless the resident's clinical condition demonstrates that this is not possible.~~

13.4~~6~~ The facility shall have a diet manual that provides guidance for the preparation of diet menus including special diets.

13.5~~7~~ The facility shall have a ~~qualified~~ REGISTERED dietician perform an initial review of all specialized~~, prescribed diet plans~~ DIETS to ensure they meet diet guidelines and ENSURE A REVIEW OF ALL CHANGES ~~be available for consultation regarding any changes~~ to the ~~special dietary needs~~SPECIAL DIETS of the residents. SUCH REVIEWS SHALL BE DOCUMENTED IN THE RESIDENT'S RECORD.

13.6~~8~~ Records of meals prepared including available options and substitutions shall be kept by the facility staff and shall be available for review for a period of 30 days.

13.7~~9~~ Meals shall vary daily and be appropriate for holidays and seasonal conditions.

13.8~~10~~ Residents shall have ~~reasonable~~ access to THE KITCHEN, food, AND supplies AT ALL TIMES, UNLESS A RESTRICTION IS ASSESSED TO BE APPROPRIATE AND DOCUMENTED IN THE RESIDENT RECORD.

13.11 Between-meal snacks of nourishing quality shall be available.

13.12 RESIDENTS SHALL BE ALLOWED TO COOK UNLESS AN ASSESSMENT DETERMINES THE RESIDENT IS NOT CAPABLE OF COOKING IN A SAFE MANNER AND DOCUMENTATION OF SUCH ASSESSMENT IS PART OF THE RESIDENT RECORD.

13.9~~13~~ Staff support shall be ~~available~~ PROVIDED to all residents who need assistance during meals, AS EVIDENCED BY AN INABILITY TO SELF-FEED WITHIN 15 MINUTES OF FOOD BEING PRESENTED.

13.10~~4~~ Special Diets

(A) Known food allergies and prescribed ~~therapeutic~~ SPECIAL diets shall be documented and such information shall be made available to facility staff preparing meals.

(B) The administrator OR THEIR DESIGNEE shall ensure that all staff, including volunteers and temporary staff, are aware of and ~~adhere~~ PROVIDE FOOD, SUPPLIES, AND ADAPTIVE EQUIPMENT IN COMPLIANCE WITH ~~to any resident's~~ RESIDENTS' food allergies and/or special ~~dietary~~ DIET requirements.

(C) The facility shall ~~ensure that it is providing~~ PROVIDE food that meets RESIDENTS' ~~the~~ special dietary ~~needs of the residents~~ REQUIREMENTS.

(D) THE FACILITY SHALL DOCUMENT A RESIDENT'S REFUSAL TO EAT THEIR SPECIAL DIET AS PART OF THE RESIDENT RECORD.

PART~~Section~~ 14 – Medications

~~14.1 Unless otherwise specified, "medications" refers to substances defined in Ssection 12-22-102(11)(a), C.R.S., as well as dietary and nutritional supplements.~~

Commented [A60]: This section of statute was repealed in 2012. The pharmacy statutes no longer define drug, and the other chapters of 6 CCR 1011-1 do not include a definition of medication.

14.2~~1~~ On at least a quarterly basis, THE FACILITY SHALL ENSURE THAT ~~facility staff shall review the~~ medications and dosage taken by residents who are self-administering ARE REVIEWED BY A

LICENSED NURSE OR OTHER LICENSED PROVIDER WHO IS LEGALLY AUTHORIZED TO MONITOR MEDICATIONS WITHIN THEIR OWN SCOPE OF PRACTICE.

14.~~3~~2 Prescription medications shall be administered from containers or packages that are lawfully labeled.

14.~~4~~3 The facility shall ensure that the primary care ~~physician or other authorized, licensed~~ practitioner designated to coordinate a resident's care reviews each resident's medication on an annual basis for a stable regimen and whenever there is A NEW MEDICATION ADDED OR a change in the medication regimen.

14.~~5~~4 At the time of discharge or transfer, medications ~~belonging to a resident~~ ADMINISTERED BY THE FACILITY shall be given to the resident's legal guardian, nurse, or qualified medication administration staff member at the new residence, AND THIS SHALL BE DOCUMENTED IN THE RESIDENT RECORD.

14.~~6~~5 The governing body shall establish AND IMPLEMENT WRITTEN policies and procedures ~~which~~ THAT ensure the appropriate procurement, storage, administration, and disposal of all medications including, but not limited to~~, the following~~:

(A) ALL MEDICATIONS, INCLUDING, BUT NOT LIMITED TO, PRO RE NATA (PRN) OR "AS NEEDED" MEDICATIONS, SHALL BE ADMINISTERED ONLY BY PERSONS AS AUTHORIZED BY LAW.

(B) RESIDENTS MAY SELF-ADMINISTER MEDICATIONS UNLESS THEY ARE DETERMINED TO BE INCAPABLE OF SAFE SELF-ADMINISTRATION BY A LICENSED PROVIDER AND SUCH DETERMINATION IS DOCUMENTED AND INCLUDED IN THE RESIDENT RECORD.

(1) THE FACILITY SHALL REPORT NON-COMPLIANCE, MISUSE, OR INAPPROPRIATE USE OF KNOWN MEDICATIONS BY A RESIDENT WHO IS SELF-ADMINISTERING MEDICATIONS TO THE RESIDENT'S PRIMARY CARE PRACTITIONER.

(2) THE FACILITY SHALL SEEK A REVIEW OF THE RESIDENT'S DETERMINATION RELATED TO SELF-ADMINISTRATION, AS FOLLOWS, AND RETAIN UPDATED DOCUMENTATION OF THE DETERMINATION AS APPROPRIATE:

(A) WHEN NON-COMPLIANCE, MISUSE, OR INAPPROPRIATE USE OF KNOWN MEDICATIONS IS REPORTED TO THE RESIDENT'S PRIMARY CARE PRACTITIONER.

(B) WHEN THERE ARE CHANGES IN THE RESIDENT'S MEDICATIONS, ROUTINES, OR CIRCUMSTANCES THAT MAY IMPACT THEIR ABILITY TO SELF-ADMINISTER MEDICATIONS.

(C) AT LEAST ANNUALLY.

(3) ALL SUCH REVIEWS SHALL BE DOCUMENTED IN THE RESIDENT'S RECORD.

(C) FACILITIES ARE ALLOWED TO USE QUALIFIED MEDICATION ADMINISTRATION PERSONS (QMAPS) FOR MEDICATION ADMINISTRATION, PROVIDED THE FOLLOWING CONDITIONS ARE MET:

(1) THE FACILITY FULLY COMPLIES WITH SECTIONS 25-1.5-301 THROUGH 25-1.5-303, C.R.S., AND 6 CCR 1011-1, CHAPTER 24 – MEDICATION ADMINISTRATION REGULATIONS;

(2) GROUP HOMES MUST MEET THE DEFINITION OF FACILITY AT SECTION 25-1.5-301(2)(H), C.R.S.; AND

(3) QMAPS SHALL NOT INDEPENDENTLY DETERMINE A RESIDENT'S ABILITY TO SELF-ADMINISTER MEDICATIONS.

(~~A~~D) All medications shall be stored in locked containers according to the appropriate light and temperature conditions, and all controlled medications shall be double locked~~.~~, EXCEPT THAT RESIDENTS CAPABLE OF SELF-ADMINISTERING SOME OR ALL OF THEIR MEDICATIONS SHALL BE ALLOWED TO KEEP THOSE MEDICATIONS IN LOCKED CONTAINERS IN THEIR OWN ROOMS.

(~~B~~E) THERE SHALL BE ~~D~~documentation of medication administration to residents including time and dosage given, name of staff administering, and, if applicable, drug reaction or refusal by the resident. ~~Medications shall be administered only by persons authorized by law to do so.~~

Commented [A61]: Moved to (A) in this part.

~~(1) A Community Residential Home for Persons with Developmental Disabilities may use qualified medication administration staff members (QMAPs) provided the facility fully complies with sections 25-1.5-301 through 25-1.5-303 C.R.S., and 6 CCR 1011-1, Chapter 24, Medication Administration Regulations.~~

~~(2) QMAPs shall not be used by an Intermediate Care Facility for Individuals with Developmental Disabilities.~~

(~~C~~F) STAFF SHALL ~~R~~reporting medication errors and refusals to the program director, consulting nurse, and primary care ~~physician~~ PRACTITIONER AND SHALL ENSURE SUCH ERRORS AND REFUSALS ARE DOCUMENTED IN THE MEDICATION ADMINISTRATION RECORD.

(~~D~~G) THERE SHALL BE A POLICY AND PROCEDURE FOR ~~A~~administration and transport of medications to facilitate community integrations and other activities such as day programs, vacations, and home visits.

14.~~7~~6 The administrator shall ENSURE THE IMPLEMENTATION OF AND ~~implement and monitor~~ compliance with all policies and procedures related to controlled medication receipt, storage, administration, and disposal.

14.~~8~~7 There shall be a designated medication preparation area separated from food that is equipped with: a suitable locking device to protect the medications stored therein; a refrigerator equipped with thermometer; counter work space; readily accessible contact information for the poison control center; and a sink for hand-washing or appropriate supplies for hand cleansing.

(A) Only medications, medical equipment, and supplies shall be stored in the designated preparation area.

(B) Test reagents, general disinfectants, cleaning agents, and other similar products shall not be stored in the medication area.

14.~~9~~8 Non-prescription (over-the counter) medications administered to a resident shall meet the following conditions:

(A) The medication is maintained in the original container with the original label visible; and

(B) The medication is labeled with a single resident's full name.

14.~~10~~9 Non-prescription drugs may be purchased by residents capable of self-administration.

PART~~Section~~ 15 – Medical Services, THERAPEUTIC SERVICES, and EQUIPMENT, Supplies, AND ASSISTIVE TECHNOLOGY

15.1 The governing body shall establish and the administrator shall implement WRITTEN policies and procedures for medical ~~and health~~ services AND THERAPEUTIC SERVICES based on documented applicable standards of practice.

15.2 Medical SERVICES, ~~treatment~~ THERAPEUTIC SERVICES, ~~and~~diagnostic services, EQUIPMENT, AND ASSISTIVE TECHNOLOGY shall be provided in a timely manner as ordered by the AUTHORIZED, licensed prescriber.

15.3 Each resident shall have a primary care ~~physician or other qualified licensed~~ practitioner designated to coordinate THE resident's care.

15.4 A RECORD OF ALL PRESCRIBED MEDICAL SERVICES OR THERAPEUTIC SERVICES SHALL BE MAINTAINED AS PART OF THE RESIDENT RECORD.

Commented [A62]: Copied from 16.1(D) and modified.

15.5 CHANGES IN RESIDENT'S PHYSICAL CONDITION SHALL BE REPORTED TO THE NURSE. FOLLOWING THE NURSE'S ASSESSMENT, THE FACILITY SHALL ENSURE THE PRIMARY CARE PRACTITIONER IS NOTIFIED IN A TIMELY MANNER AND OTHERS IN ACCORDANCE WITH FACILITY POLICY.

Commented [A63]: Modified and moved from 15.10

15.6 THE GOVERNING BODY SHALL DEVELOP AND THE ADMINISTRATOR OR DESIGNEE SHALL IMPLEMENT A WRITTEN POLICY FOR MONITORING EACH RESIDENT'S WEIGHT. THE POLICY SHALL INCLUDE:

Commented [A64]: 15.6 and 15.6 (B) and (C) were moved and slightly modified from current 15.11

(A) FOR THE PURPOSES OF THIS RULE, A SIGNIFICANT WEIGHT CHANGE IS A FIVE PERCENT (5%) CHANGE IN ONE (1) MONTH, SEVEN AND A HALF PERCENT (7.5%) CHANGE IN THREE (3) MONTHS, OR TEN PERCENT (10%) CHANGE IN SIX (6) MONTHS. A SERIOUS WEIGHT CHANGE IS ABOVE THOSE PERCENTAGES IN THE SAME TIMEFRAMES.

Commented [A65]: (A) is new language

(B) WEIGHT MONITORING SHALL BE DOCUMENTED AND PROMPTLY ASSESSED FOR SIGNIFICANT/SERIOUS WEIGHT CHANGES.

(C) THE FACILITY SHALL PROMPTLY NOTIFY THE PRIMARY CARE OR OTHER APPROPRIATE PRACTITIONER WHEN SIGNIFICANT/SERIOUS WEIGHT CHANGES OCCUR AND DOCUMENT THIS NOTIFICATION IN THE PATIENT RECORD.

15.7 MEDICAL SERVICES

(A) THE FACILITY SHALL ARRANGE FOR A MEDICAL EVALUATION OF EACH RESIDENT ON AN ANNUAL BASIS UNLESS A GREATER OR LESSER FREQUENCY IS SPECIFIED BY THE PRIMARY CARE PRACTITIONER DESIGNATED TO COORDINATE RESIDENT'S CARE. IF IT IS DETERMINED AN ANNUAL EVALUATION IS NOT NEEDED, A MEDICAL EVALUATION SHALL BE CONDUCTED AT LEAST EVERY TWO (2) YEARS. THE FACILITY SHALL DOCUMENT THE RESULTS OF SUCH EVALUATIONS AND ANY REQUIRED FOLLOW-UP SERVICES.

Commented [A66]: Moved from 15.6 and word "licensed" is added

(B) THE FACILITY SHALL ASSIST EACH RESIDENT IN OBTAINING AN ANNUAL DENTAL EXAMINATION. IF THE DENTIST DETERMINES THAT AN ANNUAL EXAMINATION IS UNNECESSARY, A DENTAL EXAMINATION SHALL BE CONDUCTED AT LEAST EVERY TWO (2) YEARS. THE FACILITY SHALL DOCUMENT THE PRESCRIBED FREQUENCY, RESULTS OF ALL DENTAL EXAMINATIONS, AND ANY REQUIRED FOLLOW-UP SERVICES. IF THE RESIDENT DOES NOT HAVE TEETH, AN ORAL EXAMINATION BY A PRACTITIONER MAY BE SUBSTITUTED FOR THE DENTAL EXAMINATION AND THE FREQUENCY AND DOCUMENTATION REQUIREMENTS IN THIS RULE SHALL APPLY TO SUCH ORAL EXAMINATIONS.

Commented [A67]: Moved from 15.4 with new final sentence added

(C) OTHER MEDICAL AND DENTAL SERVICES AND FOLLOW-UP SHALL BE OBTAINED AS ORDERED BY THE PRIMARY CARE OR OTHER PRACTITIONER AND SHALL BE DOCUMENTED IN THE RESIDENT RECORD.

Commented [A68]: Moved from current 15.5 with minor edits

15.8 THERAPEUTIC SERVICES

(A) FOR THE PURPOSE OF THIS CHAPTER 8, THE TERM THERAPEUTIC SERVICES SHALL INCLUDE, BUT NOT BE LIMITED TO, PHYSICAL THERAPY, OCCUPATIONAL THERAPY, SPEECH AND LANGUAGE THERAPY, AND SIMILAR SERVICES.

(B) THE FACILITY SHALL ENSURE THAT ALL THERAPEUTIC SERVICES UTILIZED BY RESIDENTS ARE PROVIDED BY PERSONS OR FACILITIES THAT ARE LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW TO PROVIDE SUCH THERAPIES AND MEET THE APPLICABLE STANDARDS OF PRACTICE.

Commented [A69]: Moved from 15.7

(1) UNLICENSED STAFF MAY PROVIDE THERAPEUTIC SERVICES ONLY IF SUCH STAFF HAS BEEN TRAINED BY A PERSON LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW TO PROVIDE SUCH THERAPIES.

Commented [A70]: Moved from 15.7 (A) and modified

(A) THE FACILITY SHALL DOCUMENT THE NAME AND PROFESSIONAL TITLE OF THE PERSON PROVIDING SUCH TRAINING AND THE CONTENT OF SUCH TRAINING.

Commented [A71]: (a) and (b) are new language

(B) THE FACILITY SHALL DOCUMENT THE THERAPEUTIC SERVICE TRAINING RECEIVED BY UNLICENSED STAFF AND HAVE SUCH DOCUMENTATION READILY ACCESSIBLE.

(2) UNLICENSED STAFF MAY PROVIDE THERAPEUTIC SERVICES ONLY WHEN A PROTOCOL WITH SPECIFIC INSTRUCTIONS FOR PROVIDING SUCH THERAPIES IS DOCUMENTED.

Commented [A72]: New language

(3) ALL THERAPEUTIC SERVICES PROVIDED BY TRAINED, UNLICENSED STAFF SHALL BE SUPERVISED AND MONITORED AT LEAST QUARTERLY. SUCH SUPERVISION AND MONITORING SHALL BE DOCUMENTED IN THE RESIDENT FILE AND INCLUDE:

Commented [A73]: Moved from 15.7(B) and modified

(A) REVIEWING TO ENSURE SERVICES ARE BEING PROVIDED AS PRESCRIBED; AND

Commented [A74]: (a) and (b) are new language

(B) ENSURING THAT THE INDIVIDUAL PROVIDING THE SERVICE DOCUMENTED THE SERVICE AT THE TIME THE SERVICE WAS PROVIDED.

(4) ALL THERAPEUTIC SERVICES PROVIDED BY TRAINED, UNLICENSED STAFF SHALL BE SUPERVISED AND MONITORED ANNUALLY BY A PERSON LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW TO PROVIDE SUCH SERVICES.

Commented [A75]: Moved from 15.7(B) and modified

15.9 EQUIPMENT, SUPPLIES, AND ASSISTIVE TECHNOLOGY

(A) RESIDENTS WHO USE WHEELCHAIRS, ADAPTIVE EQUIPMENT, OR OTHER ASSISTIVE TECHNOLOGY SERVICES SHALL RECEIVE PROFESSIONAL REVIEWS AT THE PRESCRIBED OR RECOMMENDED FREQUENCY TO ENSURE THE CONTINUED APPLICABILITY AND FITNESS OF SUCH DEVICES. SUCH REVIEWS SHALL BE DOCUMENTED IN THE RESIDENT RECORD.

Commented [A76]: Modified from 15.8

(B) WHEELCHAIRS AND OTHER ASSISTIVE TECHNOLOGY DEVICES SHALL BE MAINTAINED ACCORDING TO THE MANUFACTURER'S GUIDELINES.

Commented [A77]: Moved from 15.9

~~15.4 The facility shall assist each resident in obtaining an annual dental examination. If the dentist determines that an annual examination is unnecessary, a dental examination shall be conducted at least every two (2) years. The facility shall document the prescribed frequency, results of all dental examinations and any required follow-up services.~~

Commented [A78]: 15.4 modified and reorganized into 15.7 above.

~~15.5 Other medical, dental, and therapeutic assessments, services, and follow-up shall be obtained as ordered by the primary care physician or other authorized, licensed practitioner.~~

Commented [A79]: 15.5 modified and reorganized into 15.7

~~15.6 The facility shall arrange for a medical evaluation of each resident on an annual basis unless a greater or lesser frequency is specified by the primary care physician or other licensed,~~

Commented [A80]: Modified and reorganized into 15.7

~~authorized practitioner designated to coordinate resident's care. If it is determined an annual evaluation is not needed, a medical evaluation shall be conducted at least every two (2) years. The facility shall document the results of such evaluations and any required follow-up services.~~

~~15.7 The facility shall ensure that all therapeutic and health services utilized by residents are provided by persons or facilities that are licensed, certified, or otherwise authorized by law to provide such services and meet the applicable standards of practice.~~

Commented [A81]: Modified and reorganized into new 15.8

~~(A) Therapeutic and health services may be provided by unlicensed staff only if such staff has been trained by a person licensed, certified, or otherwise authorized by law to provide such services.~~

~~(B) All therapeutic and health services provided by trained, unlicensed staff shall be supervised and monitored at least quarterly by a registered nurse and annually by a person licensed, certified or otherwise authorized by law to provide such services.~~

~~15.8 Residents who use wheelchairs or other assistive technology services shall receive professional reviews, at a prescribed or recommended frequency, to ensure the continued applicability and fitness of such devices.~~

Commented [A82]: 15.8 and 15.9 are moved to 15.9 and revised

~~15.9 Wheelchairs and other assistive technology devices shall be maintained according to the manufacturer's guidelines.~~

Commented [A83]: Moved to new 15.9 (B)

~~15.10 Except in emergency situations, changes in resident's physical condition that could negatively affect his/her health shall be reported to the nurse. Following the nurse's assessment, the nurse shall notify the primary care physician in a timely manner and others in accordance with facility policy.~~

Commented [A84]: Modified and moved to 15.4

~~15.11 The governing body shall develop, and the administrator shall implement, a policy for monitoring each resident's weight. The policy shall include the following:~~

Commented [A85]: Modified and moved to 15.6

~~(A) Weight monitoring shall be documented and promptly assessed for significant/serious weight changes.~~

~~(B) The facility shall promptly notify the primary care physician or other authorized, licensed practitioner when significant/serious weight changes occur.~~

~~15.12~~ (C) The facility shall have portable emergency equipment as necessary to meet the specific needs of the residents. If such devices are present, the facility shall ensure that all personnel are trained in the proper use of such devices.

~~15.13~~ (D) Each resident shall have dentures, eyeglasses, hearing aids, and other aids as needed and prescribed by the appropriate professional. RESIDENT REFUSAL TO USE SUCH AIDS SHALL BE DOCUMENTED IN THE RESIDENT RECORD.

~~15.14~~ (E) The facility shall have individual resident equipment and supplies necessary to meet each resident's continuing medical needs.

PART~~Section~~ 16 – Nursing SERVICES, SpecialIZED Care, and Social Services

16.1 NURSING SERVICES

(A) THE FACILITY SHALL DEVELOP AND IMPLEMENT WRITTEN NURSING POLICIES AND PROCEDURES THAT ADDRESS THE NURSING NEEDS OF THE RESIDENTS.

Commented [A86]: From 16.1(B)

(B) THE FACILITY SHALL HAVE SUFFICIENT LICENSED NURSING STAFF AVAILABLE TO RESPOND TO THE NEEDS OF THE RESIDENTS.

Commented [A87]: From 16.1(A)

16.2 SPECIALIZED CARE: A FACILITY PROVIDING SPECIALIZED CARE MUST MEET THE FOLLOWING REQUIREMENTS:

(A) FOR THE PURPOSE OF THIS CHAPTER 8, SPECIALIZED CARE INCLUDES:

Commented [A88]: Definition of specialized care was previously in rule but removed circa 2014 for unknown reasons. Lack of clarity regarding specialized care standards has been problematic for providers and difficult for surveyors.

(1) CATHETER CARE;

(2) OSTOMY CARE;

(3) TRACHEOSTOMY CARE;

(4) BREATHING TREATMENTS;

(5) OXYGEN SATURATION MONITORING;

(6) BLOOD PRESSURE MONITORING;

(7) PREVENTIVE SKIN CARE INCLUDING APPROPRIATE PRESSURE RELIEVING/REDUCING DEVICES.

(B) THERE SHALL BE A RECORD OF ANY SPECIALIZED CARE PRESCRIBED BY A PHYSICIAN OR OTHER PRACTITIONER AND/OR DELEGATED BY A REGISTERED NURSE OR LICENSED PRACTICAL NURSE.

Commented [A89]: Moved from 16.1 (D)

(C) THE PROVISION OF SPECIALIZED CARE SHALL BE DOCUMENTED BY THE STAFF PROVIDING THE SERVICE.

Commented [A90]: Moved from 16.1 (D) (3)

(D) SPECIALIZED CARE MAY BE PROVIDED BY UNLICENSED STAFF ONLY IF IT IS ALLOWED BY STATE LAW AND SUCH STAFF HAS BEEN TRAINED BY A PERSON LICENSED, CERTIFIED, OR LEGALLY AUTHORIZED TO PROVIDE SUCH SERVICES, AND THE UNLICENSED STAFF HAS BEEN DEEMED COMPETENT TO PROVIDE SUCH SERVICES THROUGH DIRECT OBSERVATION BY THE PERSON PROVIDING THE TRAINING.

Commented [A91]: Language from 16.1 (D) (1)

Commented [A92]: The second half of the sentence is new language.

(1) ALL SPECIALIZED CARE PROVIDED BY TRAINED, UNLICENSED STAFF SHALL BE MONITORED BY A REGISTERED NURSE OR LICENSED PRACTICAL NURSE IN ACCORDANCE WITH THEIR PRACTICE ACT, BUT NO LESS THAN QUARTERLY, AND ANNUALLY BY A PERSON LICENSED, CERTIFIED, OR LEGALLY AUTHORIZED TO PROVIDE SUCH SERVICES. SUCH MONITORING SHALL BE DOCUMENTED IN THE RESIDENT FILE AND INCLUDE:

Commented [A93]: From 16.1 (D) (2)

(A) OBSERVING THE UNLICENSED STAFF PERFORMING THE SPECIALIZED CARE TO ENSURE ONGOING COMPETENCY TO PROVIDE SUCH SERVICE;

Commented [A94]: Modified from 16.1 (C)

(B) REVIEWING TO ENSURE CARE IS BEING PROVIDED AS PRESCRIBED; AND

Commented [A95]: New

(C) ENSURING APPROPRIATE DOCUMENTATION OF CARE BY THE INDIVIDUAL PROVIDING THE SERVICE, AT THE TIME THE SERVICE WAS PROVIDED.

Commented [A96]: new

~~16.1 Nursing Services~~

~~(A) The facility shall have sufficient licensed nursing staff available to respond to the needs of the residents.~~

Commented [A97]: Moved to 16.2

~~(B) The facility shall have written nursing policies and procedures that address the nursing needs of the residents. and ensure that NURSING services are provided in accordance with the needs of each resident.~~

~~(C) Nursing staff shall monitor the care and treatment provided by unlicensed staff to ensure that unlicensed staff members are trained and demonstrate competency in all procedures they perform. Changes in condition or needs shall be reported to the registered nurse or primary care provider.~~

~~(D) There shall be a record of any care or treatment therapies prescribed by a physician or other authorized, licensed practitioner, or delegated by a registered nurse.~~

~~(1) Care may be provided by unlicensed staff only if it is allowed by state law and such staff has been trained by a person licensed, certified, or legally authorized to provide such services.~~

~~(2) All care provided by trained, unlicensed staff shall be monitored at least quarterly by a registered nurse and annually by a person licensed, certified, or legally authorized to provide such services.~~

~~(3) The provision of services shall be documented by the staff providing the service.~~

16.~~2~~3 Social Services ~~and/or Resource Coordination~~:

~~(A)~~ The facility shall provide appropriate social services and/or ~~resource~~CARE coordination to residents and families, and consultation to the staff.

PART~~Section~~ 17 – Gastrostomy Services

17.1 Gastrostomy services shall not be administered by an unlicensed individual unless that individual is trained and supervised by a licensed physician, nurse, or other ~~authorized, licensed~~ practitioner.

17.2 The facility shall ensure that a physician, licensed nurse, or other ~~authorized, licensed~~ practitioner has developed a written, individualized gastrostomy service protocol for each resident requiring such service, AND THAT THE PROTOCOL IS UPDATED EACH TIME THE ORDERS CHANGE FOR THAT RESIDENT'S GASTROSTOMY SERVICES. Each protocol shall include, but not be limited to~~, the following~~:

(A) The proper procedures for preparing, storing, and administering nutritional supplements through a gastrostomy tube~~;~~, INCLUDING BUT NOT LIMITED TO:

(1) THE TYPE OF GASTROSTOMY TUBE USED BY THE RESIDENT;

(2) A LIST OF ALL EQUIPMENT AND MATERIALS REQUIRED FOR THE PROCEDURE;

(3) THE POSITION OF THE RESIDENT DURING AND AFTER FEEDING;

(4) PROCEDURES FOR CLEANING THE GASTROSTOMY SITE AND SURROUNDING SKIN;

(5) PROCEDURES FOR CLEANING THE GASTROSTOMY EQUIPMENT; AND

(6) INSTRUCTIONS FOR DOCUMENTING THE PROCEDURE.

(B) The ~~proper~~ ROUTINE care and maintenance of the EXTERNAL gastrostomy site;

Commented [A98]: Moved to 16.1

Commented [A99]: Moved to 16.2 and redundant

Commented [A100]: Modified and moved to 16.2

Commented [A101]: Deleted, duplicative of the original 15.10

Commented [A102]: Moved to 16.4(B) with modification

Commented [A103]: Added to reflect similar requirement at HCPF 8.614A.1.

(C) The identification of possible problems associated with gastrostomy services~~;~~ and THE EXTENT TO WHICH AN UNLICENSED INDIVIDUAL MAY ADDRESS THE PROBLEM, INCLUDING, BUT NOT LIMITED TO:

(1) NOTIFICATION TO LICENSED STAFF AND/OR PROVIDERS REGARDING CHANGES IN THE GASTROSTOMY SITE;

(2) SIGNS OF INFECTION;

(3) PROCEDURES TO FOLLOW WHEN THE RESIDENT EXPERIENCES COUGHING, NAUSEA, OR VOMITING;

(4) LEAKAGE AROUND THE STOMA; AND

(5) PROCEDURES TO FOLLOW WHEN A GASTROSTOMY TUBE HAS BEEN DISLODGED OR PULLED OUT.

(A) UNLICENSED INDIVIDUALS MAY NOT REINSERT A GASTROSTOMY TUBE, EXCEPT THAT AN UNLICENSED INDIVIDUAL MAY TAKE ACTIONS AS DIRECTED/DELEGATED BY A LICENSED PROVIDER IN AN EMERGENT SITUATION IF THE RESIDENT IS AT RISK OF STOMA SITE CLOSURE.

(D) The names and contact numbers of the resident's physician, licensed nurse, or other ~~authorized, licensed~~ practitioner who is responsible for monitoring the unlicensed person(s) performing gastrostomy services and intervening, if problems are identified.

17.3 The facility shall ensure that a physician, licensed nurse, or other ~~authorized, licensed~~ practitioner provides training to any unlicensed individual who may provide gastrostomy services. Documentation of the training shall be kept in the resident's record and shall include:

(A) The date or dates of when the training occurred~~,~~;

(B) Indication that the unlicensed individual has reached proficiency which is defined as performing all aspects of the resident's protocol without error three (3) consecutive times; and

(C) The signature of the physician, licensed nurse, or other authorized, licensed practitioner that provided the training and observed the three (3) trials.

17.4 The facility shall ensure that a physician, licensed nurse, or other ~~authorized, licensed~~ practitioner performs the gastrostomy services for each resident receiving gastrostomy services at least once prior to the unlicensed person providing the services.

17.5 For unlicensed persons performing gastrostomy services for several residents with similar protocols, the PHYSICIAN, LICENSED NURSE, OR OTHER PRACTITIONER ~~licensed nurse or physician~~ overseeing their training may document their proficiency with less than three (3) observations for each resident receiving services. The alternative method for establishing the proficiency of each staff member shall be documented.

17.6 The facility shall ensure that the physician, licensed nurse, or other ~~authorized, licensed~~ practitioner observes and documents the unlicensed staff performing gastrostomy services for each resident at least quarterly for the first year and semi-annually thereafter, unless more frequent monitoring is appropriate. SUCH MONITORING SHALL BE DOCUMENTED IN THE RECORD OF THE INDIVIDUAL RECEIVING GASTROSTOMY SERVICES.

Commented [A104]: This is a requirement at 10 CCR 2505-10 8.614A.2

Commented [A105]: Required by 10 CCR 2505-10 8.614A.3.

Commented [A106]: Required by 10 CCR 2505-10 8.614B

Commented [A107]: Required by 10 CCR 2505-10 8.614C

17.7 When changes are made to the written order for gastrostomy services and/or in the resident's protocol, the facility shall ensure that the physician, licensed nurse, or other ~~authorized, licensed~~ practitioner that provides the training determines the extent of training that the unlicensed person will need to remain proficient in performing all aspects of the gastrostomy services. IF CHANGES IN PROTOCOLS OCCUR, THE FACILITY SHALL DOCUMENT TRAINING AND COMPETENCY OF UNLICENSED STAFF ON THE NEW PROTOCOL.

Commented [A108]: Required by 10 CCR 2505-10 8.614D

17.8 The facility shall ensure that the primary care ~~physician~~ PRACTITIONER OR ORDERING PHYSICIAN annually reviews and approves the protocol for EACH resident~~(s)~~ receiving gastrostomy services.

17.9 For each resident, the facility shall ensure the FOLLOWING documentation FOR EACH GASTROSTOMY SERVICE PROVIDED TO THE RESIDENT IS INCLUDED in the resident's record: ~~includes, at a minimum:~~

(A) A written record of each nutrient and fluid administered;

(B) The beginning and ending time of nutrient or fluid intake;

(C) The amount of nutrient or fluid intake;

Commented [A109]: This is a requirement of 10 CCR 2505-10 8.614

(D) The condition of the skin surrounding the gastrostomy site;

(E) Any problem(s) encountered and action(s) taken; AND

(F) The date and signature of the person performing the procedure.

PART~~Section~~ 18 – Facility Reporting Requirements

18.1 Each facility shall comply with the occurrence reporting requirements set forth in 6 CCR 1011-1, Chapter 2, Part 4.2.

18.2 Each facility shall notify the Department ~~program manager~~ within 48 hours of the relocation of one or more residents due to any portion of the facility becoming uninhabitable for any reason, including, but not limited to, fire or other disaster.

18.3 In the event of a voluntary closure of a facility, such facility shall notify the Department 30 days prior to closure and submit a plan for resident transfer at that time. The resident transfer plan shall include, at a minimum~~, the following~~:

(A) Notice to the residents, families, and guardians~~.~~;

(B) Schedule for the residents' moves~~.~~;

(C) Staffing pattern during the 30 days prior to closure; and

(D) Provisions for ensuring the health and safety of residents during the closure.

PART~~Section~~ 19 – Emergency MANAGEMENT Plan AND PROCEDURES

19.1 THE GOVERNING BODY SHALL ENSURE THAT AN EVALUATION OF RISKS TO THE FACILITY IS COMPLETED USING AN ALL HAZARDS APPROACH. THIS EVALUATION MUST ADDRESS NATURAL AND HUMAN-CAUSED CRISES. SUCH AN EVALUATION OF RISKS SHALL BE REVIEWED AT LEAST ANNUALLY AND UPDATED AS NECESSARY, AND SHALL INCLUDE, BUT NOT BE LIMITED TO:

~~19.1 The governing body shall develop, and the administrator shall implement and update as necessary, an emergency preparedness plan that addresses the facility's response and staff duties in the following emergencies:~~

(A) Fire;~~.~~

(B) Severe weather, including but not limited to tornados, blizzards, and flooding~~.~~;

(C) Security threats, INCLUDING THREATENED OR ACTUAL ACTS OF VIOLENCE;~~.~~

(D) GAS LEAKS/~~E~~Explosions;~~.~~

(E) Internal system failures, such as: electrical outages,~~ and~~ internal structural collapse, or flooding; AND~~.~~

(F) ~~Communicable disease outbreaks.~~ BIOTERROR, PANDEMIC, OR DISEASE OUTBREAK EVENTS.

19.2 THE ADMINISTRATOR SHALL DEVELOP AND IMPLEMENT A WRITTEN EMERGENCY MANAGEMENT PLAN ADDRESSING THE HAZARDS IDENTIFIED IN PART 19.1, ABOVE, AND INCLUDING, AT A MINIMUM:

(A)~~19.2 The emergency plan shall specify a~~Arrangements for alternative housing, transportation, and the provision of necessary medical care if a resident's PRIMARY CARE PRACTITIONER~~physician~~ is not immediately available~~.~~;

(B)~~19.3 The administrator shall develop p~~Procedures that ensure notification of families or guardians in an emergency~~.~~;

(C) PROCEDURES FOR ADDRESSING INTERRUPTIONS IN THE NORMAL SUPPLY OF ESSENTIALS, INCLUDING, BUT NOT LIMITED TO: WATER, FOOD, HEAT/AIR CONDITIONING AND VENTILATION, MEDICATIONS, AND PERSONAL PROTECTIVE EQUIPMENT (PPE). THE PLAN SHALL ENSURE CONTINUATION OF OPERATIONS FOR AT LEAST 72 HOURS;

(D) PROCESSES ENSURING THE PROTECTION AND TRANSFER OF RESIDENT INFORMATION, AS NEEDED; AND

(E) ROUTINE DRILLS TO ENSURE STAFF AND RESIDENT FAMILIARITY WITH EMERGENCY PROCEDURES, AS APPROPRIATE, INCLUDING:

(1) FIRE DRILLS IN ACCORDANCE WITH STATE AND LOCAL LAWS AND REGULATIONS, BUT NO LESS THAN QUARTERLY; AND

(2) AN ANNUAL MOCK EXERCISE THAT ADDRESSES ALL THE ITEMS LISTED IN PART 19.1.

19.3~~4~~ ~~The administrator shall document that orientation and training in emergency procedures has been provided for each new staff member and each newly admitted resident capable of self-preservation. Training shall occur within seven (7) working days of employment or admission to the community residential home.~~ THE ADMINISTRATOR SHALL ENSURE TRAINING IN EMERGENCY PROCEDURES AS FOLLOWS:

(A) EACH NEW STAFF MEMBER OR VOLUNTEER SHALL BE TRAINED IN EMERGENCY PROCEDURES PRIOR TO PROVIDING UNSUPERVISED RESIDENT CARE.

(B) EACH RESIDENT CAPABLE OF SELF-EVACUATION SHALL BE TRAINED IN EMERGENCY PROCEDURES WITHIN SEVEN (7) DAYS OF MOVING INTO THE FACILITY.

(C) SUCH TRAINING SHALL BE DOCUMENTED IN EITHER THE PERSONNEL FILE OR RESIDENT RECORD, AS APPLICABLE.

Commented [A110]: Modified from below, to acknowledge standards that exist elsewhere, such as DFPC.

Commented [A111]: A documented annual mock exercise

Commented [A112]: Also added to Part 7, training for the documentation requirement--

19.45 The facility shall conduct and document a monthly ~~paper~~ review of its response to the items listed in PART~~Section~~ 19.1 of this chapter including its policies and procedures and training of staff and residents.

~~19.6 The facility shall conduct and document quarterly fire drills and an annual mock exercise that addresses all the items listed in Section 19.1 of this chapter.~~

Commented [A113]: Moved to 19.3(E)

~~Section 20 – Reserved~~

PART~~Section~~ 210 – Compliance with FGI Guidelines

Any construction or renovation of a facility for persons with intellectual and developmental disabilities ~~initiated on or after July 1, 2020,~~ shall conform to Part 3 of 6 CCR 1011-1, Chapter 2, unless otherwise specified in this current ~~C~~chapter.

PART~~Section~~ 221 – Physical Environment

221.1 The facility shall maintain a home-like environment that is clean, sanitary, and free of hazards to health and safety.

221.2 All interior areas including basements and garages shall be safely maintained to protect against environmental hazards.

221.3 All exterior areas shall be safely maintained to protect against environmental hazards including, but not limited to~~, the following~~:

(A) Exterior premises shall be kept free of high weeds and grass, garbage, and rubbish.

(B) Grounds shall be maintained to prevent hazardous slopes, holes, snow, ice, or other potential hazards.

(C) Staircases and porches shall be kept in good repair.

221.4 Compliance with State and Local Laws/Codes.

(A) Facilities shall be in compliance with all applicable zoning regulations of the municipality, city and county, or county where the home is situated. Failure to comply with applicable zoning regulations shall constitute grounds for the denial of a license to a home consistent with Section 27-10.5-109.5, C.R.S.

(B) Facilities shall be in compliance with all applicable state and local plumbing laws and regulations. Plumbing shall be maintained in good repair, free of the possibility of backflow and backsiphonage, through the use of vacuum breakers and fixed air gaps, in accordance with state and local codes.

(C) Facilities shall be in compliance with all applicable state and local sewage disposal requirements. Sewage shall be discharged into a public sewer system or disposed of in a manner approved by state and local health authorities in compliance with the Water Quality Control Division's Guidelines on Individual Sewage Disposal Systems, 5 CCR ~~1003-6~~1002-43.

221.5 ~~Electrical equipment/devices~~

~~(A) Reserved~~

~~(B) Reserved~~

~~(C) A heating pad or electric blanket shall not be used in a resident room without both staff supervision and documentation that the administrator believes the resident to be capable of appropriate and safe use.~~

~~(D)~~ Electric or space heaters shall not be permitted within resident bedrooms and may only be used in common areas of the facility if owned, provided, and maintained by the facility.

22.1.6 Waste Disposal/Combustibles

(A) All interior areas shall be free from accumulations of extraneous materials such as refuse, discarded furniture, and old newspapers.

(B) Combustibles, such as cleaning rags and compounds, shall be kept in closed metal containers.

(C~~D~~) Kerosene heaters shall not be permitted within the facility.

(D~~E~~) All garbage and rubbish not disposed of as sewage shall be collected in impervious containers in such manner that it is not a nuisance or health hazard~~,~~ and shall be removed to an approved storage area at least once a day. The refuse and garbage storage area shall be kept clean and free from nuisance. The facility shall have a sufficient number of impervious containers with tight fitting lids that shall be kept clean and in good repair.

(E~~F~~) Carts used to transport refuse shall be enclosed, constructed of impervious materials, used solely for refuse, and maintained in a sanitary manner.

(F~~G~~) Incinerators shall comply with state and local air pollution regulations and be constructed in a manner that prevents insect and rodent occupation.

(G~~H~~) If private sewage disposal systems are used, system design plans and records of maintenance shall be kept on the premises and available for inspection.

(H~~I~~) No exposed sewer line shall be located directly above working, storage, or eating surfaces in kitchens, dining rooms, pantries, or where medical supplies or drugs are prepared or stored.

22.1.7 Infestation and hazardous substances

(A) The facility shall be maintained free of infestation of insects and rodents, and all openings to the outside shall be screened.

(B) The facility shall have a pest control program AS NEEDED, provided by maintenance personnel or by contract with a pest control company, using the least toxic and least flammable effective pesticides.

~~(1) If kept onsite, the pesticides shall be labeled and kept in a locked space away from resident or food areas.~~

(C) Solutions, cleaning compounds, PESTICIDES, and OTHER hazardous substances shall be labeled and stored in a safe manner.

22.1.8 Heating, Lighting, Ventilation

(A) Each room in the facility shall have heat, lighting, and ventilation sufficient to accommodate its use and the needs of the residents.

(B) All interior and exterior steps, interior hallways, and corridors shall be adequately illuminated.

(C) Intermediate Care Facilities for Persons with Developmental Disabilities submitting an initial license application after May 1, 2011, shall have nightlights that are controlled at the door of the bedroom.

22~~2~~1.9 Water

(A) There shall be an adequate supply of safe, potable water available for domestic purposes.

(B) Water temperatures shall be maintained at comfortable temperatures. Hot water shall not measure more than 110 degrees Fahrenheit at taps that are accessible by residents.

(C) There shall be a sufficient supply of hot water during peak usage demands.

22~~2~~1.10 Common Areas

(A) If the facility has one or more residents using a wheelchair, it shall provide a minimum of two entryways for wheelchair access and egress from the building.

(B) The facility shall provide common areas that are sufficient to reasonably accommodate all residents.

(C) The facility shall provide furnishings in all common areas that meet the needs of the residents and are in good repair.

(D) All common areas and dining areas shall be accessible to residents utilizing an auxiliary aid without requiring transfer from a wheelchair to walker or from a wheelchair to a regular chair for use in dining areas. All doors to those rooms requiring access shall be at least 32 inches wide.

(E) Residents shall be allowed free use of all common living areas with due regard for privacy, personal possessions, and safety of all residents.

(F) The facility shall have liquid soap and paper towels available in the common bathrooms of the facility.

22~~2~~1.11 Bedrooms

(A) THE FACILITY SHALL ENSURE THAT EACH RESIDENT RESIDES IN ~~No resident shall be assigned to any room other than~~ a regularly designated bedroom.

(B) ~~Effective May 1, 2011, a~~All bedrooms shall meet the following square footage requirements:

(1) Single occupancy bedrooms shall have at least 100 square feet.

(2) Double occupancy bedrooms shall have at least 80 square feet per person.

(3) Bathroom areas and closets shall not be included in the determination of square footage.

(C) The facility shall provide each resident with a clean comfortable mattress, maintained in a sanitary condition.

(D) Resident bedrooms shall contain furnishings that meet the needs of the resident.

(E) Each bedroom shall have adequate storage space or closets for a resident's clothing and personal articles.

(F) Each bedroom shall have at least one window of eight (8) square feet, which shall have opening capability. All escape windows shall be maintained unobstructed on the interior and exterior of the facility.

(G) The ground level outside of any basement resident bedroom shall be maintained at or below the window sill for a distance of at least eight feet measured out from the window.

22~~2~~1.12 Bathrooms

(A) A full bathroom shall consist of at least the following fixtures: toilet, hand washing sink, toilet paper dispenser, mirror, tub or shower, and towel rack.

(B) The facility shall ensure compliance with the following criteria regarding the number of bathrooms per residents:

(1) The ~~community residential~~ GROUP home shall provide toilet and bathing facilities appropriate in number, size, and design to meet the needs of the residents,

(2) There shall be at least one full bathroom for every four (4) residents, and

(3) ~~Community residential~~GROUP homes utilizing more than one level or floor for resident services and/or sleeping rooms shall have at least one full bathroom per floor.

(C) The facility shall ensure the following accessibility criteria:

(1) There shall be at least one bathroom adjacent to the common living space that is available for resident use.

(2) In any facility that is occupied by one or more residents utilizing an auxiliary aid, the facility shall provide at least one full bathroom as defined herein with fixtures positioned so as to be fully accessible to any resident utilizing an auxiliary aid.

(D) The facility shall ensure each bathroom has the following safety features:

(1) Non-skid surfaces on all bathtub and shower floors;~~,~~

(2) Grab bars properly installed at each tub and shower, adjacent to each toilet, and as otherwise indicated by the needs of the resident population;~~,~~ and

(3) Toilet seats constructed of non-absorbent material and free of cracks.

(E) The facility shall ensure that each resident is furnished with personal hygiene and care items.

22~~2~~1.13 Housekeeping, Linen, and Laundry

(A) Each facility shall establish organized housekeeping services that are planned and performed to provide a pleasant, safe, and sanitary environment.

(B) The facility shall either contract with a commercial laundry or maintain its own laundry that meets the following criteria:

(1) All laundry equipment shall be designed and installed to comply with state and local laws and possess appropriate safety devices.

(2) Laundry operations shall be located in an area that is separated from resident care units.

(3) The laundry procedures shall be performed in such a way that soiled linen and resident clothing emerge clean and free of detergents according to ~~the laundry~~ manufacturer instructions.

(4) Soiled laundry shall be processed frequently enough to prevent unsanitary accumulations.

(5) The temperature of the water during the washing and rinsing process shall BE based upon the recommendations of the laundry detergent and the items being laundered.

(C) There shall be a resident linen supply consisting of at least two complete changes times the number of resident beds. All linens shall be maintained in good repair.

(D) Bed linens shall be changed as often as necessary~~,~~ but in no case less than once a week.

(E) The facility shall have a SECURED maintenance area separated from living quarters with adequate floor storage area that is equipped with~~ the following~~:

(1) ~~A hook strip for mop handles from which soiled mop heads have been removed~~STORAGE SPACE FOR HOUSEKEEPING EQUIPMENT, SUPPLIES, AND CHEMICALS;

(2) ~~Shelving for cleaning materials~~AN AREA FOR HANDLING CHEMICALS;

(3) Hand washing ~~tools~~ SUPPLIES; ~~and~~

(4) A waste receptacle with impervious liner~~.~~; AND

(5) For facilities with more than eight (8) beds, the ~~maintenance closet~~ SECURED MAINTENANCE AREA shall also contain a sink (preferably depressed or floor mounted) with mixing faucet.

COLORADO
Board of Health
Department of Public Health & Environment

Notice of Public Rule-Making Hearing November 17, 2021

NOTICE is hereby given pursuant to the provisions of Section 24-4-103, C.R.S., that the Colorado Board of Health will conduct a public rule-making hearing on November 17, 2021 at 10 a.m remotely via Zoom to consider the amendments to 6 CCR 1011-1 Chapter 8, Facilities for Persons with Intellectual and Developmental Disabilities. The amendments are proposed by the Health Facilities and Emergency Medical Services Division of the Colorado Department of Public Health and Environment pursuant to Sections 25-1.5-103, 25-3-101, 25-1.5-301, and 25.5-10-218 through 225, C.R.S.

The agenda for the meeting and the proposed repeal will also be available on the Board's website, https://cdphe.colorado.gov/board-of-health at least seven (7) days prior to the meeting. The proposed rule, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available for inspection at the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 at least five working days prior to the hearing. Copies of the proposed rules may be obtained by contacting the Colorado Department of Public Health and Environment, Health Facilities and Emergency Medical Services Division, 4300 Cherry Creek Drive S., Denver, CO 80246, 303-692-2836.

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments. Written testimony is encouraged; oral testimony will be received only to the extent the Board finds it necessary. For those that are permitted to provide oral testimony, the time may be limited to 3 minutes or less. Testimony is limited to the scope of the rulemaking hearing. Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rulemaking hearing. Written testimony must be received by 5:00 p.m., Thursday, November 11, 2021. Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Board of Health 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

Dated this 16th day of September, 2021.

Alexandra S. Haas
Alexandra Haas
Board of Health Administrator

Notice of Proposed Rulemaking

Tracking number

2021-00608

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Workers' Compensation

CCR number

7 CCR 1101-3

Rule title

WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES

Rulemaking Hearing

Date

11/01/2021

Time

10:00 AM

Location

Online only - see comments for additional information

Subjects and issues involved

This proposal updates the rules governing requirements to obtain and maintain insurance coverage

Statutory authority

8-47-107

Contact information

Name

DAVID W GALLIVAN

Title

Manager of Legislative and Policy Affairs

Telephone

3033188723

Email

david.gallivan@state.co.us

Rule 3 Insurance Coverage

3-1 REPORTING REQUIREMENTS FOR INSURANCE CARRIERS AND EMPLOYERS

(A) The Division designates the National Council on Compensation Insurance, Inc. (NCCI) as its agent to receive, process, and make available to the Division, all the required notices. Insurance carriers shall transmit this data and all other data elements in the electronic format as directed by the Division through NCCI.

(B) Every insurance carrier shall advise the Division, by filing with NCCI, notice of the issuance or renewal of insurance coverage within thirty (30) calendar days of the effective date of coverage. **THE INSURANCE CARRIER SHALL ENSURE THAT EVERY POLICY REPORTED TO NCCI INCLUDES THE CORRECT FEDERAL EMPLOYER IDENTIFICATION NUMBER ("FEIN") OR OTHER TAXPAYER IDENTIFICATION NUMBER(S) FOR EACH COVERED EMPLOYER, EMPLOYER'S BUSINESS OPERATION, CLIENT COMPANY, AND/OR EMPLOYING ENTITY.**

(C) Every insurance carrier shall advise the Division, by filing with NCCI, final notice of the cancellation of insurance coverage no later than thirty (30) calendar days after coverage is actually canceled. This subsection does not pertain to the preliminary notice of cancellation referenced in §8-44-110~~, C.R.S~~.

(D) Every employer shall provide on request to its insurance carrier all ~~federal employer identification number(s) ("FEINS")~~ **FEINS** or other taxpayer identification number(s) for all the employer's business operations, client companies, and/or any other similar employing entities, in Colorado to which the insurance applies. All changes in FEIN or other taxpayer ~~I.D.~~ **IDENTIFICATION** numbers shall be reported immediately to the insurance carrier. The insurance carrier shall report all changes in FEINS and taxpayer ~~I.D.~~ **IDENTIFICATION** numbers to NCCI within thirty (30) calendar days of receipt.

(E) EVERY INSURANCE CARRIER SHALL PROVIDE TO THE DIVISION ALL CERTIFICATES OF INSURANCE REQUESTED BY THE DIVISION, UNLESS THE INSURER DENIES COVERAGE FOR THE REQUESTED EMPLOYER, EMPLOYER'S BUSINESS OPERATION, CLIENT COMPANY, AND/OR EMPLOYING ENTITY. CERTIFICATES ISSUED TO THE DIVISION SHALL CONTAIN, AT A MINIMUM, THE EMPLOYER'S NAME, EMPLOYER'S ADDRESS, EMPLOYER'S FEIN OR OTHER TAXPAYER IDENTIFICATION NUMBER, INSURER'S NAME, INSURER'S ADDRESS, POLICY NUMBER, AND EFFECTIVE DATES OF THE POLICY. THE INSURER SHALL PROVIDE SUCH CERTIFICATE(S) OR NOTIFY THE DIVISION OF THE DENIAL OF COVERAGE WITHIN FIVE (5) DAYS OF THE REQUEST.

~~(E)~~ **(F)** For purposes of the performance of the Director's responsibilities under §8-43-409, the prehearing conference and any hearing that the Director may determine necessary ~~as referenced in §8-43-409(1),~~ may be conducted~~, as determined by the Director,~~ by any competent person appointed by the Director ~~under § 8-43-208 or § 8-47-101~~ or by ~~such~~ **ANY** other person **DESIGNATED BY** ~~as~~ the Director ~~may designate~~.

3-2 CARRIER REPRESENTATIVE

Every insurance carrier shall notify the Division's designated agent of the name, address and telephone number of its representative responsible for reporting coverage information. This information shall be provided within thirty (30) days upon request of either the Division or its agent, or within thirty (30) days of a change in the information.

3-3 SELF-INSURED EMPLOYERS

(A) Any pool authorized to self-insure shall advise the Division in writing of the effective date of self-insurance, the name and address of the pool administrator and the federal employer identification number of each covered member. This information shall be provided within thirty (30) days upon request of either the Division or its agent, or within thirty (30) days of a change in the information.

(B) All individual self-insurance permit holders shall advise the Division in writing of the federal employer identification number of the permit holder as well as of all covered subsidiaries. This information shall be provided within thirty (30) days upon request of either the Division or its agent, or within thirty (30) days of a change in the information.

3.4 UNREPORTED/ERRONEOUS POLICIES - INSURANCE CARRIERS

(A) EVERY INSURANCE CARRIER WHO FAILS TO COMPLY WITH THE REPORTING REQUIREMENTS OF PARAGRAPHS (A) THROUGH (E) OF RULE 3-1 SHALL BE SUBJECT TO PENALTIES.

(B) FOR CERTIFICATES OF WORKERS' COMPENSATION INSURANCE OR OTHER DOCUMENTATION THAT HAS BEEN RECEIVED BY THE DIVISION INDICATING POLICIES THAT HAVE NOT BEEN REPORTED BY THE INSURER TO NCCI OR POLICIES THAT CONTAIN ERRORS IN AN EMPLOYER'S IDENTIFYING INFORMATION, A LIST OF SUCH POLICIES WILL BE GENERATED BY THE DIVISION AND PROVIDED TO EACH INSURER CONTAINING ALL UNREPORTED OR INACCURATE POLICIES. THE INSURER SHALL HAVE FIFTEEN (15) DAYS FROM THE DATE THE LIST IS ISSUED TO REPORT/CORRECT EACH LISTED POLICY TO NCCI, OR PROVIDE TO THE DIVISION A WRITTEN EXPLANATION OF WHY THE POLICY CANNOT BE REPORTED/CORRECTED TO NCCI.

(C) IF, WITHIN FIFTEEN (15) DAYS FOLLOWING THE ISSUANCE OF THE DIVISION'S LIST OF UNREPORTED OR ERRONEOUS POLICIES, THE INSURER FAILS TO EITHER REPORT A LISTED POLICY TO NCCI OR PROVIDE A WRITTEN EXPLANATION TO THE DIVISION OF WHY THE POLICY CANNOT BE CORRECTED OR REPORTED TO NCCI, A DEFICIENCY NOTICE AND ORDER TO COMPLY MAY BE ISSUED TO THE INSURER FOR ALL OUTSTANDING UNREPORTED OR ERRONEOUS POLICIES. THE INSURER SHALL THEN HAVE TWENTY (20) DAYS FROM THE DATE OF ISSUANCE OF THE DEFICIENCY NOTICE AND ORDER TO COMPLY TO PERFORM ONE OF THE FOLLOWING ACTIONS:

(1) REPORT A PREVIOUSLY UNREPORTED POLICY TO NCCI.

(2) FILE A CORRECTED ENDORSEMENT WITH NCCI IN THE EVENT THE POLICY INFORMATION PREVIOUSLY SUBMITTED TO NCCI IS INCORRECT.

(3) PROVIDE A WRITTEN EXPLANATION TO THE DIVISION OF WHY THE POLICY CANNOT BE REPORTED TO OR CORRECTED WITH NCCI.

3-45 ELECTION TO REJECT COVERAGE

(A) An officer of a corporation or a member of a Limited Liability Company **("LLC")** who elects to reject **WORKERS' COMPENSATION COVERAGE** ~~the provisions of the Act under §8-41-202, C.R.S.,~~ shall complete **AND SUBMIT** the Division prescribed **REJECTION OF COVERAGE** form **TO THE DIVISION IF ALL THE COMPANY'S CORPORATE OFFICERS AND LLC MEMBERS CHOOSE TO REJECT COVERAGE AND THE CORPORATION OR LLC HAS NO EMPLOYEES OTHER THAN THE CORPORATE OFFICERS OR LLC MEMBERS. IF THE CORPORATION OR LLC HAS WORKERS' COMPENSATION INSURANCE, THE CORPORATE OFFICER(S) OR LLC MEMBER(S) SHALL SUBMIT THE DIVISION PRESCRIBED FORM OR THE INSURANCE CARRIER'S SUBSTANTIALLY**

EQUIVALENT FORM TO THE WORKERS' COMPENSATION INSURANCE CARRIER. ~~and send it or a substantial equivalent, to the insurance carrier for the corporation's or company's other employees, if any, by certified mail. An agricultural corporation electing to reject coverage for its corporate officers pursuant to §8-40-302(6), C.R.S., shall notify the insurance carrier in writing. If there is no insurance carrier, such documents shall be provided, by certified mail, to the Division.~~

(B) THE OWNER(S) OF A SOLE PROPRIETORSHIP OR PARTNERSHIP PERFORMING CONSTRUCTION WORK WHO ELECT(S) TO REJECT WORKERS' COMPENSATION COVERAGE SHALL COMPLETE AND SUBMIT THE DIVISION PRESCRIBED REJECTION OF COVERAGE FORM TO THE DIVISION IF THE SOLE PROPRIETORSHIP OR PARTNERSHIP HAS NO EMPLOYEES OTHER THAN THE OWNER(S). IF THE SOLE PROPRIETORSHIP OR PARTNERSHIP HAS WORKERS' COMPENSATION INSURANCE, SUCH OWNER(S) SHALL SUBMIT THE DIVISION PRESCRIBED FORM OR THE INSURANCE CARRIER'S SUBSTANTIALLY EQUIVALENT FORM TO THE WORKERS' COMPENSATION INSURANCE CARRIER.

~~(B)~~**(C)** The Notice of Election to Reject Coverage shall become effective the next business day following receipt of the notice by the insurance carrier or, if none, by the Division.

3-~~5~~6 NOTICES TO EMPLOYEES

(A) Every employer shall continuously post a notice to employees in one or more conspicuous places on the employer's work site advising employees that the employer is insured for workers' compensation as required by law, identifying the name of the employer's insurance carrier or stating that the employer is self-insured, and containing information about the Colorado workers' compensation system on a form prescribed or approved by the Division and furnished by the carrier or self-insured.

(B) Every employer also shall continuously post a notice to employees in one or more conspicuous places on the employer's work site advising employees that written notice must be given to an employer within 4 working days after an injury. ~~as set forth in §8-43-102(1) or (1.5), C.R.S.~~

3-~~6~~**7** FINES FOR DEFAULTING EMPLOYER

(A) Following the Director's determination that an employer has failed to obtain the required insurance or has failed to keep such insurance in force or has allowed the insurance to lapse or has failed to renew such insurance, the Director will impose fines on the defaulting employer and/or will compel the employer to cease and desist its business operations.

~~(B) For the Director's initial finding that an employer is or was in default of its insurance obligations, daily fines up to $250/day for each day of default will be assessed in accordance with the following schedule of fines until the employer complies with the requirements of the Workers' Compensation Act regarding insurance or until further order of the Director:~~

~~Class I~~	~~1-20 Days~~	~~$ 5/Day~~
~~Class II~~	~~21-25 Days~~	~~$10/Day~~
~~Class III~~	~~26-30 Days~~	~~$30/Day~~
~~Class IV~~	~~31-35 Days~~	~~$50/Day~~
~~Class V~~	~~36-40 Days~~	~~$100/Day~~

~~Class VI 41 Days > $250/Day~~

(B) FOR ANY PERIOD BEGINNING THREE YEARS PRIOR TO THE DATE THE EMPLOYER IS SENT A NOTICE TO SHOW COMPLIANCE AND WHERE SUCH EMPLOYER HAS NOT PREVIOUSLY BEEN SENT A NOTICE TO SHOW COMPLIANCE, THE DIRECTOR SHALL IMPOSE A FINE OF FIVE DOLLARS ($5.00) PER DAY FOR EACH DAY OF THE EMPLOYER'S DEFAULT UNTIL THE DATE OF ISSUANCE OF THE NOTICE TO SHOW COMPLIANCE. IF THE EMPLOYER'S DEFAULT CONTINUES AFTER THE ISSUANCE OF THE NOTICE TO SHOW COMPLIANCE, FINES SHALL BE ISSUED IN ACCORDANCE WITH THE FOLLOWING SCHEDULE UNTIL THE EMPLOYER COMPLIES WITH THE REQUIREMENTS OF THE WORKERS' COMPENSATION ACT REGARDING INSURANCE OR UNTIL FURTHER ORDER OF THE DIRECTOR:

1-10 DAYS	**$10/DAY**
11-20 DAYS	**$30/DAY**
21-30 DAYS	**$50/DAY**
31-40 DAYS	**$100/DAY**
41+ DAYS	**$250/DAY**

~~(C) Where the Director determines that an employer was required to but did not have a policy of workers' compensation insurance in place during any period between July 1, 2005 and the date the employer is sent a Notice to Show Compliance and where such employer has not previously been sent a Notice to Show Compliance, the Director may regard such violation as a Class I violation under Rule 3-6 (B) and impose the fine therein provided for each day of the employer's default during such period.~~

(C) WHERE AN EMPLOYER PROVIDES THE DIRECTOR WITH INFORMATION RELATED TO ITS ABILITY TO PAY THE FINE, THE DIRECTOR MAY, IF APPROPRIATE, MODIFY THE FINE STRUCTURE IN RULE 3-6(B).

(D) For the Director's finding of an employer's second and all subsequent defaults in its insurance obligations, daily fines from $250/day up to $500/day for each day of default will be assessed ~~in accordance with the following schedule of fines~~ until the employer complies with the requirements of the Workers' Compensation Act regarding insurance or until further order of the Director~~:~~.

~~Class VII 1-20 Days $250/Day~~

~~Class VIII 21- 25 Days $260/Day~~

~~Class IX 26-30 Days $280/Day~~

~~Class X 31-35 Days $300/Day~~

~~Class XI 36-40 Days $400/Day~~

~~Class XII 41 Days > $500/Day~~

Notice of Proposed Rulemaking

Tracking number

2021-00607

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Workers' Compensation

CCR number

7 CCR 1101-3

Rule title

WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES

Rulemaking Hearing

Date

11/01/2021

Time

10:00 AM

Location

Online only - see comments for additional information

Subjects and issues involved

This proposal will amend Rule 5-6 in light of new requirements for timely payments imposed by HB21-1050.

Statutory authority

8-47-107

Contact information

Name

David Gallivan

Title

Manager of Legislative and Policy Affairs

Telephone

3033188723

Email

david.gallivan@state.co.us

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation
7 CCR 1101-3
WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 5 Claims Adjusting Requirements

5-6 TIMELY PAYMENT OF COMPENSATION BENEFITS

(A) Benefits **AND PENALTIES** awarded by order are due ~~on the date of the order~~ **THREE (3) BUSINESS DAYS AFTER THE ORDER BECOMES FINAL**. Any ongoing benefits shall be paid consistent with statute and rule.

(B) **INITIAL PAYMENT OF** temporary disability benefits awarded by admission **SHALL BE PAID NO LATER THAN THE DATE THE ADMISSION AWARDING BENEFITS IS FILED AND** are **CONSIDERED** due **THREE (3) BUSINESS DAYS AFTER THE DATE OF THE ADMISSION.** ~~on the date of the admission and the initial payment and shall be paid so that the claimant receives the benefits not later than five (5) calendar days after the date of the admission~~. Temporary disability benefits are ~~payable~~ **DUE** at least once every two weeks thereafter from the date of the admission. **PAYMENT MAILED VIA THE UNITED STATES POSTAL SERVICE WILL BE CONSIDERED TIMELY IF POSTMARKED AT LEAST THREE (3) BUSINESS DAYS PRIOR TO THE DUE DATE AND MUST INCLUDE ALL BENEFITS OWED THROUGH THE DUE DATE.** In some instances, an Employer's First Report of Injury and admission can be timely filed, but the first installment of compensation benefits will be paid more than 20 days after the insurer has notice or knowledge of the injury. Provided the filings are timely and that benefits are timely paid for the entire period owed as of the date of the admission, the insurer will be considered in compliance. ~~When benefits are continuing, the payment shall include all benefits which are due.~~

(C) Permanent impairment benefits awarded by admission are retroactive to the date of maximum medical improvement and shall be paid so that the claimant receives the benefits not later than ~~five (5) calendar~~ **THREE (3) BUSINESS** days after the date of the admission. Subsequent permanent disability benefits ~~shall be paid~~ **ARE DUE** at least once every two weeks from the date of the admission. When benefits are continuing, the payment shall include all benefits which are due. **PAYMENT MAILED VIA THE UNITED STATES POSTAL SERVICE WILL BE CONSIDERED TIMELY IF POSTMARKED AT LEAST THREE (3) BUSINESS DAYS PRIOR TO THE DUE DATE.**

(D) An insurer shall receive credit against permanent disability benefits for any temporary disability benefits paid beyond the date of maximum medical improvement.

(E) Benefits shall be calculated based on a seven (7) day calendar week.

Notice of Proposed Rulemaking

Tracking number

2021-00634

Department

1100 - Department of Labor and Employment

Agency

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

CCR number

7 CCR 1103-1

Rule title

COLORADO OVERTIME AND MINIMUM PAY STANDARDS ORDER (COMPS ORDER) #38

Rulemaking Hearing

Date

11/01/2021

Time

03:00 PM

Location

633 17th Street, 12th Floor, Denver, CO 80202

Subjects and issues involved

These rules amend the prior version of COMPS (Order #37, 2021), Colorados broad set of wage and hour rules, as follows (in addition to certain non-substantive edits):

(A) removing annually or otherwise periodically adjusted pay and income figures e.g., Colorado minimum wages, and minimum earnings levels for various full or partial labor law exemptionsfrom the various COMPS provisions where each has appeared, and replacing them with references to the PAY CALC Order (described above), which now consolidates all such figures;

(B) adding an exemption for highly compensated employees not covered by other existing exemptions, substantially similar to the exemption under the federal Fair Labor Standards Act;

(C) adding rules on minimum wages, overtime and maximum hours protections, and meal and rest periods for agricultural employees, pursuant to the Colorado Senate Bill 21-87 requirements that agricultural employees be provided such rights, and that the Division promulgate rules accordingly; and

Statutory authority

Articles 1, 4, and 6 of Title 8, C.R.S. (2020), and all rules, regulations, investigations, and other proceedings of any kind pursued thereunder, by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of Articles 1, 4, and 6, including C.R.S. §§ 8-1-101, 8-1-103, 8-1-107, 8-1-108, 8-1-111, 8-1-130, 8-4-111, 8-6-102, 8-6-104, 8-6-105, 8-6-106, 8-6-108, 8-6-109, 8-6-111, 8-6-116, 8-6-117, and 8-12-115.

Contact information

Name

Michael Primo

Title

Rule Coordinator

Telephone

3033188462

Email

michael.primo@state.co.us

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

COLORADO OVERTIME AND MINIMUM PAY STANDARDS ORDER (COMPS ORDER) #387

7 CCR 1103-1

As proposed on September 30, 2021; if Aadopted on November 10, 2020, effective January 1, 20222021.

Rule 1. Authority and Definitions.

1.1 Authority and relation to prior orders. Colorado Overtime and Minimum Pay Standards Order ("COMPS Order") #3738 replaces COMPS Order #3736 (20212020) and prior orders, except that the provisions of prior orders still govern as to events occurring while they were in effect. The COMPS Order is issued under the authority of, and as enforcement of, Colorado Revised Statutes ("C.R.S.") Title 8, Articles 1, 4, 6, 12, and 13.3, and 13.5 (20222021), and is intended to be consistent with the requirements of the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq. See Appendix A for citations. The effective date of COMPS Order # 3738 is January 1, 20212022.

1.2 Incorporation by reference. 20 C.F.R. §§ 655.210, 655.1304; 29 C.F.R. Part 541 Subpart G; Colo. Const. art. XVIII, § 15 (20221); Title 8, Articles 1, 4, 6, and 13.3 of the Colorado Revised Statutes (20221); 7 CCR 1103-7 (20221); and 7 CCR 1103-8 (20221); 7 CCR 1103-11 (2022); and 7 CCR 1103-14 (2022) are hereby incorporated by reference into this rule. Earlier versions of such laws and rules may apply to events that occurred in prior years. Such incorporation excludes later amendments to or editions of the constitution, statutes, and rules; all cited laws are incorporated in the forms that are in effect as of the effective date of this COMPS Order. 7 CCR 1103-14, the Publication And Yearly Calculation of Adjusted Labor Compensation Order ("PAY CALC Order"), states the periodically-adjusted dollar amounts of the minimum wages and minimum pay and income levels for exemptions required in the COMPS Order. All sources cited or incorporated by reference are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Denver CO 80202. Copies may be obtained from the Division of Labor Standards & Statistics at a reasonable charge. They can be accessed electronically from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of them at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing them. All Division Rules are available to the public at www.coloradolaborlaw.gov. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern, so long as they are consistent with Colorado statutory and constitutional provisions.

1.3 "Director" means the Director of the Division of Labor Standards and Statistics.

1.4 "Division" means the Division of Labor Standards and Statistics in the Colorado Department of Labor and Employment.

1.5 "Employee," as used in the COMPS Order and the PAY CALC Order, has the following definitions:

(A) under the Colorado Wage Act (CWA), as defined bythe definition in C.R.S. § 8-4-101(5):, ("Employee") means any person, including a migratory laborer, performing labor or services for the benefit of an employer. For the purpose of this article 4the COMPS

Order, relevant factors in determining whether a person is an employee include the degree of control the employer may or does exercise over the person and the degree to which the person performs work that is the primary work of the employer; except that an individual primarily free from control and direction in the performance of the service, both under his or her contract for the performance of service and in fact, and who is customarily engaged in an independent trade, occupation, profession, or business related to the service performed is not an "~~'~~employee~~'~~."~~)~~; ~~and.~~

(B) under the Healthy Families and Workplaces Act (HFWA), as defined by ~~the definition in~~ C.R.S. § 8-13.3-402(4)~~:~~ ~~(~~"~~'~~Employee~~"~~ has the meaning set forth in section 8-4-101(5)~~.~~ ~~'Employee'~~ but does not include an "employee" as defined in 45 U.S.C. sec 351(d) who is subject to the federal "~~'~~Railroad Unemployment Insurance Act~~"~~, 45 U.S.C. sec. 351 et seq."~~).~~; and

(C) under the Agricultural Labor Rights and Responsibilities Act, Colorado Senate Bill 21-87, as defined by C.R.S. § 8-6-101.5(3): "agricultural employee" or "agricultural worker" has the "same meaning as under C.R.S. § 8-13.5-201(3)" ("A worker engaged in any service or activity included in section 203(f) of the federal 'Fair Labor Standards Act of 1938',...as amended...or section 3121(g) of the federal 'Internal Revenue Code of 1986', as amended").

1.6 "Employer," as used in the COMPS Order and the PAY CALC Order, has the following definitions:

(A) under CWA, as defined by~~the definition in~~ C.R.S. § 8-4-101(6) ~~(~~"~~'~~Employer~~"~~ ~~'~~ has the same meaning as set forth in the federal "Fair Labor Standards Act", 29 U.S.C. sec 203 (d), and includes a foreign labor contractor and a migratory field labor contractor or crew leader; except that the provisions of the COMPS Order ~~this article 4~~ do not apply to the state or its agencies or entities, counties, cities and counties, municipal corporations, quasi-municipal corporations, school districts, and irrigation, reservoir, or drainage conservation companies or districts organized and existing under the laws of Colorado.~~")~~; ~~and~~

(B) under HFWA, as defined by ~~the definition in~~ C.R.S. § 8-13.3-402(5)~~:~~ ~~(~~"~~'~~Employer~~"~~ ~~'~~ has the meaning set forth in section 8-4-101(6); except that the term includes the state and its agencies or entities, counties, cities and counties, municipalities, school districts, and any political subdivisions of the state . . . [but] does not include the federal government.~~").~~; and

(C) under the Agricultural Labor Rights and Responsibilities Act, Colorado Senate Bill 21-87, as defined by C.R.S. § 8-2-206(1)(c): "agricultural employer" has the "same meaning provided in C.R.S. § 8-3-104(1)" ("a person that is engaged in any service or activity included in section 203(f) of the federal 'Fair Labor Standards Act of 1938', … as amended," or engaged in "agricultural labor, as defined in section 3121 of the federal 'Internal Revenue Code of 1986'," that either (1) contracts with any person who recruits, solicits, hires, employs, furnishes, or transports agricultural employees, or (2) regularly engages the services of one or more agricultural employees).

1.7 "Minor," for purposes of wage provisions specific to minors, means a person under 18 years of age, but not one who has received a high school diploma or a passing score on the general educational development examination. "Emancipated minor" means any individual less than eighteen years of age who meets the definition provided by C.R.S. § 8-6-108.5.

1.8 "Regular rate of pay" means the hourly rate actually paid to employees for a standard, non-overtime workweek. Employers need not pay employees on an hourly basis. If pay is on a piece-rate, salary, commission, or other non-hourly basis, any overtime compensation is based on an hourly regular rate calculated from the employee's pay.

1.8.1 Pay included in regular rate. The regular rate includes all compensation paid to an employee, including set hourly rates, shift differentials, minimum wage tip credits, non-discretionary bonuses, production bonuses, and commissions used for calculating hourly overtime rates for non-exempt employees. Business expenses, bona fide gifts, discretionary bonuses, employer investment contributions, vacation pay, holiday pay, sick leave, jury duty, or other pay for non-work hours may be excluded from regular rates.

1.8.2 Regular rate for employees paid a weekly salary or other non-hourly basis.

(A) A weekly salary or other non-hourly pay may be paid as straight time pay for all work hours, and the regular rate each workweek will be the total paid divided by hours worked, if the parties have a clear mutual understanding that the salary is:

(1) compensation (apart from any overtime premium) for all hours each workweek;

(2) at least the applicable minimum wage for all hours in workweeks with the greatest hours;

(3) supplemented by extra pay for all overtime hours (in addition to the salary that covers the regular rate) of an extra ½ of the regular rate; and

(4) paid for whatever hours the employee works in a workweek.

(B) Where the requirements of (1)-(4) are not carried out, there is not the required "clear mutual understanding" that the non-hourly pay provides the regular rate for all hours with extra pay added for overtime hours. Absent such an understanding, the hourly regular rate is the applicable weekly pay divided by 40, the number of hours presumed to be in a workweek for an employee paid no overtime premium.

1.8.3 Regular rate for employees with multiple, hourly pay rates. The regular rate for an employee working two or more non-exempt jobs at different hourly pay rates for the same employer within a specific workweek shall be calculated as follows:

(A) Rate based on a weighted average: The employee's regular rate for the particular workweek is determined by adding together all the wages earned performing each job, then dividing that amount by the total number of hours worked in all jobs, consistent with the federal Fair Labor Standards Act (FLSA) and resulting in a weighted average rate of pay, or

(B) Rate based on the job actually performed during overtime hours: The employee's regular rate is the regular rate of hourly pay for the job being performed during the actual overtime hours.

If there is no written agreement between the employee and the employer as to the method of calculating the regular rate of pay in advance of performing the work, the employee's regular rate shall be calculated using the "weighted average" method described above in 1.8.3(A).

1.9 "Time worked" means time during which an employee is performing labor or services for the benefit of an employer, including all time s/he is suffered or permitted to work, whether or not required to do so.

1.9.1 Requiring or permitting employees to be on the employer's premises, on duty, or at a prescribed workplace (but not merely permitting an employee completely relieved from duty to arrive or remain on-premises) — including but not limited to, if such tasks take

over one minute, putting on or removing required work clothes or gear (but not a uniform worn outside work as well), receiving or sharing work-related information, security or safety screening, remaining at the place of employment awaiting a decision on job assignment or when to begin work, performing clean-up or other duties "off the clock," clocking or checking in or out, or waiting for any of the preceding — shall be considered time worked that must be compensated.

1.9.2 "Travel time" means time spent on travel for the benefit of an employer, excluding normal home to work travel, and shall be considered time worked. At the start or end of the workday, travel to or from a work station, entirely within the employer's premises and/or with employer-provided transportation, shall not be considered time worked, except that such travel is compensable if it is:

(A) time worked under Rule 1.9 – 1.9.1;

(B) after compensable time starts or before compensable time ends under Rule 1.9 – 1.9.1; or

(C) travel in employer-mandated transportation (1) that materially prolongs commute time or (2) in which employees are subjected to heightened physical risk compared to an ordinary commute.

1.9.3 "Sleep time" means time an employee may sleep, which is compensable as follows. Where an employee's shift is 24 hours or longer, up to 8 hours of sleeping time may be excluded from overtime compensation, if:

(A) an express agreement excluding sleeping time exists;

(B) adequate sleeping facilities for an uninterrupted night's sleep are provided;

(C) at least 5 hours of sleep are possible during the scheduled sleep period; and

(D) interruptions to perform duties are considered time worked.

When an employee's shift is less than 24 hours, periods when s/he is permitted to sleep are compensable work time, as long as s/he is on duty and must work when required. Only actual sleep time may be excluded, up to a maximum of 8 hours per workday. When work-related interruptions prevent 5 hours of sleep, the employee shall be compensated for the entire workday.

1.10 "Tipped employee" means any employee engaged in an occupation in which s/he customarily and regularly receives more than $30 per month in tips. Tips include amounts designated as a tip by credit card customers on their charge slips. Nothing in this rule prevents an employer from requiring employees to share or allocate such tips or gratuities on a pre-established basis among other employees who customarily and regularly receive tips. Employer-required sharing of tips with employees who do not customarily and regularly receive tips, such as management or food preparers, or deduction of credit card processing fees from tipped employees, shall nullify allowable tip credits towards the minimum wage.

1.11 "'Wages' or 'compensation'" has the meaning provided by C.R.S. § 8-4-101(14) and includes paid sick leave under the Healthy Families and Workplaces Act, C.R.S. § 8-13.3-402(8)(b).

1.12 "Workday" means any consecutive 24-hour period starting with the same hour each day and the same hour as the beginning of the workweek. The workday is set by the employer and may accommodate flexible shift scheduling.

1.13 "Workweek" means any consecutive set period of 168 hours (7 days) starting with the same calendar day and hour each week.

Rule 2. Coverage and Exemptions.

2.1 Scope of coverage. The COMPS Order regulates wages, hours, working conditions, and procedures for all employers and employees for work performed within Colorado, with the exceptions and exemptions contained within Rule 2.

2.2 Exemption from all except Rules 1, 2, and 8. The following are exempt from the COMPS Order except Rules 1 (Authority and Definitions), 2 (Coverage and Exemptions), and 8 (Administration and Interpretation).

2.2.1 Administrative employees. This exemption covers a salaried employee, paid at least the applicable salary in Rule 2.5 as specified for the applicable year in the PAY CALC Order, who directly serves an executive, and regularly performs duties important to the decision-making process of that executive. The executive and employee must regularly exercise independent judgment and discretion in matters of significance, with a primary duty that is non-manual in nature and directly related to management policies or general business operations.

2.2.2 Executives or supervisors. This exemption covers a salaried employee, paid at least the applicable salary in Rule 2.5 as specified for the applicable year in the PAY CALC Order, who supervises the work of at least two full-time employees and has the authority to hire and fire, or to effectively recommend such action. The employee must spend a minimum of 50% of the workweek in duties directly related to supervision.

2.2.3 Professional employees. This exemption covers a salaried employee, paid at least the applicable salary in Rule 2.5 as specified for the applicable year in the PAY CALC Order, employed in a field of endeavor whose primary duty is work that requires (A) the consistent exercise of discretion and judgment, as distinguished from routine work that is mental, manual, mechanical or physical, and (B) either (1) knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, or (2) invention, imagination, originality or talent in a recognized field of artistic or creative endeavor (as opposed to routine mental, manual, mechanical or physical work, or work that primarily depends on intelligence, diligence and accuracy). The professional employee must be employed in the field in which s/he was trained.

2.2.4 Outside salespersons. This exemption covers an employee working primarily away from the employer's place of business or enterprise for the purpose of making sales or obtaining orders or contracts for any commodities, articles, goods, real estate, wares, merchandise, or services. The employee must spend a minimum of 80% of the workweek in activities directly related to his or her own outside sales.

2.2.5 Owners or proprietors. This exemption covers a full-time employee actively engaged in management of the employer who either:

(A) owns at least a bona fide 20% equity interest in the employer; or

(B) for a non-profit employer, is the highest-ranked and highest-paid employee, and is paid at least the salary threshold in Rule 2.5 as specified for the applicable year in the PAY CALC Order.

2.2.6 Taxi cab drivers employed by a taxi service provider licensed by a state or local government.

2.2.7 In-residence workers. This exemption covers the below-listed in-residence employees.

(A) Casual babysitters employed in private residences directly by households, or directly by family members of the individual(s) receiving care from the babysitter.

(B) Property managers residing on-premises at the property they manage.

(C) Student residence workers working in premises where they reside for sororities, fraternities, college clubs, or dormitories.

(D) Laundry workers who (a) are inmates, patients, or residents of charitable institutions, and (b) perform laundry services, (c) in institutions where they reside.

(E) Range workers ~~in jobs related to herding or production of livestock on the range who occupy employer-provided housing as part of their employment and are~~ who are paid at least the minimum salary for range workers (as specified in the PAY CALC Order for the applicable year) during periods when they are "principally engaged in the range production of livestock … on the open range" (as defined by C.R.S. 8-6-101.5(b)), and are provided without cost or deduction any housing, food, transport, and equipment required for H-2-A visa range workers by federal regulations ~~(20 C.F.R. §§ 655.210, 655.1304)~~.

(F) Field staff of seasonal camps or seasonal outdoor education programs who primarily provide supervision or education of minors, or education of adults; are required to reside on-premises or in the field; are provided adequate lodging and all meals free of charge and without deduction from wages; and as of January 1, 2021, are paid the amount required by subpart (1) below (with no minimum pay required before January 1, 2021).

(1) Rule 2.2.7(F) exemption requires that field staff be paid either (a) the applicable Colorado minimum wage for all hours worked, or (b) a salary (i) equivalent to at least 42 hours per week at the Colorado minimum wage (with the 15% hourly wage reduction that Rule 3.3 permits for unemancipated minors), (ii) with hourly wage reduced one-sixth (⅙) for non-profit employers with annual total gross revenue of $25 million or less, and (iii) reduced $200 per week as a credit for facilities provided (lodging, meals, and other facilities), as specified for the applicable year in the PAY CALC Order.~~illustrated below:~~

~~Type of Employee & Employer~~	~~Non-Profit Employer, $25 Million or Less~~	~~All Other Employers~~
~~Adult~~	~~$231.20 per week~~	~~$317.44 per week~~
~~Minor~~	~~$153.58 per week~~	~~$239.82 per week~~

(2) "Seasonal" in Rule 2.2.7(F) means a camp or program that either (a) does not operate for more than seven months in a year, or (b) during the preceding calendar year had average receipts for any six months of not more than one-third (⅓) of its average receipts for the other six months.

~~(G) The Rule 4.1.1(B)-(C) daily (12-hour) overtime rule does not apply in COMPS #37 (2021) to companions designated as direct support professionals/direct care workers who are scheduled for, and work, shifts of at least 24 hours providing residential or respite services and who are employed by service providers and agencies that receive at~~

~~least 75% of their total revenue from Medicaid or other governmental sources, and who provide services within Medicaid home- and community-based service waivers.~~

2.2.8 Bona fide volunteers and work-study students. This exemption covers those who need not be compensated under the federal Fair Labor Standards Act (29 U.S.C. §§ 201 et seq.) as either: (A) enrolled students receiving credit for an unpaid work-study program or internship; or (B) bona fide volunteers for non-profit organizations.

2.2.9 Elected officials and their staff. This exemption covers individuals elected to public office and members of their staff.

2.2.10 Employees in highly technical computer-related occupations. This exemption covers an employee paid a salary, or hourly compensation, in accord with Rule 2.5, and as specified for the applicable year in the PAY CALC Order, who:

(A) is a skilled worker employed as a computer systems analyst, computer programmer, software engineer, or other similarly highly technical computer employee;

(B) who has knowledge of an advanced type, customarily acquired by a prolonged course of specialized formal or informal study; and

(C) spends a minimum of 50% of the workweek in any combination of the following duties —

(1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications,

(2) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications, or

(3) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems.

2.2.11 Highly compensated employees. This exemption covers an employee who:

(A) is paid annual wages of at least —

(1) weekly, the weekly salary for the executive, professional, or administrative exemption, as specified for the applicable year in the PAY CALC Order; and

(2) annually, two and one-quarter times the rounded annual salary for the executive, professional, or administrative exemption, as specified for the applicable year in the PAY CALC Order;

(B) customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee (as described in Rules 2.2.1-2.2.3); and

(C) whose primary duty is office or non-manual work — for example, non-management production-line workers and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform

work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

2.2.12 National Western Stock Show. This exemption covers temporary employees employed directly by the Western Stock Show Association for the annual National Western Stock Show.

2.3 Agriculture.

2.3.1 Minimum Wages. All minimum wage laws and rules apply to all employees of all agricultural employers, except as otherwise provided for "range workers" in Rule 2.2.7(E). ~~Workers in jobs in agriculture are exempt from Rule 3 (Minimum Wage), Rule 4 (Overtime), and Rule 5.1 (Meal Periods) if they are not covered by, or are exempt from, the minimum wage provisions of the federal Fair Labor Standards Act (29 U.S.C. §§ 201 et seq.). Other jobs in agriculture are exempt from Rule 4 (Overtime) and Rule 5.1 (Meal Periods). In workdays requiring multiple rest periods under Rule 5.2, rest periods need not total exactly 10 minutes in each 4-hour period, as long as an employee:~~

~~(A) receives rest periods that average, over the workday, at least 10 minutes per 4 hours worked; and~~

~~(B) receives at least 5 minutes of rest in every 4 hours worked.~~

2.3.2 Overtime and Maximum Hours Protections.

(A) Agricultural employees of agricultural employers are exempt from both the 40-hour weekly and the 12-hour daily overtime pay requirements in Rule 4.1.1, provided that such employees receive the following.

(1) Weekly overtime pay, at one and one-half times their regular rate of pay, after 60 hours worked per workweek from November 1, 2022, through December 31, 2023, and thereafter as follows, and as listed in the summary table below:

(a) at a small agricultural employer (defined in (B) below), after 56 hours worked per workweek;

(b) at a highly-seasonal agricultural employer (defined in (C) below), (i) after 56 hours worked per workweek during any 22-week period, or any two periods totaling 22 weeks, that the employer chooses as its peak labor period(s), and (ii) otherwise after 48 hours worked per week; and

(c) at all other agricultural employers, (i) after 54 hours worked per workweek in 2024, and (ii) after 48 hours worked per workweek as of January 1, 2025.

Summary Table of Weekly Overtime Pay Thresholds for Agricultural Employers

Time Period	(a) Small Employers	(b) Highly Seasonal Employers	(c) Other Employers
Until 11/1/22	No overtime pay required		
11/1/22-12/31/23	60 hours		

2024	56 hours	56 hours for 22 peak weeks 48 hours otherwise	54 hours
2025 -			48 hours

(2) In lieu of daily overtime pay: a 30-minute rest period for their third Rule 5.2 paid rest period, rather than a 10- or 15-minute rest period, in workdays (or shifts spanning two days) with over 12 hours worked, beginning November 1, 2022.

(B) "Small agricultural employer" means an agricultural employer that:

(1) employed fewer than four employees on average over the three prior calendar years (or as many complete prior calendar years as they have been in operation); and

(2) had average adjusted gross income, over the three prior complete taxable years, of no more than the small agricultural employer threshold specified for the applicable year in the PAY CALC Order, which shall be $1,000,000 in 2022, and after 2022 shall be indexed every January 1 by the same Consumer Price Index ("CPI") as the Colorado minimum wage, as stated in the PAY CALC Order. Employers in operation fewer than three complete taxable years shall use as many complete taxable years as they have been in operation; employers not yet in operation for any complete taxable years shall be considered below the threshold until they have any complete taxable years.

(C) "Highly seasonal agricultural employer" means an agricultural employer that

(1) in any 22-week period (or any two periods totaling 22 weeks) in the prior calendar year, had at least twice as many employees as the rest of the year, and

(2) gives employees annual written notice of the period(s) when weekly overtime pay will be after 56 rather than 48 hours:

(a) at least 30 days in advance of any such period(s), except —

(i) for employees who start working for the employer fewer than 30 days in advance, written notice shall be upon hiring, and

(ii) for those employed under, and in compliance with federal requirements for, temporary work visas, no later than the date of the worker's visa application, contemporaneous with required federal pre-employment written disclosures to visa workers ordinarily due by the date of the worker's visa application;

(b) in English and any language that is the first language spoken by at least five percent of the employer's workforce at any point during the year.

(D) Agricultural employees who are the parents, spouses, or children of an agricultural employer (or of an individual or family that owns a majority interest in an agricultural employer) shall be exempt from all overtime pay requirements in the COMPS Order.

(E) How many employees an agricultural employer has, for purposes of the above definitions of "small agricultural employer" in (B), and "highly seasonal agricultural employer" in (C), shall be determined as follows.

(1) Employees shall be counted at the worksite for which the definition is being assessed, and shall count proportionally as follows, based on their average hours worked in all weeks in the preceding year with at least one hour worked:

(a) 35 hours per week or more: 1.0.

(b) Between 15 and 35 hours per week: 0.5; and

(c) Under 15 hours per week: 0.

(2) Employers need not rely on prior staffing levels to qualify for the "small agricultural" or "highly seasonal" employee thresholds if they (a) have been in operation for less than one calendar year, or (b) did not qualify based on their prior staffing levels, but have a good-faith, objectively reasonable belief that they will qualify for the present year. If their belief that they will qualify for the threshold proves incorrect, they must pay affected employees back pay for any additional overtime owed, plus 5%, by 30 days from the date the employer has notice that it will not qualify for the threshold for the year, or (if they lacked notice until the end of the year) by 30 days from the end of that calendar year.

(F)~~2.3.2~~ The Rule 2.3.2~~1~~ exemption does not apply if an employer draws at least 50% of its annual dollar volume of business from sales to the consuming public (rather than for resale) of any services, commodities, articles, goods, wares, or merchandise~~; .[1] 1 P~~prior Orders for decades have covered any such employer, in any industry. E.g., Order #35, Rule 2(A) (covering any employer "that sells or offers for sale, any service, commodity, article, good, … wares, or merchandise to the consuming public" and draws "50% or more of its annual dollar volume … from such sales," rather than from sales to other businesses "for resale.")

2.3.3 Meal and Rest Periods.

(A) In addition to the meal and rest periods required by Rule 5, an agricultural employer shall provide agricultural employees engaged in hand-weeding and hand-thinning an additional, five-minute rest period, which, insofar as is practicable, must be in the middle of each work period.

(B) The requirement of meal and rest periods in Rule 2.3.3 and Rule 5 does not apply to a truck driver whose sole and principal duty is to haul livestock or to a combine or harvester operator while harvesting.

~~2.3.3 "Jobs in agriculture" means jobs with work primarily within the same definition of "agriculture" as under 29 U.S.C. § 203(f) of the federal Fair Labor Standards Act: "farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including … agricultural commodities …), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market." "Jobs in agriculture" also includes temporary employees employed directly by the Western Stock Show Association~~

~~for the annual National Western Stock Show, who are exempt from all provisions of the COMPS Order.~~

2.4 Exemptions from Overtime Requirements of the COMPS Order. The following employees are exempt from Rule 4 (Overtime) unless otherwise specified.

2.4.1 Certain Salespersons and Mechanics. Salespersons, parts-persons, and mechanics employed by automobile, truck, or farm implement (retail) dealers; and salespersons employed by trailer, aircraft, and boat (retail) dealers are exempt from Rule 4 (Overtime).

2.4.2 Commission Sales. Sales employees of retail or service industries paid on a commission basis, provided that at least 50% of their total earnings in the pay period is derived from commission sales, and their regular rate of pay is at least one and one-half times the minimum wage, are exempt from Rule 4 (Overtime). This exemption is applicable for only employees of retail or service employers who receive over 75% of their annual dollar volume from retail or service sales.

2.4.3 Ski Industry. Employees of the ski industry performing duties directly related to ski area operations for downhill skiing or snowboarding, and those employees engaged in providing food and beverage services at on-mountain locations, are exempt from (within Rule 4) the 40-hour overtime requirement but not the requirement of overtime pay for over 12 hours that are consecutive or are within a workday. This partial overtime exemption does not apply to ski area employees performing duties related to lodging.

2.4.4 Medical Transportation. Employees of the medical transportation industry who work 24-hour shifts are exempt from the Rule 4.1.1(B)-(C) daily (12-hour) overtime rules if they receive the required Rule 4.1.1(A) weekly (40-hour) overtime pay.

2.4.5 Eight and Eighty Rule. A hospital or nursing home may seek an agreement with individual employees to pay overtime pursuant to the provisions of the federal Fair Labor Standards Act "8 and 80 rule" whereby employees are paid time and one-half their regular rate of pay for any work performed in excess of 80 hours in a 14 consecutive day period and for any work in excess of 8 hours per day.

2.4.6 Drivers, and Driver's Helpers, Subject to the Federal Motor Carrier Act ("MCA"). Drivers and their driver's helpers ~~(as defined in 29 C.F.R. § 782.4)~~ are exempt from Rule 4 (overtime) and Rule 5 (rest and meal periods) while and to the extent that they are:

(A) subject to the federal MCA and exempt from overtime requirements of the ~~Fair Labor Standards Act ("~~FLSA~~")~~ pursuant to 29 U.S.C. § 213(b)(1) and regulations promulgated thereunder;

(B) working on MCA-covered non-passenger vehicles, or on MCA-covered passenger vehicles qualifying as ~~"~~commercial motor vehicles~~"~~ requiring a ~~"~~commercial driver's license~~"~~ ("CDL") ~~as defined in 49 C.F.R. § 383.5~~ -- but not on vehicles that transport workers to and from manual work jobs (*e.g.*, landscaping or lawn care, construction or roofing, cleaning or janitorial, or other manual labor) and do not require a CDL; and

(C) paid compensation equivalent to at least 50 hours at the Colorado minimum wage with overtime, ~~i.e., $677.60 per week in 2021~~as specified for the applicable year in the PAY CALC Order, regardless of whether the pay is hourly, salaried, piece rate, or on another basis.

2.4.7 Direct Support and Care. The Rule 4.1.1(B)-(C) daily (12-hour) overtime rule does not apply to companions designated as direct support professionals/direct care workers who

are scheduled for, and work, shifts of at least 24 hours providing residential or respite services and who are employed by service providers and agencies that receive at least 75% of their total revenue from Medicaid or other governmental sources, and who provide services within Medicaid home- and community-based service waivers.

2.5 Salary Thresholds for Certain Exemptions.

2.5.1 For COMPS exemptions requiring a salary, the "Salary Requirement" rules of the federal Fair Labor Standards Act in 29 C.F.R. Part 541 Subpart G, apply, except that under the COMPS Order, the salary must be at least the level specified for the applicable year **in the PAY CALC Order** ~~listed below~~ and sufficient for the minimum wage for all hours in a workweek (with the exception of certain professionals listed in Rule 2.5.2). ~~As detailed below:~~ Except as provided in Rule 2.2.11, t~~T~~he weekly salary from July 1, 2020, through December 31, 2020, shall be $684 ($35,568 per year[2]); ~~, then shall be~~ $778.85 for 2021 ($40,500 per year); ~~,~~ $865.38 for 2022 ($45,000 per year); ~~,~~ $961.54 for 2023 ($50,000 per year); ~~and~~ $1,057.69 for 2024 ($55,000 per year); ~~,~~ and after 2024~~then~~ shall be indexed every January 1 by the same ~~Consumer Price Index ("~~CPI~~")~~ as the Colorado minimum wage, as stated in the PAY CALC Order; except that the 2020 salary did~~does~~ not apply to the following two categories of employers, for~~to~~ whom the above~~below~~ salary schedule applie~~ds~~ only as of January 1, 2021 — (A) non-profit employers with annual total gross revenue of under $50 million, and (B) for-profit employers with annual total gross revenue of under $1 million.[3]

~~2~~ Annual equivalents are based on 2080 hours over 52 weeks of 40 hours, as under the federal Fair Labor Standards Act, and are rounded to the nearest dollar.

~~Date~~	~~Weekly Overtime-Exempt Salary (& Rounded Annual Equivalent)~~
~~July 1, 2020~~	~~$684.00 per week ($35,568 per year)~~
~~January 1, 2021~~	~~$778.85 per week ($40,500 per year)~~
~~January 1, 2022~~	~~$865.38 per week ($45,000 per year)~~
~~January 1, 2023~~	~~$961.54 per week ($50,000 per year)~~
~~January 1, 2024~~	~~$1,057.69 per week ($55,000 per year)~~
~~January 1, 2025~~	~~The 2024 salary adjusted by the same CPI as the Colorado Minimum Wage~~

For any employer that ~~is~~ was not subject to the $684 per week salary under this Rule 2.5.1 for all or part of 2020, the required salary ~~is~~ was the equivalent of the Colorado $12.00 minimum wage, less any applicable lawful credits, for all hours worked in a workweek; .[3]

~~3~~ this salary requirement of minimum wage for all hours work applied under Minimum Wage Order #35 (2019) and prior Minimum Wage Orders.

2.5.2 Exemption for Certain Professionals Exempt from the Salary Requirement under Federal Wage Law. The Rule 2.5.1 salaries do not apply to the following professionals who are exempt from the requirement of a salary under federal wage law.

(A) Doctors, lawyers, and teachers who qualify as exempt Rule 2.2.3 professional employees need not receive any particular salary or hourly pay to be exempt.

(B) Employees in highly technical computer-related occupations, as defined by Rule 2.2.10, must receive at least the lesser of (1) the applicable salary in Rule 2.5.1, or (2) hourly pay that is at least $28.38 in 2021, adjusted annually by CPI thereafter, as specified for the applicable year in the PAY CALC Order.

Rule 3. Minimum Wages.

3.1 Statewide Minimum Wage. Effective January 1, 2021, uUnder the minimum wage requirements of Article XVIII, Section 15, of the Colorado Constitution, all employees (with the exceptions detailed in Rule 3.3), whether employed on an hourly, piecework, commission, time, task, or other basis, shall be paid not less than $12.32 per hourthe Colorado minimum wage, as specified for the applicable year in the PAY CALC Order, less any applicable lawful credits or exceptions noted, for all hours worked, if the employee is covered by *either*:

(A) Rule 2 (Coverage and Exemptions) of the COMPS Order; *or*

(B) the minimum wage provisions of the federal Fair Labor Standards Act (29 U.S.C. §§ 201 et seq.).

3.2 Minimum and Overtime Wage Requirements of Other Applicable Jurisdictions. In addition to state wage requirements, federal or local laws or regulations may apply minimum, overtime, or other wage requirements to some or all Colorado employers and employees. If an employee is covered by multiple minimum or overtime wage requirements, the requirement providing a higher wage, or otherwise setting a higher standard, shall apply. The Division accepts state law complaints by employees who claim entitlement to a state, federal, or local minimum or overtime wages under the C.R.S. § 8-4-101(14) definition that the "unpaid wages" recoverable in a state-law claim include "[a]ll amounts for labor or service performed by employees," as long as such amounts are "earned, vested, and determinable, at which time such amount shall be payable to the employee pursuant to this article."

3.3 Reduced Minimum for Certain People with Disabilities and Minors. The minimum wage may be reduced by 15% for (a) non-emancipated minors, as specified for the applicable year in the PAY CALC Order and (b) persons certified by the Director to be less efficient in performance of their job duties due to a physical disability.

Rule 4. Overtime.

4.1 Overtime Wages.

4.1.1 Employees shall be paid time and one-half of the regular rate of pay for any work in excess of any of the following, except as provided below in exemptions or variances in Rule 2:

(A) 40 hours per workweek;

(B) 12 hours per workday; or

(C) 12 consecutive hours without regard to the start and end time of the workday.

4.1.2 Whichever of the three calculations in Rule 4.1.1 results in the greater payment of wages shall apply in any particular situation.

4.1.3 Hours worked in two or more workweeks shall not be averaged for computing overtime.

4.1.4 Performance of work in two or more positions, at different pay rates, for the same employer, shall be computed at the overtime rate based on the regular rate of pay as described in Rule 1.8.3for the position in which the overtime occurs, or at a weighted

~~average of the rates for each position, as provided in the federal Fair Labor Standards Act~~.

4.1.5 In calculating when 12 consecutive hours are worked for purposes of the Rule 4.1.1 requirement of overtime after 12 hours, meal periods may be subtracted, but only if the meal periods comply with the Rule 5.1 requirements for meal periods.

4.2 Effect of Daily Overtime on Workday and Workweek. The requirement to pay overtime for work in excess of 12 consecutive hours will not alter the employee's established workday or workweek, as previously defined.

4.3 Overtime for Minors. Nothing in Rule 4 modifies the provisions on work hours for minors contained in C.R.S. § 8-12-105.

Rule 5. Meal and Rest Periods.

5.1 Meal Periods. Employees shall be entitled to an uninterrupted and duty-free meal period of at least a 30-minute duration when the shift exceeds 5 consecutive hours. Such meal periods, to the extent practical, shall be at least one hour after the start, and one hour before the end of the shift. Employees must be completely relieved of all duties and permitted to pursue personal activities for a period to qualify as non-work, uncompensated time. When the nature of the business activity or other circumstances make an uninterrupted meal period impractical, the employee shall be permitted to consume an on-duty meal while performing duties. Employees shall be permitted to fully consume a meal of choice on the job and be fully compensated for the on-duty meal period without any loss of time or compensation.

5.2 Rest Periods. Every employer shall authorize and permit a compensated 10-minute rest period for each 4 hours of work, or major fractions thereof, for all employees, as follows, except as provided in exemptions or variances in Rule 2:

Work Hours	Rest Periods Required
2 or fewer	0
Over 2, and up to 6	1
Over 6, and up to 10	2
Over 10, and up to 14	3
Over 14, and up to 18	4
Over 18, and up to 22	5
Over 22	6

5.2.1 Rest periods shall be 10 minutes unless,

(A) on a given workday, or in a writing covering up to a one-year period that is signed by both parties, the employee and the employer agree, voluntarily and without coercion, to have two 5-minute breaks, as long as 5 minutes is sufficient, in the work setting, to allow the employee to go back and forth to a bathroom or other location where a bona fide break would be taken; or

(B) If the below conditions are met, rest periods need not be 10 minutes every 4 hours for any employees (i) governed by a collective bargaining agreement at any employer, or (ii) during time they are providing Medicaid-funded services for a service provider or agency receiving at least 75% of its annual total gross revenue from Medicaid or other governmental funds for providing such services within Medicaid home- and community-based services waivers, and the services provided require continuous supervision of the service recipient, or providing a rest period would interfere with ensuring the service recipient's health, safety, and welfare. Employees in category (i) or (ii) must receive:

(1) rest periods that average, over the workday, at least 10 minutes per 4 hours worked; and

(2) at least 5 minutes of rest in every 4 hours worked.

Such an agreement does not change an employee's right to pay for rest periods under Rule 5.2.4. Additionally, when (B)(ii) above applies: When direct support professionals or direct care workers serving individuals with disabilities spend time in community outings with those individuals with disabilities – as part of day programs, supported living services, or one-to-one respite or personal care – time in such outings does not require rest breaks or pay for rest breaks.

5.2.2 Rest periods, to the extent practical, shall be in the middle of each 4-hour work period. It is not necessary that the employee leave the premises for a rest period.

5.2.3 Required rest periods are time worked for the purposes of calculating minimum wage and overtime obligations.

5.2.4 When an employee is not authorized and permitted a required 10-minute rest period, his or her shift is effectively extended by 10 minutes without compensation. Because a rest period requires 10 minutes of pay without work being performed, work during a rest period is additional work for which additional pay is not provided. Therefore, a failure by an employer to authorize and permit a 10-minute compensated rest period is a failure to pay 10 minutes of wages at the employee's agreed-upon or legally required (whichever is higher) rate of pay. This Rule 5.2.4 applies equally to rest periods that Rule 5.2.1 permits to be of different durations and to the rest periods required by Rule 2.3.3.

Rule 6. Deductions, Credits, and Charges.

6.1 Tips or Gratuities. It shall be unlawful for an employer to assert a claim to, right of ownership in, or control over tips or gratuities intended for employees in violation of the Colorado Wage Act, including C.R.S. § 8-4-103(6).

6.2 Credits Toward Minimum Wages. The only allowable credits an employer may take toward the minimum wage are those in Rules 6.2.1 - 6.2.3 below.

6.2.1 Lodging Credit. A lodging credit for housing furnished by the employer and used by the employee may be considered part of the minimum wage if it is:

(A) no greater than the smaller of (1) the reasonable and actual cost to the employer of providing the housing, (2) the fair market value of the housing, or (3) $25 per week for a room (in a shared residence, dormitory, or hotel) or $100 per week for a private residence (an apartment or a house);

(B) accepted voluntarily and without coercion, and primarily for the benefit or convenience of the employee, rather than of the employer; and

(C) recorded in a written agreement (electronic form is acceptable) that states the fact and amount of the credit (but need not be a lease).

6.2.2 Meal Credit. A meal credit, equal to the reasonable cost or fair market value of meals provided to the employee, may be used as part of the minimum hourly wage. No profits to the employer may be included in the reasonable cost or fair market value of such meals furnished. Employee acceptance of a meal must be voluntary and uncoerced.

6.2.3 Tip Credit. A tip credit no greater than $3.02 per hour may be used to offset cash wages for employers of tipped employees. An employer must pay a cash wage of at least ~~$9.30 per hour~~ the amount specified for the applicable year in the PAY CALC Order if it claims a tip credit against its minimum hourly wage obligation; if an employee's tips combined with the cash wage of at least the amount specified for the applicable year in the PAY CALC Order~~$9.30 per hour~~ do not equal the minimum hourly wage, the employer must make up the difference in cash wages.

6.3 Uniforms.

6.3.1 Where wearing a particular uniform or special apparel is a condition of employment, the employer shall pay the cost of purchases, maintenance, and cleaning of the uniforms or special apparel, with the following exceptions:

(A) if the uniform furnished by the employer is plain and washable, and does not need or require special care such as ironing, dry cleaning, pressing, etc., the employer need not maintain or pay for cleaning; and

(B) clothing that is ordinary, plain, and washable that is prescribed as a uniform need not be furnished by the employer unless a special color, make, pattern, logo, or material is required.

6.3.2 The cost of ordinary wear and tear of a uniform or special apparel shall not be deducted from an employee's wages.

Rule 7. Employer Record-Keeping and Posting Requirements.

7.1 Employee Records. Every employer shall keep at the place of employment, or at the employer's principal place of business in Colorado, a true and accurate record for each employee which contains the following information:

(A) name, address, occupation, and date of hire of the employee;

(B) date of birth, if the employee is under 18 years of age;

(C) daily record of all hours worked;

(D) record of credits claimed and of tips; and

(E) regular rates of pay, gross wages earned, withholdings made, and net amounts paid each pay period.

7.2 Issuance of Earnings Statement. An itemized earnings statement of the information in Rule 7.1(D)-(E) and the total hours worked in the pay period, with the employee's and the employer's names, shall be provided to each employee each pay period.

7.3 Maintenance of Earnings Statement Information. An employer shall retain records reflecting the information contained in an employee's itemized earnings statement as described in this rule for at least 3 years after the wages or compensation were due, and for the duration of any pending wage claim pertaining to the employee. Each employer shall provide each employee access to the information in Rules 7.1(A) and (C) in any of the following forms it chooses:

(A) provide the information with the regular earnings statements;

(B) provide each employee with access to a functioning electronic portal that shows the information – but this method is permissible only if the employer knows an email address of the employee; or

(C) provide each employee the information for the entire calendar year by January 31st the following year and, in~~if~~ addition, provide the information to an employee upon a request that an employee may make once per year.

7.4 Posting and Distribution Requirements.

7.4.1 Posting. Every employer subject to the COMPS Order must display a COMPS Order poster for the current year, with applicable dollar figures as stated in the PAY CALC Order for that year, published by the Division in an area frequented by employees where it may be easily read during the workday. If the work site or other conditions make a physical posting impractical (including private residences employing only one worker, and certain entirely outdoor work sites lacking an indoor area), the employer shall provide a copy of the COMPS Order or poster to each employee within his or her first month of employment, and shall make it available to employees upon request. Employers shall be deemed noncompliant if they attempt to minimize the effect of posters or notices required by statute or these Rules, such as by communicating positions contrary to, or discouraging the exercise of rights covered in, the required poster or notice. An employer that does not comply with the above requirements of this paragraph shall be ineligible for any employee-specific credits, deductions, or exemptions in the COMPS Order, but shall remain eligible for employer- or industry-wide exemptions, such as exempting an entire employer or industry from any overtime or meal/rest period requirements in Rules 4-5.

7.4.2 Distribution. Every employer publishing or distributing to employees any handbook, manual, or written or posted policies shall include a copy of the COMPS Order, or a COMPS Order poster published by the Division, with any such handbook, manual, or policies. Every employer that requires employees to sign any handbook, manual, or policy shall, at the same time or promptly thereafter, include a copy of the COMPS Order, or a COMPS Order poster published by the Division, and have the employee sign an acknowledgement of being provided the COMPS Order or the COMPS Order poster.

7.4.3 Translation. Employers with any employees with limited English language ability shall:

(A) use a Spanish-language version of the COMPS Order and poster published by the Division, if the employee(s) in question speak Spanish; or

(B) contact the Division to request that the Division, if possible, provide a version of the COMPS Order and poster in another language that any employee(s) need.

Rule 8. Administration and Interpretation.

8.1 Recovery of Wages.

(A) Availability of court action or Division administrative complaint. An employee receiving less than the full wages or other compensation owed is entitled to recover in a civil action the unpaid balance of the full amount owed, together with reasonable attorney fees and court costs, notwithstanding any agreement to work for a lesser wage, pursuant to C.R.S. §§ 8-4-121, 8-6-118. Alternatively, an employee may elect to pursue a complaint through the Division's administrative procedure as described in the Colorado Wage Act, C.R.S. § 8-4-101, et seq.

(B) No minimum claim size. There is no minimum size of a wage claim, and thus no claim too minimal ("*de minimis*") for recovery, because Article 4 requires paying "[a]ll wages or compensation" (C.R.S. § 8-4-103(1)(a)), and authorizes civil actions "to recover any amount of wages or compensation" (C.R.S. § 8-4-110(1)) and Division complaints "for any violation" (C.R.S. § 8-4-111(1)(a)).

8.2 Complaints. Any person may register with the Division a written complaint that alleges a violation of the COMPS Order within 2 years of the alleged violation(s), except that actions brought for a willful violation shall be commenced within 3 years.

8.3 Investigations. The Director or a designated agent shall investigate and take all proceedings necessary to enforce the payment of the minimum wage and other provisions of the COMPS Order, pursuant to these rules and C.R.S. Title 8, Articles 1, 4, 6, and 13.3. Violations may be subject to the administrative procedure as described in the Colorado Wage Act, C.R.S. § 8-4-101, et seq.

8.4 Violations. It is theft under the Criminal Code (C.R.S. § 18-4-401) if an employer or agent:

(A) willfully refuses to pay wages or compensation, or falsely denies the amount of a wage claim, or the validity thereof, or that the same is due, with intent to secure for himself, herself, or another person any discount upon such indebtedness or any underpayment of such indebtedness or with intent to annoy, harass, oppress, hinder, coerce, delay, or defraud the person to whom such indebtedness is due (C.R.S. § 8-4-114); or

(B) intentionally pays or causes to be paid to any such employee a wage less than the minimum (C.R.S. § 8-6-116).

8.5 Reprisals. Employers shall not threaten, coerce, or discriminate against any person for the purpose of reprisal, interference, or obstruction as to any actual or anticipated investigation, hearing, complaint, or other process or proceeding relating to a wage claim, right, or rule. Violators may be subject to penalties under C.R.S. §§ 8-1-116, 8-1-140, 8-4-120, and/or 8-6-115.

8.6 Division and Dual Jurisdiction. The Division shall have jurisdiction over all questions arising with respect to the administration and interpretation of the COMPS Order. Whenever employers are subjected to Colorado law as well as federal and/or local law, the law providing greater protection or setting the higher standard shall apply. For information on federal law, contact the U.S. Department of Labor, Wage and Hour Division.

8.7 Construction.

(A) Liberal construction of COMPS, narrow construction of exceptions/ exemptions. Under the C.R.S. § 8-6-102 “Construction” provision (“Whenever this article or any part thereof is interpreted by any court, it shall be liberally construed by such court.”), applicable to rules on “wages which are inadequate to supply the necessary cost of living” (§ 8-6-104), on “conditions of labor detrimental to [worker] health or morals” (§ 8-6-104), on “conditions of labor and hours of employment not detrimental to health or morals for workers” (§ 8-6-106), on “what are unreasonably long hours” (§ 8-6-106), on what requirements are “necessary to carry out the provisions of this article” (§ 8-6-108.5), and on minimum and overtime wages (§§ 8-6-109, -111, -116, -117), and on who qualifies as an “agricultural employer” (§ 8-6-120 (incorporating §§ 8-13.5-201(1); 8-3-104(1)(b))): The provisions of the COMPS Order shall be liberally construed, with exceptions and exemptions accordingly narrowly construed.

(B) Subpart included in cross-references. Where any Division rule references another rule, the reference shall be deemed to include all subparts of the referenced rule.

(C) Minimum Wage Order references. References to the Colorado "Minimum Wage Order" shall be deemed to reference the COMPS Order, as the successor to the Colorado Minimum Wage Order.

8.8 Separability. The COMPS Order is intended to remain in effect to the maximum extent possible. If any part (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the

remainder of the COMPS Order remains valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.

8.9 Basis for Calculation. Calculations in the PAY CALC and COMPS Orders are based on Section 15 of Article XVIII of the Colorado Constitution ("Section 15") ("Colorado's minimum wage is … adjusted annually for cost of living increases, as measured by the … Consumer Price Index used for Colorado"); C.R.S. Article 8, Title 6; and the COMPS Order. All inflation-adjusted values applicable to the COMPS and PAY CALC Orders are based on the CPI used for Colorado, the Denver-Aurora-Lakewood CPI published by the federal Bureau of Labor Statistics. To effectuate the above provisions that employees must be paid not less than the prior year's minimum wage adjusted for inflation, Division rules and practice must round up, to the nearest cent, any fractional cents yielded by the inflation adjustment. Other than in the annual minimum wage calculation, Division rules and practice round fractional cents of at least 0.5 up, and of under 0.5 down.

Appendix A. Statutory Authority.

- C.R.S. §§ 8-1-101 ("'General order' means an order of the director applying generally throughout the state to all persons, employments, or places of employment under the jurisdiction of the division");
- 8-1-103 ("[P]owers, duties, and functions of the director … , includ[e] … promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications");
- 8-1-107 ("[T]he director has the duty and the power to … [a]dopt reasonable and proper rules and regulations relative to the exercise of his powers and proper rules and regulations to govern the proceedings of the division and to regulate the manner of investigations and hearings.")
- 8-1-108 ("[G]eneral orders shall be effective … after they are adopted by the director and posted"; "All orders of the division shall be … in force and prima facie reasonable and lawful until … found otherwise.");
- 8-1-111 ("The director is vested with the power and jurisdiction to have such supervision of every employment and place of employment … [to] determine the conditions under which the employees labor … , to enforce all provisions of law relating thereto … to administer all provisions of this article with respect to the relations between employer and employee and to do all other acts and things convenient and necessary to accomplish the purposes of this article.");
- 8-1-130 ("The director has full power to hear and determine all questions within his jurisdiction, and his findings, award, and order issued thereon shall be final agency action.");
- 8-4-111 ("It is the duty of the director … to enforce generally the provisions of this article.");
- 8-6-101.5 ("[T]he minimum wage requirements of section 15 of article xviii of the state constitution, and any minimum wage laws enacted pursuant to this article 6, apply to agricultural employers employing agricultural workers. ...The Colorado minimum wage that an agricultural employer must pay to an agricultural worker who is principally engaged in the range production of livestock … on the open range is: (i) beginning January 1, 2022, ... five hundred fifteen dollars per week; and (ii) beginning January 1, 2023, the minimum wage required in the prior calendar year adjusted annually .... . The director may set a higher minimum wage than is required … consistent with the director's authority and duties[.]");
- 8-6-101.5 ("An agricultural worker is entitled to an uninterrupted and duty-free meal period of at least a thirty-minute duration when the agricultural worker's shift exceeds five consecutive hours. ...An agricultural worker is entitled to an uninterrupted and duty-free rest period of at least ten minutes within each four hours of work."); 8-13.5-203(3) ("An agricultural employer shall provide agricultural workers engaged in hand weeding and hand thinning an additional five

minute rest period, which, insofar as is practicable, must be in the middle of each work period. The authorized rest period must be based on the total hours worked daily at the rate of fifteen minutes net rest time per four hours worked, or a major fraction thereof. The agricultural employer shall count the authorized rest period as hours worked and not deduct the rest period from the agricultural worker's wages.");

- 8-6-102 ("Whenever this article or any part thereof is interpreted by any court, it shall be liberally construed.");
- 8-6-104 ("It is unlawful to employ workers in any occupation … for wages which are inadequate to supply the necessary cost of living and to maintain the health of the workers .... It is unlawful to employ workers in any occupation … under conditions of labor detrimental to their health or morals.");
- 8-6-105 ("It is the duty of the director to inquire into the wages paid to employees and into the conditions of labor … in any occupation … if the director has reason to believe … conditions of labor are detrimental to the health or morals of said employees or that the wages paid to a substantial number of employees are inadequate to supply the necessary cost of living and to maintain such employees in health.");
- 8-6-106 ("The director shall determine the minimum wages sufficient for living wages … ; standards of conditions of labor and hours ... not detrimental to health or morals for workers; and what are unreasonably long hours.");
- 8-6-108 ("[F]or the purpose of investigating any of the matters [s/]he is authorized to investigate by this article … [t]he director has power to make reasonable and proper rules and procedure and to enforce said rules and procedure.""");
- 8-6-109 ("If after investigation the director is of the opinion that the conditions of employment surrounding said employees are detrimental to the health or morals or that a substantial number of workers in any occupation are receiving wages … inadequate to supply the necessary costs of living and to maintain the workers in health, the director shall proceed to establish minimum wage rates.");
- 8-6-111 ("Overtime, at a rate of one and one-half times the regular rate of pay, may be permitted by the director under conditions and rules and for increased minimum wages which the director, after investigation, determines and prescribes by order and which shall apply equally to all employers in such industry or occupation.");
- 8-6-116 ("The minimum wages fixed by the director, as provided in this article, shall be the minimum wages paid to the employees, and the payment … of a wage less than the minimum … is unlawful");
- 8-6-117 ("In every prosecution … of this article, the minimum wage established by the director shall be prima facie presumed to be reasonable and lawful and the wage required to be paid. The findings of fact made by the director acting within prescribed powers, in the absence of fraud, shall be conclusive.");
- 8-6-120 ("The director shall promulgate rules providing meaningful overtime and maximum hours protections to agricultural employees. … In promulgating such rules, the director shall consider the inequity and racist origins of the exclusion of agricultural employees from overtime and maximum hours protections available to other employees, the fundamental right of all employees to overtime and maximum hours standards that protect the health and welfare of employees, and the unique difficulties agricultural employees have obtaining workplace conditions equal to those provided to other employees.");

- 8-12-115 ("The director shall enforce … this article" and "shall promulgate rules and regulations more specifically defining the occupations and types of equipment permitted or prohibited by this article.");

- 8-13.3-403 ("The division shall promulgate rules regarding compensation and accrual of paid sick leave for employees employed and compensated on a fee-for-service basis.");

- 8-13.3-407 ("Determinations made by the division under this section [as to paid sick leave] are appealable pursuant to section 8-4-111.5 and rules promulgated by the department regarding appeals and strategic enforcement.");

- 8-13.3-408 ("Each employer shall notify its employees that they are entitled to paid sick leave, pursuant to rules promulgated by the division.");

- 8.13.3-410 ("The director may coordinate implementation and enforcement of this part and adopt rules as necessary for such purposes."); and

- the Administrative Procedure Act, C.R.S. § 24-4-103.

COLORADO
Department of
Labor and Employment

Division of Labor Standards and Statistics
633 17th Street, Denver, CO 80202-2107
303-318-8441 | www.coloradolaborlaw.gov

NOTICE OF PUBLIC HEARING CONCERNING PROPOSED RULES:

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to adoption of the below **three sets of proposed rules**, under authority granted to the Division of Labor Standards and Statistics by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of C.R.S. Title 8, Articles 1, 2, 4, 6, 12, 13.3, and 13.5, including but not limited to the statutory sections cited in Rule 1 of COMPS Order #38 (7 CCR 1103-1), Rule 1 of Wage Protection Rules (7 CCR 1103-7), and Rule 2 of the 2022 PAY CALC Order (7 CCR 1103-14), all of which proposed rules accompany and are incorporated into this notice.

(1) 2022 Publication And Yearly Calculation of Adjusted Labor Compensation Order ("2022 PAY CALC Order," or "PAY CALC"), 7 CCR 1103-14 (effective January 1, 2022). This new set of rules serves to calculate and publish pay and income figures — *e.g.*, Colorado minimum wages, and minimum earnings levels for various full or partial labor law exemptions — that adjust annually or other periodic bases under the Colorado Overtime and Minimum Pay Standards Order ("COMPS Order," or "COMPS"), 7 CCR 1103-1, or other laws. The pay and income figures in PAY CALC previously were (or, for figures new in 2022, would have been) published in various provisions throughout the COMPS Order. PAY CALC consolidates and facilitates access to such figures by consolidating all of them into an annually published one-page rule, with PAY CALC and COMPS each referencing and incorporating the other.

(2) Colorado Overtime and Minimum Pay Standards Order ("COMPS Order," or "COMPS") #38, 7 CCR 1103-1 (effective January 1, 2022). These rules amend the prior version of COMPS (Order #37, 2021), Colorado's broad set of wage and hour rules, as follows (in addition to certain non-substantive edits):

(A) removing annually or otherwise periodically adjusted pay and income figures — *e.g.*, Colorado minimum wages, and minimum earnings levels for various full or partial labor law exemptions — from the various COMPS provisions where each has appeared, and replacing them with references to the PAY CALC Order (described above), which now consolidates all such figures;

(B) adding an exemption for "highly compensated employees" not covered by other existing exemptions, substantially similar to the exemption under the federal Fair Labor Standards Act;

(C) adding rules on minimum wages, overtime and maximum hours protections, and meal and rest periods for agricultural employees, pursuant to the Colorado Senate Bill 21-87 requirements that agricultural employees be provided such rights, and that the Division promulgate rules accordingly; and

(D) Rules further detailing how to calculate the "regular rate of pay" of an employee with more than one hourly rate, and expanding this definition to other uses of "regular rate of pay" in the COMPS Order other than calculation of the overtime rate, are added.

(3) Wage Protection Rules, 7 CCR 1103-7 (effective January 1, 2022). These rules amend the Wage Protection Act Rules, 7 CCR 1103-7, which implement the Colorado Wage Act ("CWA," as amended by the Wage Protection Act ("WPA"), C.R.S. § 8-4-101 et seq.), Healthy Families and Workplaces Act ("HFWA," C.R.S. § 8-13.3-401 et seq.), and Agricultural Labor Rights and Responsibilities Act (codified in relevant part at C.R.S. §§ 8-6-101.5, 8-6-120, 8-13.5-201 et seq.), as follows (in addition to certain non-substantive edits):

(A) defining "vacation pay," following a court ruling that vacation pay is non-forfeitable;

(B) clarifying the pay rates and hours for HFWA leave for employees with certain irregular pay or hours;

(C) confirming the acceptability of electronic signatures at the Division;

(D) clarifying employers' HFWA record-keeping requirements; and

(E) clarifying the HFWA exemption for when a CBA provides equivalent or more generous leave.

Public Hearing Information:

Date and Time of Hearing: **Monday, November 1, 2021, from 3:00 pm until at least 6:00 pm**. Division leadership will stay until at least 6:00 pm, or longer if by that time anyone still wishes to speak, to assure opportunity for anyone who may wish to attend in the early evening. You need not arrive by a particular time or stay the entire meeting.

Written Comment Deadline: **Wednesday, November 3, 2021, at 5:00 pm**

The Division is administering this public hearing, and all interested persons are free to offer oral testimony and to listen to part or all of the hearing. However, due to the current public health crisis, **participation will be primarily by remote means**, with limited in-person participation at the Division by RSVP only and subject to (A) space limitations and (B) the possibility of a decision, which would be announced on the **rulemaking page** no later than 24 hours before the meeting, as to whether the public health situation permits in-person attendance or requires an exclusively remote hearing. While not required, we request and highly recommend that **anyone interested in oral testimony use this rulemaking comment form to RSVP**, because at the hearing, after those in person speak, we will first call on those who RSVP'd to speak, followed by testimony from others by remote means. A recording of the hearing will be publicly posted after the hearing on our **rulemaking page**.

Written comments may be submitted through our online **rulemaking comment form**, mailed to the below address, faxed to 303-318-8400, or emailed to michael.primo@state.co.us. Because **written comments become part of the same record as oral testimony**, and are reviewed by the same officials, you **may submit written comments in lieu of oral testimony**, but are free to participate by both means.

Instructions for Hearing Participation: Either of the below options will work to participate, but for orderly administration of participation, and to avoid possible audio feedback, please do not use both simultaneously. (*You do not need to have a Google account to access any of the below means.*)

(A) **To Participate by Internet, *Including* Testifying:**
visit this "Meet" webpage: **meet.google.com/umv-nkzq-mou**

(B) **To Participate by Phone, Whether Just to Listen or to Testify:**
call (US) +1 631-743-5204, and then enter this pin: 421 042 922#

(C) **To Participate in Person** (633 17th Street, Denver, CO, 80202, Room 12A on the 12th floor)
RSVP via our **rulemaking comment form** to attend in person.

Please contact michael.primo@state.co.us with any questions about how to access either the hearing or its recording, or **if you need accommodations or translation services** to attend or participate. This hearing is held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101 et seq., and Colorado Open Meetings Law, C.R.S. § 24-6-401 (2021), to receive any testimony, written, views, or arguments that interested parties wish to submit regarding the proposed rules.

For resources in Spanish: visit **LeyesLaboralesDeColorado.gov**; submit comments on our **Spanish comment form**; RSVP (optionally) to attend or speak on our **Spanish RSVP form**; or call 303-318-8441 and ask for an employee who speaks Spanish.

> ***Para recursos en español****: visite **LeyesLaboralesDeColorado.gov**; envíe comentarios por nuestro **formulario en español para comentarios**; Para asistir o hablar, confirme su asistencia (opcionalmente) en nuestro **formulario RSVP** en español ; o llame al 303-318-8441 y pida un empleado que hable español.*

Copies of proposed rules, including redlined copies showing changes from prior versions, and statements of basis and purpose further detailing the proposed rules, are available at **www.coloradolaborlaw.gov** or by request to: **Division of Labor Standards and Statistics, 633 17th Street, Denver, Colorado 80202**.

Notice of Proposed Rulemaking

Tracking number

2021-00614

Department

1100 - Department of Labor and Employment

Agency

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

CCR number

7 CCR 1103-7

Rule title

WAGE PROTECTION RULES

Rulemaking Hearing

Date

11/01/2021

Time

03:00 PM

Location

633 17th Street, 12th Floor, Denver, CO 80202

Subjects and issues involved

These rules amend the Wage Protection Act Rules, 7 CCR 1103-7, which implement the Colorado Wage Act (CWA, as amended by the Wage Protection Act (WPA), C.R.S. § 8-4-101 et seq.), Healthy Families and Workplaces Act (HFWA, C.R.S. § 8-13.3-401 et seq.), and Agricultural Labor Rights and Responsibilities Act (codified in relevant part at C.R.S. §§ 8-6-101.5, 8-6-120, 8-13.5-201 et seq.), as follows (in addition to certain non-substantive edits):

(A)defining vacation pay, following a court ruling that vacation pay is non-forfeitable;
(B)clarifying the pay rates and hours for HFWA leave for employees with certain irregular pay or hours;
(C)confirming the acceptability of electronic signatures at the Division;
(D)clarifying employers HFWA record-keeping requirements; and
(E)clarifying the HFWA exemption for when a CBA provides equivalent or more generous leave.

Statutory authority

Articles 1, 2, 4, 6, 13.3, and 13.5 of Title 8, C.R.S. (2021), and all rules, regulations, investigations, and other proceedings of any kind thereunder, by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of Articles 1, 2, 4, 6, 13.3, and 13.5, including §§ 8-1-101, 103, 107, 108, 111, 130; § 8-4-111; §§ 8-6-102, 104, 105, 106, 108, 109, 111, 116, 117, 120; § 8-12-115; §§ 8-13.3-401, 403-405, 407-411, 416; and § 8-13.5-202, 203, 204.

Contact information

Name

Michael Primo

Title

Rule Coordinator

Telephone

3033188462

Email

michael.primo@state.co.us

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

WAGE PROTECTION RULES

7 CCR 1103-7

As proposed on September 29, 2021; if aAdopted on February 23, 2021, to be effective January 1April 14, 20221.

Rule 1. Statement of Purpose and Authority

1.1 The general purpose of these Wage Protection Rules (Rules) is to implement labor laws within the jurisdiction of the Division, including but not limited to the Colorado Wage Act (CWA) as amended by the Wage Protection Act (WPA) of 2014, C.R.S. § 8-4-101 et seq., and the Healthy Families and Workplaces Act (HFWA) of 2020, C.R.S. § 8-13.3-401 et seq., and the Agricultural Labor Rights and Responsibilities Act, as codified in relevant part at C.R.S. §§ 8-6-101.5, 8-6-120, and 8-13.5-201 et seq. These rules are adopted pursuant to the Division's authority in C.R.S. §§ 8-1-103(3), -107(2)(p), -111; C.R.S. § 8-4-101 et seq.; and C.R.S. § 8-13.3-401 et seq.to adopt and amend rules and regulations to enforce, execute, apply, and interpret Articles 1, 2, 4, 6, and 13.3, and 13.5 of Title 8, C.R.S. (2022), and all rules, regulations, investigations, and other proceedings of any kind thereunder, by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of Articles 1, 2, 4, 6, and 13.3, and 13.5, including but not limited to §§ 8-1-101, 103, 107, 108, 111, 130; § 8-4-111; §§ 8-6-102, 104, 105, 106, 108, 109, 111, 116, 117, 120; § 8-12-115; and §§ 8-13.3-401, 403-405, 407-411, and 416; and § 8-13.5-202, 203, 204.

1.2 Incorporation by Reference. Title 8, Articles 1, 2, 4, 6, 12, and 13.3 of the Colorado Revised Statutes (20221) are hereby incorporated by reference, except that earlier versions of such laws and rules may apply to events that occurred in prior years. Such incorporation excludes later amendments to or editions of the statutes. These statutes are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Denver CO 80202. Copies may be obtained from the Division of Labor Standards & Statistics at a reasonable charge. These statutes can be accessed electronically from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of the statutes incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing the statutes. All Division Rules are available to the public at www.coloradolaborlaw.gov. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern so long as they are consistent with Colorado statutory and constitutional provisions.

1.3 Separability. These Rules are intended to remain in effect to the maximum extent possible. If any part of a rule (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the remainder of the rule remains valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.

1.4 The Director of the Division of Labor Standards and Statistics in the Department of Labor and Employment (Director) has the authority to enforce the statutes cited in Rule 1.1 aboveC.R.S. § 8-4-101 et seq., C.R.S. § 8-13.3-401 et seq., and these Rules.

Rule 2. Definitions and Clarifications

2.1 "Administrative procedure" means the process used by the Division to investigate wage complaints in accordance with C.R.S. § 8-4-111 and C.R.S. §§ 8-13.3-407(4), -410, and -411.

2.2 "Authorized representative" means a person designated by a party to a wage complaint to represent the party during the Division's administrative procedure. To designate an authorized representative, the party must comply with the requirements of Rule 4.3.

2.3 "Average daily earnings," as used in C.R.S. § 8-4-109(3)(b), will be calculated as follows, unless the Division identifies a legitimate reason to use a different method of calculation:

2.3.1 The most recent typical workweek or pay period will generally be used to calculate the average daily earnings. The total gross amount of wages and compensation will be divided by the number of days worked.

2.3.2 If an employee is entitled to and has been paid less than the Colorado minimum wage, and has not earned more than the Colorado minimum wage, then the Colorado minimum wage will be used to calculate average daily earnings.

2.3.3 All compensation paid to employees, including the hourly rate, shift differential, minimum wage tip credit, regularly occurring non-discretionary bonuses, commissions, and overtime may be included in the average daily earnings calculation.

2.4 "Certified copy," as used in C.R.S. § 8-4-113, means a copy of a final Division decision (issued by a compliance investigator or hearing officer) signed by the Director of the Division, or his or her designee, certifying that the document is a true and accurate copy of the final decision. A certified copy must be requested in writing. A Division decision (issued by a compliance investigator or hearing officer) will not be certified unless: either (1) all appeal deadlines have passed and no appeal has been filed or (2) if an appeal was timely filed, the decision was not superseded on appeal. A certified copy will not be issued in the event of termination pursuant to C.R.S. § 8-4-111(3).

2.5 "Determination" means a decision issued by a compliance investigator upon the conclusion of a wage complaint investigation. "Determination" includes: Citation and Notice of Assessment, Determination of Compliance, and Notice of Dismissal, if that Notice of Dismissal is issued after the Division initiated the administrative procedure as described in Rule 4.4.

2.6 "Employee" has the following definitions:

2.6.1 Under the CWA, C.R.S. § 8-4-101(5), an "employee" means any person, including a migratory laborer, performing labor or services for the benefit of an employer. For the purpose of these Rules, relevant factors in determining whether a person is an employee include the degree of control the employer may or does exercise over the person and the degree to which the person performs work that is the primary work of the employer; except that an individual primarily free from control and direction in the performance of the service, both under his or her contract for the performance of service and in fact, and who is customarily engaged in an independent trade, occupation, profession, or business related to the service performed is not an "employee.".

2.6.2 Under the HFWA, C.R.S. § 8-13.3-402(4), "employee" has the same meaning as in C.R.S. § 8-4-101(5), but does not include an "employee" as defined in 45 U.S.C. § 351(d), who is subject to the federal "Railroad Unemployment Insurance Act," 45 U.S.C. § 351 et seq. An employee's "family member" means (1) an employee's immediate family member, as defined in C.R.S. § 2-4-401(3.7); (2) a child to whom the employee stands in loco parentis or a person who stood in loco parentis to the employee when the employee was a minor; or (3) a person for whom the employee is responsible for providing or arranging health- or safety-related care. C.R.S. § 8-13.3-402(6).

2.7 "Employer" has the following definitions:

2.7.1 Under C.R.S. § 8-4-101(6), "employer" has the same meaning as in the federal Fair Labor Standards Act at 29 U.S.C. § 203(d), and includes a foreign labor contractor and a migratory field labor contractor or crew leader; except that the provisions of the COMPS Order do not apply to the state or its agencies or entities, counties, cities and counties, municipal corporations, quasi-municipal corporations, school districts, and irrigation, reservoir, or drainage conservation companies or districts organized and existing under the laws of Colorado. "Foreign labor contractor" and "field labor contractor" have the definitions in C.R.S. §§ 8-4-101(7), (8.5).

2.7.2 Under the HFWA, C.R.S. § 8-13.3-402(5), "employer" has the same meaning as in C.R.S.

§ 8-4-101(6), except that an "employer" also includes the state and its agencies or entities, counties, cities and counties, municipalities, school districts, and any political subdivisions of the state, but does not include the federal government.

2.7.3 A "successor employer" is responsible for an acquired employer's HFWA obligations**,** including but not limited to accrued, requested, or in-progress leave, and "means an employing unit, whether or not an employing unit at the time of acquisition, that … acquires all of an organization, a trade, or a business[,] or substantially all of the assets[,] of one or more employers subject to" HFWA. C.R.S. § 8-13.3-402(12). Acquiring "substantially all of the assets" of an employer is defined as in 26 U.S.C. § 368(a)(1)(C) and Rev. Proc. 77-37, § 3.01; acquiring "a trade or a business" is defined as in C.R.S. § 8-76-104(11)(c).

2.7.4 To determine whether an employer meets the 16-employee threshold for HFWA coverage in 2021 pursuant to C.R.S. § 8-13.3-403(1)(b), the rules for counting employees to determine whether an employer is covered under the federal Family and Medical Leave Act apply: the employer must employ the requisite number of employees "for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year"; "[a]ny employee whose name appears on the employer's payroll will be considered employed each working day of the calendar week, and must be counted whether or not any compensation is received for the week"; "[e]mployees on paid or unpaid leave, including [sick or medical] leave, leaves of absence, disciplinary suspension, etc., are counted as long as the employer has a reasonable expectation that the employee will later return to active employment"'; "a corporation is a single employer rather than its separate establishments or divisions"; and employees are counted only if "within … the United States," including any state, the District of Columbia, or any territory or possession of the United States. 29 CFR §§ 825.104-105.

2.8 The "employer's correct address," including as used in C.R.S. § 8-4-101(15), can include, but is not limited to, the employer's email address, the employer's address on file with the Colorado Secretary of State, and the address of the employer's registered agent on file with the Colorado Secretary of State.

2.9 When considering whether there is "good cause" for an extension of time, including as used in C.R.S. § 8-4-113(1)(b), the Division will determine whether the reason is substantial and reasonable and must take into account all available information and circumstances pertaining to the specific complaint.

2.10 "Post," including as used in C.R.S. § 8-4-107, may include electronic posting in a place readily accessible to all employees.

2.11 "Public health emergency" is defined as in C.R.S. § 8-13.3-402(9):

(A) An act of bioterrorism, a pandemic influenza, or an epidemic caused by a novel and highly infectious agent, for which (1) an emergency is declared by a federal, state, or local public health agency, or (2) a disaster emergency is declared by the Governor; or

(B) A highly infectious illness or agent with epidemic or pandemic potential for which a disaster emergency is declared by the Governor.

A public health emergency is "declared" by any initial, amended, extended, restated, or prolonged declaration of an emergency that meets the above definition. Employees have up to 80 hours of supplemental paid sick leave usable as of January 1, 2021, because a public health emergency declared after the HFWA effective date remains in effect long enough to trigger paid leave in 2021 (under HFWA § 405 and Rule 3.5.1(C), distinct from the up to 80 hours of leave provided for 2020 by HFWA § 406 to conform to the federal paid leave law that expires on December 31, 2020). Employees receive their supplement of up to 80 hours of leave usable as of January 1, 2021, under HFWA § 405 only once during the entirety of a public health emergency even if such public health emergency is amended, extended, restated, or prolonged.

2.12 "Records reflecting the information contained in an employee's itemized pay statement," as used in C.R.S. § 8-4-103(4.5), may be kept electronically. The records are not required to be copies of

the pay statements but must reflect all information contained in the pay statements.

2.13 "Terminated employee," as used in C.R.S. § 8-4-105(1)(e), includes any employee separated from employment, whether the separation occurs by volition of the employer or the employee.

2.14 The Division may enforce the gratuity provisions described in C.R.S. § 8-4-103(6) through the administrative procedure described in C.R.S. § 8-4-111. The legal treatment of "tips," "gratuities," or other monies paid on a similar basis, in any source of law, is identical regardless of the terminology used.

2.15 "'Wages' or 'compensation'" has the same meaning as in C.R.S. § 8-4-101(14). "Paid sick leave" required by HFWA constitutes "wages" under C.R.S. § 8-4-101(14); is covered by the provisions of C.R.S. Title 8, Article 4, and these Rules; is defined as paid time off from work that is provided by an employer for one of the qualifying reasons described in C.R.S. §§ 8-13.3-404 to -406. C.R.S. § 8-13.3-402(8)(a),(b).

2.16 A "written demand," including as used in C.R.S. § 8-4-101(15), can be sent to the employer by electronic means, including but not limited to email and text message. Wages must be owed at the time of sending for the written demand to be considered valid.

2.17 Vacation Pay.

2.17.1 ~~"Vacation pay," as defined in~~ C.R.S. § 8-4-101(14)(a)(III), includes in the definition of "'[w]ages' or compensation'": "Vacation pay earned in accordance with the terms of any agreement. If an employer provides paid vacation for an employee, the employer shall pay upon separation from employment all vacation pay earned and determinable in accordance with the terms of any agreement between the employer and the employee." "Vacation pay" is pay for leave, regardless of its label, that is usable at the employee's discretion (other than procedural requirements such as notice and approval of particular dates), rather than leave usable only upon occurrence of a qualifying event (for example, a medical need, caretaking requirement, bereavement, or holiday).

2.17.2 The "earned and determinable in accordance with the terms" provision does not allow a forfeiture of any earned (accrued) vacation pay, but does allow agreements on matters such as: (1) whether there is any vacation pay at all; (2) the amount of vacation pay per year or other period; (3) whether vacation pay accrues all at once, proportionally each week, month, or other period; and (4) whether there is a cap of one year's worth (or more) of vacation pay. Thus, employers may have policies that cap employees at a year's worth of vacation pay, but that do not forfeit any of that year's worth.

For example, an agreement for ten paid vacation days per year:

(a) *may* provide that employees can accrue more than ten days, by allowing carryover of vacation from year to year;

(b) *may* cap employees at ten days; but

(c) may not diminish an employee's number of days (other than due to use by the employee).

2.18 "Willful," in Articles within C.R.S., Title 8, that this Division enforces or administers, has the same meaning as under 29 U.S.C § 255(a) and 29 C.F.R. § 578.3(c).

2.19 C.R.S. § 8-4-103(1)(b) describes circumstances under which employers are "subject to the penalties specified in section 8-4-113(1)." Despite use of the word "penalty" in this section, this language does refer to the fine described in C.R.S. § 8-4-113(1) and is payable to the Division.

2.20 A complaint, ~~or an~~ appeal, or other submission to the Division is considered "filed" with the Division when it is received by the Division via mail, fax, email, online submission, or personal delivery. Any complaint, appeal, or other submission to the Division~~or termination~~ received after 11:59pm Mountain Time is considered filed the next business day. Any such submission is considered "signed," or to have a "signature," if has either an ink signature, a scanned signature,

an electronically drawn or generated signature, or a typed name entered by the party or their authorized representative in the signature area; by signing in any such fashion, the individual is deemed to have agreed and assented that the document is signed by them.

2.21 These Rules are to be read in conjunction with other rules promulgated and enforced by the Division with additional requirements, including but not limited to the Colorado Overtime and Minimum Pay Standards Order ("COMPS Order"), 7 CCR 1103-1, and the Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving Rules ("Colorado WARNING Rules"), 7 CCR 1103-11.

Rule 3. Filing a Wage Complaint

3.1 An employee who wishes to file a wage complaint with the Division shall use the Division-approved form(s).

3.1.1 A wage complaint may only be filed by the employee who did not receive his or her wages or compensation.

3.1.2 A wage complaint shall include the employee's signature, employee's contact information, employer's contact information, and basis for the wage complaint. Failure to include this information on the wage complaint form may result in dismissal of the wage complaint.

3.1.3 The failure of an employee to respond in a timely manner to informational or investigatory requests by the Division may result in dismissal of the wage complaint.

3.1.4 If a wage complaint is dismissed before a Notice of Complaint is sent to the employer because the employee failed to respond to a Division request for information, the complaint may be reopened if the employee provides the requested information or documentation to the Division within 35 days of the Division's request for information. Employees may be required to file a new complaint if the employee's response is received more than 35 days after the Division's request for information.

3.1.5 The Division shall not accept wage complaints for amounts exceeding $7,500.

3.1.6 An anonymous complaint is not a "wage complaint" within the meaning of C.R.S. § 8-4-111 and C.R.S. §§ 8-13.3-402(8)(a)(I)-(II), - 407, -410, -411 and will not be investigated using the Division's administrative procedure. The Division may choose to address an anonymous complaint outside of the administrative procedure.

3.2 An employee may pursue a wage complaint through either the court system or the Division's administrative procedure.

3.2.1 Employees are not required to use the Division's administrative procedure in order to pursue a wage complaint in court.

3.2.2 The Division does not have jurisdiction over any wage complaint that has been adjudicated or is currently being adjudicated by a court of competent jurisdiction.

3.2.3 As provided by C.R.S. § 8-4-113(2), a certified copy of any citation, notice of assessment, or order imposing wages due, fines, or penalties pursuant to this article may be filed with the clerk of any court having jurisdiction over the parties at any time after the entry of the order. Such a filing can be in a county or district court, and will thereby have the effect of a judgment from which execution may issue.

3.3 The employee may withdraw the wage complaint at any time prior to issuance of a determination by notifying the Division in writing.

3.4 The Division may exercise its discretion to have an investigation sequenced and/or divided into two or more stages on discrete questions of liability or relief (e.g., bifurcation), yielding two or more determinations and/or phases of the investigation.

3.5 Accrual, use, and other matters relating to paid leave under HFWA.

3.5.1 Accrual of HFWA leave. Paid leave begins to accrue at the commencement of employment or on January 1, 2021, whichever is later.

(A) For the minimum HFWA accrual rate of one hour of leave for every 30 hours worked, up to cap of 48 hours per benefits year (C.R.S. § 8-13.3-403(2)(a)), accrual is based on all "time worked" under Rule 1.9 of the COMPS Order, 7 CCR 1103-1, with regular and overtime hours counting equally; except under C.R.S. § 8-13.3-403(2)(c), an overtime-exempt employee accrues paid leave based on their normal hours worked up to a maximum of forty per week. Once employees have accrued 48 hours of paid leave during the benefit year, they do not accrue more, except if an employer chooses to provide paid leave in a greater amount. C.R.S. §§ 8-13.3-403(2)(a), -413.

(B) For hours accrual for purposes of C.R.S. § 8-13.3-403(2)(a), the best available, reasonable estimate shall be used for employees paid on a fee-for-service basis for which hours are not ordinarily tracked and cannot feasibly be tracked, except that higher education adjunct faculty paid on a per-credit or per-course basis shall be deemed to work three hours total for each in-class hour.

(C) On the day a public health emergency is declared within the definition of Rule 2.11, employers are required to immediately provide each employee with additional hours of paid leave, usable as of the date of the declaration, January 1, 2021, or the employee's first date of employment, whichever is later -- whatever the employee has accrued prior to the declaration of the public health emergency at the regular HFWA rate (*i.e.*, one hour per 30 worked, up to a maximum of 48 per benefit year), and a one-time supplement with the number of hours needed for:

(1) employees who normally work forty or more hours in a week to have access to 80 hours of total paid leave; and

(2) employees who normally work under forty hours in a week to have access to paid leave hours that are at least the greater of the number of hours the employee (a) is scheduled for work or paid leave in the fourteen-day period after the leave request, or (b) actually worked in the fourteen-day period prior to the declaration of the public health emergency or the leave request, whichever is later.

(D) During the entire duration of a public health emergency (*i.e.*, during the time between the date on which the emergency is declared and four weeks after the date of the official termination or suspension of the emergency declaration), employers:

(1) are required to permit employees to take both (a) the paid leave they have accrued prior to the declaration date of the public health emergency pursuant to C.R.S. § 8-13.3-403(2)(a), for any of the qualifying reasons provided in C.R.S. § 8-13.3-404(1), and (b) the amount of supplemental paid leave that was provided to the employee on the date of the declaration of a public health emergency, for any of the qualifying reasons provided in C.R.S. § 8-13.3-405(3);

(2) remain subject to the minimum accrual requirements of C.R.S. § 8-13.3-403(2)(a), and employees continue to accrue paid leave (up to 48 hours per benefit year); and

(3) must permit an employee to use the full amount of supplementary leave provided under C.R.S. § 8-13.3-405(1) and this rule, prior to using any of the employee's previously-accrued leave under C.R.S. § 8-13.3-403(2)(a), if an employee required leave in circumstances that qualify under both C.R.S. § 8-13.3-404(1) and C.R.S. § 8-13.3-405(3) (*e.g.*, an employee is experiencing symptoms of a communicable illness that was the subject of the declaration of a public health emergency and needs to

obtain testing and treatment).

(E) Yearly Basis for HFWA leave.

(1) Carryover. Pursuant to C.R.S. § 8-13.3-403(3)(b), "up to forty-eight hours of paid sick leave that an employee accrues in a year but does not use carries forward to, and may be used in, a subsequent year." For purposes of C.R.S. § 8-13.3-403(3)(b), "year" means "a regular and consecutive twelve-month period as determined by an employer." C.R.S. § 8-13.3-402(13). The employer shall not be required to, but may, permit an employee to carry forward more than forty-eight (48) hours of unused paid leave from one benefit year to the next. C.R.S. §§ 8-13.3-403(3)(b), -413.

(2) "Benefit year" definition. The applicable "benefit year" is the period of 12 consecutive months established by an employer in which an employee shall accrue and use earned sick leave. Unless otherwise established by an employer in a written policy, a "benefit year" is the calendar year. If an employer transitions from one type of year to another, the employer must ensure that the transition process maintains all HFWA rights, and must notify employees in writing of any such changes.

3.5.2 Pay rate and amount of HFWA leave. Under C.R.S. § 8-13.3-402(8), leave must be paid at the same rate and with the same benefits, including health benefits, as the employee normally earns during hours worked, not including overtime, bonuses, or holiday pay. Leave must be paid on the same schedule as regular wages.

(A) The pay rate for leave must be at least the applicable minimum wage~~,~~. The HFWA pay rate shall be calculated using the same rules applicable to calculating an employee's "regular rate" for overtime purposes under ~~and for employees with non-hourly pay, must be the "regular rate" as defined by~~ Rule 1.8 of the COMPS Order, 7 CCR 1103-1, except that: (1) bonuses included in the regular rate calculation are excluded from the HFWA pay rate calculation; (2) only the method in COMPS Rule 1.8.3(A) may be used for employees with variable hourly rates, except that the rate is measured over 30 days pursuant to the following subsection (3); and (3) the HFWA regular rate shall be determined based upon the employee's pay over the 30 calendar days prior to taking leave, unless the employee has not yet worked 30 calendar days in which case the longest available period shall be used. The HFWA pay rate for employees covered by Rule 3.5.1(B) shall be calculated in accordance with that Rule.~~and consistent with Rule 3.5.1(B) for any employees covered by that rule.~~

(B) The number of hours of paid HFWA leave an employee can take is the number of hours the employer reasonably anticipated they would have worked during the period of the leave, based on: (1) their regular schedule of hours actually worked; (2) or, if leave is during a period the employee was anticipated to depart from a regular schedule, then hours anticipated for that period; (3) or, if the number of hours the employee would have worked during the period cannot be reasonably anticipated, then their average hours worked during their most recent ~~month~~ 30 calendar days of work. If an employee has not yet been employed for 30 calendar days, their entitlement must be determined under 3.5.2(B)(1) or (2).

(C) Indeterminate shifts. If an employee uses paid leave for a shift of indeterminate length (for example, a shift that is defined by business needs rather than a previously specified number of hours), an employer may determine the number of paid leave hours used by the employee based on the number of hours actually worked by a replacement employee in the same shift or a similarly situated employee who works the same shift or who has worked a similar shift in the past.

(D) On-call employees are entitled to use paid leave during any hours they have been scheduled to work. Being "scheduled to work" does not include shifts for which an employee has been asked to be available or on-call, unless the

employee is performing work, including any "time worked" as defined by COMPS Order, 7 CCR 1103-1, Rule 1.9. However, if an on-call employee has an agreement with an employer to be paid for a scheduled shift regardless of whether the employee actually works the shift, the employer must provide paid leave to a qualifying employee for that shift.

3.5.3 Use of HFWA leave.

(A) Because an employee "may use accrued paid sick leave as it is accrued," C.R.S. § 8-13.3-403(3)(a), HFWA leave may be used immediately upon accrual, but an employer may, in the ordinary course of business and in good faith, verify employee hours within a month after work is performed and adjust accrued leave to correct any inaccuracy, provided that the employee is so notified in writing.

(B) An employer may require use of HFWA leave in hourly increments, or may require or allow smaller minimum increments; if an employer does not specify the minimum increment in writing, employees nevertheless may not use increments smaller than a tenth of an hour (*i.e.*, six-minute increments).

(C) An employer cannot apply an absence or attendance policy to an employee's HFWA-qualifying leave use if it could result in adverse action against the employee, including discipline, as defined in C.R.S. § 8-13.3-407(2)(b). However, after an employee has exhausted all leave required by HFWA, an employer can apply an absence or attendance policy to any absences taken by the employee.

3.5.4 Applicability of a general paid time off ("PTO") policy to HFWA leave. HFWA does not require additional leave if an employer policy provides fully paid leave for both HFWA and non-HFWA purposes (*e.g.*, sick time and vacation) and makes clear to employees, in a writing distributed in advance of an actual or anticipated leave request, that:

(A) its leave policy provides PTO --

(1) in at least an amount of hours and with pay sufficient to satisfy HFWA and applicable rules (including, if a public health emergency is declared, a supplemental amount of leave required to satisfy C.R.S. § 8-13.3-405(1) and Rule 3.5.1(C),

(2) for all the same purposes covered by HFWA and applicable rules, not a narrower set of purposes, and

(3) under all the same conditions as under HFWA and applicable rules, not stricter or more onerous conditions (including but not limited to matters such as accrual, use, payment, annual carryover of unused accrued leave, notice and documentation requirements, and anti-retaliation and anti-interference rights); and

(B) additional HFWA leave need not be provided when employees use all of their available PTO for non-HFWA-qualifying reasons (*e.g.*, vacation). C.R.S. § 8-13.3-403(4), except if a public health emergency is declared after an employee uses some or all available PTO for the applicable benefit year, the employer must supplement the employee's current total of accrued, unused leave pursuant to Rule 3.5.1(C).

3.5.5 Notice by employees of HFWA-qualifying leave.

(A) An employee may request leave orally or in writing, including electronically (for example, by email or text message). An employer may choose additional methods of receiving requests or notifications that it deems acceptable, but shall not restrict employees from using any method that notifies the employer effectively. C.R.S. § 8-13.3-404(2).

(B) For HFWA leave for any health-related or safety-related reason within C.R.S. § 8-

13.3-404, if the employee's need for leave is "foreseeable," (1) an employee shall make a good-faith effort to provide advance notice and a reasonable effort to schedule the leave in a manner that does not unduly disrupt employer operations, and (2) an employer may by written policy require reasonable procedures to provide notice of foreseeable leave, but shall not deny paid sick leave based on noncompliance with such a policy. C.R.S. §§ 8-13.3-404(2),(5).

(C) For HFWA leave that is "related to public health emergency" under C.R.S. § 8-13.3-405(3): An employee shall notify their employer of their need for leave as soon as practicable if (1) the need for leave is foreseeable and (2) the employer's place of business is not closed. C.R.S. § 8-13.3-405(4).

3.5.6 An employer may require "reasonable documentation" that leave is for a HFWA-qualifying purpose only if the leave requested or taken is for "four or more consecutive work days," C.R.S. § 8-13.3-404(6), defined as four consecutive days on which the employee would have ordinarily worked absent the leave-qualifying condition, not four consecutive calendar days. An employer may not require an employee to provide documentation that leave is for a qualifying reason "related to [a] public health emergency" under C.R.S. § 8-13.3-405(3),(4).

(A) When documentation is required, an employer may request only "reasonable" documentation, which is defined as not more documentation than needed to show a HFWA-qualifying reason for leave, as described in subparts (B), (C), and (D) below, and an employer shall not require disclosure of "details" regarding the employee's or family member's "health information" or the "domestic violence, sexual assault, or stalking" that is the basis for HFWA leave (C.R.S. § 8-13.3-412(1)).

(B) To document leave for a health-related need under C.R.S. § 8-13.3-404(1)(a), (b):

(1) If the employee received any services (including remote services) from a health or social services provider for the HFWA-qualifying condition or need, a document from that provider, indicating a HFWA-qualifying purpose for the leave, will suffice.

(2) An employee who did not receive services from a provider for the HFWA-qualifying leave, or who cannot obtain a document from their provider in reasonable time or without added expense, can provide their own writing indicating that they took leave for a HFWA-qualifying purpose.

(C) To document leave for a safety-related need covered by C.R.S. §§ 8-13.3-404(1)(c) (*i.e.*, domestic abuse, sexual assault, or criminal harassment): A document under subpart (B)(1) (from a health provider or a non-health provider of legal services, shelter services, social work, or other similar services) or an employee writing under (B)(2) will suffice, as will a legal document indicating a safety need that was the reason for the leave (*e.g.*, a restraining order, other court order, or police report).

(D) Submission of documentation to an employer may be provided (1) by any reasonable method, including but not limited to electronic transmission, (2) at any time until whichever is sooner of an employee's return from leave (or termination of employment, if the employee does not return), (3) without a requirement of the employee's signature, notarization, or any other particular document format.

(E) Confidentiality of leave-related information and documentation. Any information an employer possesses regarding the health of an employee or the employee's family member, or regarding domestic abuse, sexual assault, or criminal harassment affecting an employee or employee's family member, shall be treated as confidential and may not be disclosed to any other individual except the affected employee, unless the affected employee provides written permission prior to such disclosure. C.R.S. § 8-13.3-412(2)(c). If the information is in writing, it shall be maintained on a separate form and in a separate file from

other personnel information, and shall be treated as a confidential medical record by the employer. C.R.S. § 8-13.3-412(2)(a)-(b).

(F) If an employer reasonably deems an employee's documentation deficient, without imposing a requirement of providing more documentation than HFWA or applicable rules permit, prior to denying leave, the employer must: (1) notify the employee within seven days of either receiving the documentation or the employee's return to work (or termination of employment, if the employee does not return), and (2) provide the employee the minimum of seven days to cure the deficiency after the employee is notified that the employer deems the existing documentation inadequate.

3.5.7 Employer records of accrued and used paid leave hours. An employer "shall retain records for each employee for a two-year period, documenting hours worked, paid sick leave accrued, and paid sick leave used" (C.R.S. § 8-13.3-409(1)), except that two-year limit does not diminish the obligation to retain pay statement records for three years (C.R.S. § 8-4-103(4.5)). Upon an employee's request, an employer must provide, in writing or electronically, documents sufficient to show, or a dated statement containing, the then-current amount of paid leave the employee has (1) available for use ~~(including accrued leave)~~, and (2) already used during the current benefit year, including information as to any accrued leave provided and used subject to C.R.S. § 8-13.3-403 and any supplemental public health emergency-related leave provided and used subject to C.R.S. § 8-13.3-405(3). Employees may make such requests no more than once per month, except they may make an additional request when any need for HFWA leave arises. Employers may choose a reasonable system for fulfilling such requests, including but not limited to listing such information on each pay stub, using an electronic system where employees can access their own information, or providing the necessary information in a letter or electronic communication.

3.5.8 Collective bargaining agreements that provide for equivalent or more generous paid sick leave.

(A) If a bona fide collective bargaining agreement ("CBA") "provides for equivalent or more generous paid sick leave for the employees covered" (C.R.S. §~~§~~ 8-13.3-415(2),(3)), then:

(1) HFWA does not apply additional requirements (*e.g.* it does not require an additional 48 hours of leave when a CBA provides the same amount of leave); and

(2) HFWA does not invalidate the CBA or require its re-opening.

(B) A CBA "provides for equivalent or more generous paid sick leave" (C.R.S. §§ 8-13.3-415(2),(3)) if the CBA does not diminish any employee protections under HFWA and rules promulgated thereunder, including but not limited to the requirements in Rule 3.5.4(A) and:

(1) accrual and carryover;

(2) use and its conditions (*e.g.*, documentation and notice to employers); and

(3) protection and effectuation of paid sick leave rights through notice to employees and prohibitions against retaliation based on, or interference with, protected activity.

(C) This Rule applies to a CBA that is either:

(1) "in effect on the effective date" of HFWA, July 14, 2020; or

(2) "initially negotiated or negotiated for the next collective bargaining agreement after th[at] effective date . . . if the requirements of this Part 4

are expressly waived in the [CBA]." (C.R.S. §§ 8-13.3-415(2),(3).)

Rule 4. Investigation

4.1 Wage complaints shall be assigned to Division compliance investigators. Investigatory methods used by the Division may include:

A. Interviews of the employer, employee, and other parties;

B. Information gathering, fact-finding, and reviews of written submissions; and

C. Any other lawful techniques that enable the Division to assess the employer's compliance.

4.2 The Division will evaluate wage complaints under the following burden of proof structure:

4.2.1 To initiate a wage complaint, an employee must provide an explanation of the basis for the complaint that is clear, specific, and shows the employee is entitled to relief. The employee must provide sufficient evidence from which both a violation of Colorado wage and hour laws and an estimate of wages due may be reasonably inferred.

4.2.2 The burden then shifts to the employer to prove, by a preponderance of the evidence, that the employee is not entitled to the claimed relief. If the employer fails to meet its burden, the Division may award wages and/or penalties to the employee based on the employee's evidence.

4.2.3 If the Division concludes that wages are owed to the employee, but cannot calculate the precise amount of wages due, then the Division may award a reasonable estimate of wages due.

4.3 Any party to a wage complaint may designate an authorized representative to represent the party during the Division's administrative procedure.

4.3.1 The party may designate an authorized representative by filing the Division-approved form with the Division.

4.3.2 If not using the Division-approved form, and the authorized representative is a licensed attorney or accountant, the party or the authorized representative must provide written notice to the Division that the authorized representative will represent the party during the Division's administrative procedure.

4.3.3 If not using the Division-approved form, and the authorized representative is not a licensed attorney or accountant, the party must provide a signed written notice to the Division that the authorized representative will represent the party during the Division's administrative procedure.

4.3.4 The party may revoke the authorized representative's authority by contacting the Division in writing.

4.4 After receipt of a wage complaint that states a claim for relief, the Division will initiate the administrative procedure by sending a Notice of Complaint to the employer, along with any relevant supporting documentation submitted by the employee, via U.S. postal mail, electronic means, or personal delivery.

4.4.1 If the Notice of Complaint cannot be delivered, the administrative procedure has not been initiated. If a proper address is located or provided, the Division will resend the Notice of Complaint, and the employer's deadline to respond will be calculated from the date of the subsequent notice.

4.4.2 If the Division cannot determine the employer's correct address, it may contact the employee to request the employer's address. The Division may dismiss the wage complaint if neither the employee nor the Division can determine the employer's correct address.

4.4.3 The employer's response to the Notice of Complaint must include the completed Division Employer Response Form, as well as any additional information or documentation requested by the Division. An insufficient response from the employer may be considered a failure to respond under C.R.S. § 8-4-113(1)(b).

4.4.4 If an employer obtains a good cause extension to respond under C.R.S. § 8-4-113(1)(b), the extension does not waive or reduce penalties owed to the employee pursuant to C.R.S. § 8-4-109(3)(b) if the employer fails to pay the employee's wages within fourteen days after the Notice of Complaint is sent.

4.4.5 Where a claim, complaint, or investigation for violation of these Rules or the statutes they enforce has been filed or commenced, the employer shall preserve all relevant documents until final disposition and until the expiration of the statutory period within which a person aggrieved may bring a civil action.

4.5 After receipt and review of the employer's response, the Division may contact the employee for additional documentation or information. If the employer denies, in whole or in part, the allegations in the Notice of Complaint, and the Division determines further investigation would be beneficial, the Division shall send to the employee any relevant supporting documentation submitted by the employer. If the employee does not respond to the request for additional documentation or information by the deadline given, the Division will make a determination based on the information in the record.

4.6 All parties to a wage complaint are responsible for ensuring the Division has current contact information.

4.6.1 All parties must promptly notify the Division of any change in contact information, including mailing address, email address, and phone number.

4.6.2 Parties should not rely on the U.S. Postal Service to forward mail. Failure to respond to a notice because mail was not forwarded to a new address will not be excused.

4.7 In any Division investigation, proceeding, or other action, if information is provided to the Division by a source requesting confidentiality, and that information is used only as a basis for procuring other evidence, not offered as evidence itself, then the source shall remain confidential. Any such confidential source is unlawful to disclose (unless the source consents) in any administrative or judicial proceeding, in response to any records or information request, or in any other manner, in order to effectuate statutory requirements including but not limited to the following:

(A) If information is properly treated as confidential, the Division "shall provide a physical environment and establish policies and procedures to ensure confidentiality for all information regarding any employer, employee, or person pertaining to any action pursuant to articles 1 to 13" (C.R.S. § 8-1-115);

(B) "No employer shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any employee who has filed any complaint or instituted or caused to be instituted any proceeding under this article or related law or who has testified or may testify in any proceeding on behalf of himself, herself, or another regarding afforded protections under this article (C.R.S. § 8-4-120);

(C) It is unlawful to "discharge[] or threaten[] to discharge, or in any other way discriminate[] against an employee" because s/he "may testify in any investigation or proceeding relative to enforcement of this article" (C.R.S. § 8-6-115); and

(D) It is unlawful to take adverse action based on "participat[in]g in an investigation, hearing, or proceeding or cooperat[ing] with or assist[ing] the Division in its investigations of alleged violations" of HFWA (C.R.S. §§ 8-13.3-402(10), -407).

4.8 Immigration status is irrelevant to wage rights and responsibilities, including the right to access paid leave without retaliation or interference under HFWA, and the Division shall assure that wage rights and responsibilities apply regardless of immigration status, including but not limited to as follows.

4.8.1 The Division will not voluntarily provide any person or entity information concerning the immigration status of (a) a party to a wage claim, (b) a person offering information concerning a wage claim, or (c) a person with a relationship with anyone in categories (a) or (b).

4.8.2 Any effort to use a person's immigration status to negatively impact the wage and hour law rights, responsibilities, or proceedings of any person or entity is an unlawful act of obstruction, retaliation, and/or extortion, based on statutory provisions including but not limited to the following that make it unlawful:

(A) For "any person" to "hinder[] or obstruct[] the director or any such person authorized by the director in the exercise of any power conferred by this article," including but not limited to wage investigations, rulemakings, or adjudicative or judicial proceedings (C.R.S. § 8-1-116(2));

(B) For an employer to "intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any employee who has filed any complaint or instituted or caused to be instituted any proceeding under this article or related law or who has testified or may testify in any proceeding on behalf of himself, herself, or another regarding afforded protections under this article" (C.R.S. § 8-4-120);

(C) For any person to "threaten[] to report to law enforcement officials the immigration status of the threatened person or another person" to "induce another person" to give up money "or another item of value" (C.R.S. § 18-3-207(1.5)), including inducing the surrender of any "tangible and intangible personal property, contract rights, choses in action, [or] services … , and any rights of use or enjoyment connected therewith" (C.R.S. § 18-1-901); and

(D) For an employer to deny "any right guaranteed under" HFWA, or to take "any adverse action against an employee for exercising any right guaranteed" by HFWA (C.R.S. §§ 8-13.3-402(10), -407).

Rule 5. Determination

5.1 Upon conclusion of the investigation of a wage complaint, the Division will issue a determination.

5.1.1 The Division shall send the determination to all parties via U.S. postal mail, electronic means, or personal delivery on the date the determination is issued by the Division's compliance investigator. The Division shall notify the parties of their termination and any appeal rights pursuant to C.R.S. § 8-4-111(3) and C.R.S. § 8-4-111.5(1).

5.1.2 The date of "issuance" of the Division's determination, as used in C.R.S. § 8-4-111(3), is the date the Division's determination is "sent," as used in C.R.S. § 8-4-111.5(1). Both the termination and appeal deadlines are calculated from the date the Division's determination is originally issued and sent to the parties.

5.1.3 If any copies of the decision are sent to the parties after the date the Division's determination is originally issued and sent to the parties, those copies are provided only as a courtesy and do not change the thirty-five day appeal and termination deadlines.

5.1.4 Determinations by the Division may include the following remedies, depending on which, if any, the Division's findings support:

(A) monetary or other relief authorized by the statute(s) under which the wage complaint was filed, including but not limited to, where applicable --

(1) any unpaid wages, penalties, and/or fines under C.R.S. Title 8, Articles 1, 4, 6, and 13.3;

(2) if a claim under C.R.S. Title 8, Article 13.3 (HFWA) cost the employee a job or pay, back pay plus either reinstatement or (if reinstatement is

infeasible) front pay for a reasonable period; and/or

(3) other fines or penalties authorized by statutes applicable to the complaint;

(B) fines or penalties authorized by the statutes on Division investigative and enforcement authority in C.R.S. Title 8, Articles 1, 4, 6, and 13.3; and/or

(C) order(s) to cease non-compliance and/or effectuate compliance, as authorized by the statute(s) under which the complaint was filed and statutes on Division investigative and enforcement authority in C.R.S. Title 8, Article 1, 4, 6, and 13.3.

Rule 6. Appeal

6.1 Any party to the claim may appeal the Division's determination.

6.1.1 Parties are encouraged, though not required, to use the Division's appeal form. A valid appeal is a written statement that is timely filed with the Division, explains the clear error in the determination that is the basis for the appeal, and has been signed by the party or the party's authorized representative.

6.1.2 No appeal will be heard and no hearing will be held unless the appeal is received by the Division within thirty-five calendar days of the date the determination is sent. It is the responsibility of the party filing the appeal to ensure the appeal is received by the Division within the thirty-five day filing deadline.

6.1.3 Upon receipt of the appeal, the Division will notify the parties of the date of the hearing and any interim deadlines via U.S. postal mail, electronic means, or personal delivery.

6.1.4 Upon receipt of the appeal, the Division will send a copy of the appeal and a copy of the record of its investigation to the parties via U.S. postal mail, electronic means, or personal delivery. All evidence submitted to the Division as part of the investigation is part of the record on appeal and need not be resubmitted.

6.2 Parties who timely file a valid appeal of the Division's determination will be afforded an administrative appeal hearing before a Division hearing officer. Parties may appear by telephone.

6.3 The parties may submit new testimonial evidence to the hearing officer in accordance with deadlines imposed by the Division. The parties may submit new documentary or other non-testimonial evidence in accordance with deadlines imposed by the Division and upon showing "good cause," which may be assessed based on any relevant factors, including but not limited to:

6.3.1 That the new evidence was previously not known or obtainable, despite diligent evidence-gathering efforts by the party offering the new evidence;

6.3.2 That the party failed to receive fair notice of the investigation or of a key filing by another party or by the Division to which the new evidence is responsive;

6.3.3 That factors outside the control of the party prevented a timely action or interfered with the opportunity to act, except that the acts and omissions of a party's authorized representative are considered the acts and omissions of the party and are not considered to be a factor outside the party's control as intended by this rule;

6.3.4 That a determination raised a new issue or argument that cannot be responded to adequately without the new evidence;

6.3.5 That, at the investigation stage, the party offering new evidence requested more time to submit evidence, yet was denied, and in the hearing officer's judgment (a) the need for more time was legitimate and did not reflect neglect by the party, (b) the denial of the request for more time was unwarranted, and (c) exclusion of the evidence would cause substantial injustice to the party; and/or

6.3.6 That failure to admit the evidence otherwise would cause substantial injustice and did not

arise from neglect by the party.

6.4 New evidence must be sent to all other parties to the appeal. Failure to send all new evidence to all other parties to the appeal may result in the evidence being excluded from the record.

6.5 If the party who filed the appeal does not participate in the hearing, the appeal may be dismissed.

6.6 All testimony at a hearing must be recorded by the Division but need not be transcribed unless the hearing officer's decision is appealed.

6.7 The hearing officer may, upon the application of any party or on his or her own motion, convene a prehearing conference to discuss the issues on appeal, the evidence to be presented, and any other relevant matters that may simplify further proceedings.

6.8 The hearing officer will decide whether the Division's determination is based on a clear error of fact or law.

6.9 The hearing officer shall not engage in ex parte communication with any party to an appeal.

6.10 An appeal may, in the discretion of the hearing officer, be sequenced and/or divided into two or more stages on discrete questions of liability and/or relief (*e.g.*, bifurcation), yielding two or more decisions and/or phases of the appeal.

6.11 The hearing officer's decision constitutes a final agency action pursuant to C.R.S. § 24-4-106. The Division shall promptly provide all parties with a copy of the hearing officer's decision via U.S. postal mail, electronic means, or personal delivery. The Division shall notify the parties of their appeal rights pursuant to C.R.S. § 8-4-111.5(5).

COLORADO
Department of
Labor and Employment

Division of Labor Standards and Statistics
633 17th Street, Denver, CO 80202-2107
303-318-8441 | www.coloradolaborlaw.gov

NOTICE OF PUBLIC HEARING CONCERNING PROPOSED RULES:

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to adoption of the below **three sets of proposed rules**, under authority granted to the Division of Labor Standards and Statistics by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of C.R.S. Title 8, Articles 1, 2, 4, 6, 12, 13.3, and 13.5, including but not limited to the statutory sections cited in Rule 1 of COMPS Order #38 (7 CCR 1103-1), Rule 1 of Wage Protection Rules (7 CCR 1103-7), and Rule 2 of the 2022 PAY CALC Order (7 CCR 1103-14), all of which proposed rules accompany and are incorporated into this notice.

(1) 2022 Publication And Yearly Calculation of Adjusted Labor Compensation Order ("2022 PAY CALC Order," or "PAY CALC"), 7 CCR 1103-14 (effective January 1, 2022). This new set of rules serves to calculate and publish pay and income figures — *e.g.*, Colorado minimum wages, and minimum earnings levels for various full or partial labor law exemptions — that adjust annually or other periodic bases under the Colorado Overtime and Minimum Pay Standards Order ("COMPS Order," or "COMPS"), 7 CCR 1103-1, or other laws. The pay and income figures in PAY CALC previously were (or, for figures new in 2022, would have been) published in various provisions throughout the COMPS Order. PAY CALC consolidates and facilitates access to such figures by consolidating all of them into an annually published one-page rule, with PAY CALC and COMPS each referencing and incorporating the other.

(2) Colorado Overtime and Minimum Pay Standards Order ("COMPS Order," or "COMPS") #38, 7 CCR 1103-1 (effective January 1, 2022). These rules amend the prior version of COMPS (Order #37, 2021), Colorado's broad set of wage and hour rules, as follows (in addition to certain non-substantive edits):

(A) removing annually or otherwise periodically adjusted pay and income figures — *e.g.*, Colorado minimum wages, and minimum earnings levels for various full or partial labor law exemptions — from the various COMPS provisions where each has appeared, and replacing them with references to the PAY CALC Order (described above), which now consolidates all such figures;

(B) adding an exemption for "highly compensated employees" not covered by other existing exemptions, substantially similar to the exemption under the federal Fair Labor Standards Act;

(C) adding rules on minimum wages, overtime and maximum hours protections, and meal and rest periods for agricultural employees, pursuant to the Colorado Senate Bill 21-87 requirements that agricultural employees be provided such rights, and that the Division promulgate rules accordingly; and

(D) Rules further detailing how to calculate the "regular rate of pay" of an employee with more than one hourly rate, and expanding this definition to other uses of "regular rate of pay" in the COMPS Order other than calculation of the overtime rate, are added.

(3) Wage Protection Rules, 7 CCR 1103-7 (effective January 1, 2022). These rules amend the Wage Protection Act Rules, 7 CCR 1103-7, which implement the Colorado Wage Act ("CWA," as amended by the Wage Protection Act ("WPA"), C.R.S. § 8-4-101 et seq.), Healthy Families and Workplaces Act ("HFWA," C.R.S. § 8-13.3-401 et seq.), and Agricultural Labor Rights and Responsibilities Act (codified in relevant part at C.R.S. §§ 8-6-101.5, 8-6-120, 8-13.5-201 et seq.), as follows (in addition to certain non-substantive edits):

(A) defining "vacation pay," following a court ruling that vacation pay is non-forfeitable;

(B) clarifying the pay rates and hours for HFWA leave for employees with certain irregular pay or hours;

(C) confirming the acceptability of electronic signatures at the Division;

(D) clarifying employers' HFWA record-keeping requirements; and

(E) clarifying the HFWA exemption for when a CBA provides equivalent or more generous leave.

Public Hearing Information:

Date and Time of Hearing: **Monday, November 1, 2021, from 3:00 pm until at least 6:00 pm**. Division leadership will stay until at least 6:00 pm, or longer if by that time anyone still wishes to speak, to assure opportunity for anyone who may wish to attend in the early evening. You need not arrive by a particular time or stay the entire meeting.

Written Comment Deadline: **Wednesday, November 3, 2021, at 5:00 pm**

The Division is administering this public hearing, and all interested persons are free to offer oral testimony and to listen to part or all of the hearing. However, due to the current public health crisis, **participation will be primarily by remote means**, with limited in-person participation at the Division by RSVP only and subject to (A) space limitations and (B) the possibility of a decision, which would be announced on the **rulemaking page** no later than 24 hours before the meeting, as to whether the public health situation permits in-person attendance or requires an exclusively remote hearing. While not required, we request and highly recommend that **anyone interested in oral testimony use this rulemaking comment form to RSVP**, because at the hearing, after those in person speak, we will first call on those who RSVP'd to speak, followed by testimony from others by remote means. A recording of the hearing will be publicly posted after the hearing on our **rulemaking page**.

Written comments may be submitted through our online **rulemaking comment form**, mailed to the below address, faxed to 303-318-8400, or emailed to michael.primo@state.co.us. Because **written comments become part of the same record as oral testimony**, and are reviewed by the same officials, you **may submit written comments in lieu of oral testimony**, but are free to participate by both means.

Instructions for Hearing Participation: Either of the below options will work to participate, but for orderly administration of participation, and to avoid possible audio feedback, please do not use both simultaneously. (*You do not need to have a Google account to access any of the below means.*)

(A) **To Participate by Internet, *Including* Testifying:**
visit this "Meet" webpage: **meet.google.com/umv-nkzq-mou**

(B) **To Participate by Phone, Whether Just to Listen or to Testify:**
call (US) +1 631-743-5204, and then enter this pin: 421 042 922#

(C) **To Participate in Person** (633 17th Street, Denver, CO, 80202, Room 12A on the 12th floor)
RSVP via our **rulemaking comment form** to attend in person.

Please contact michael.primo@state.co.us with any questions about how to access either the hearing or its recording, or **if you need accommodations or translation services** to attend or participate. This hearing is held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101 et seq., and Colorado Open Meetings Law, C.R.S. § 24-6-401 (2021), to receive any testimony, written, views, or arguments that interested parties wish to submit regarding the proposed rules.

For resources in Spanish: visit **LeyesLaboralesDeColorado.gov**; submit comments on our **Spanish comment form**; RSVP (optionally) to attend or speak on our **Spanish RSVP form**; or call 303-318-8441 and ask for an employee who speaks Spanish.

> ***Para recursos en español****: visite **LeyesLaboralesDeColorado.gov**; envíe comentarios por nuestro **formulario en español para comentarios**; Para asistir o hablar, confirme su asistencia (opcionalmente) en nuestro **formulario RSVP** en español ; o llame al 303-318-8441 y pida un empleado que hable español.*

Copies of proposed rules, including redlined copies showing changes from prior versions, and statements of basis and purpose further detailing the proposed rules, are available at **www.coloradolaborlaw.gov** or by request to: **Division of Labor Standards and Statistics, 633 17th Street, Denver, Colorado 80202**.

COLORADO
Department of
Labor and Employment

Division of Labor Standards and Statistics
633 17th Street
Denver, CO 80202-2107 | (303) 318-8441 | www.coloradolaborlaw.gov

STATEMENT OF BASIS, PURPOSE, SPECIFIC STATUTORY AUTHORITY, AND FINDINGS

Wage Protection Rules, 7 CCR 1103-7 (2022), as proposed September 29, 2021;
to be followed and replaced by a final Statement at the conclusion of the rulemaking process.

I. BASIS: The Director ("Director") of the Division of Labor Standards and Statistics ("Division") has authority to adopt rules and regulations on wage-and-hour and workplace conditions, under the authority listed in Part II, which is incorporated into Part I as well. These rules update the existing Wage Protection Act Rules, 7 CCR 1103-7, which implement the Colorado Wage Act ("CWA") as amended by the Wage Protection Act ("WPA") of 2014, C.R.S. § 8-4-101 *et seq.*, the Healthy Families and Workplaces Act ("HFWA") of 2020, C.R.S. § 8-13.3-401 *et seq*., and the Agricultural Labor Rights and Responsibilities Act, as codified in relevant part at C.R.S. §§ 8-6-101.5, 8-6-120, and 8-13.5-201 *et seq*.

II. SPECIFIC STATUTORY AUTHORITY: The Director is authorized to adopt and amend rules and regulations to enforce, execute, apply, and interpret Articles 1, 2, 4, 6, 13.3, and 13.5 of Title 8, C.R.S. (2021), and all rules, regulations, investigations, and other proceedings of any kind thereunder, by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of Articles 1, 2, 4, 6, 13.3, and 13.5, including §§ 8-1-101, 103, 107, 108, 111, 130; § 8-4-111; §§ 8-6-102, 104, 105, 106, 108, 109, 111, 116, 117, 120; § 8-12-115; §§ 8-13.3-401, 403-405, 407-411, 416; and § 8-13.5-202, 203, 204.

III. FINDINGS, JUSTIFICATIONS, AND REASONS FOR ADOPTION. Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds as follows: **(A)** demonstrated need exists for these rules, as detailed in the findings in Part IV, which are incorporated into this finding as well; **(B)** proper statutory authority exists for the rules, as detailed in the list of statutory authority in Part II, which is incorporated into this finding as well; **(C)** to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply; **(D)** the rules do not conflict with other provisions of law; and **(E)** any duplicating or overlapping has been minimized and is explained by the Division.

IV. SPECIFIC FINDINGS FOR ADOPTION. The Director's specific findings for adoption (the "Findings") are as follows.

A. Rule 2.17: Vacation pay.

Under the Colorado Wage Act ("Wage Act"), C.R.S. § 8-4-101(14)(a)(III), vacation pay is a form of wages, and departing workers must be paid all unused vacation leave they had accrued. But when if ever a departing employee's unused vacation could be deemed forfeit was under dispute for years in the courts, until a recent Colorado Supreme Court decision. On June 14, 2021, the Colorado Supreme Court in *Nieto v. Clark's Market, Inc.*, 2021 CO 48, issued a unanimous, strongly-worded decision affirming the validity of, and agreeing with, the Division's interpretation in Wage Protection Rule 2.17 that wage law "does not allow a forfeiture of *any* earned (accrued) vacation pay" in an employment policy or agreement, and thus that paying departing employees their earned, unused vacation pay is a guaranteed right that cannot be forfeited once vacation pay is accrued.[1] The Court worded that right broadly and categorically: while an employer need not have vacation pay at all,

> when an employer chooses to provide it, such pay is no less protected than other wages or compensation and, thus, *cannot be forfeited* once earned. Accordingly, under the CWCA, *all* vacation pay that is earned and determinable must be paid at the end of the employment relationship, see §§ 8-4-101(14)(a)(III), -109(1)(a), C.R.S. (2020), and *any term* of an agreement that purports *to forfeit earned vacation pay is void*, see § 8-4-121, C.R.S. (2020).[2]

Nieto emphasized, as relevant to vacation pay, that the Wage Act is "a remedial statute" that "must be liberally construed to carry out its purpose," including "to protect employees from exploitation, fraud, and oppression."[3]

---

[1] Wage Protection Rules, 7 CCR 1103-7, R. 2.17 (adopted in 2019; affirmed by *Nieto* in 2021) (emphasis added).

[2] *Nieto v. Clark's Market, Inc.*, 2021 CO 48, ¶ 3 (emphases added).

[3] *Id.* at ¶ 27.

Yet though the Supreme Court now has clarified and directed that "all" vacation pay (*Nieto*, ¶ 3) is non-forfeitable and must be paid upon separation, no statute or rule defines what "all vacation pay" includes. That leaves unclear the treatment of paid leave with names like "annual leave," "paid time off," or "personal days." Unclear vacation pay protection has, to the detriment of both employers and employees, led to more litigated disputes on what is and is not protected vacation pay, plus many more disputes that, in the Division's experience, never go to court but leave employers and employees in contentious disagreements on what employers do and do not have to pay. Accordingly, proposed Rule 2.17 now provides a definition of what does and does not qualify as the "vacation pay" that, *Nieto* instructs, must be protected against forfeiture and paid upon separation.

The Division has researched how "vacation pay" is defined in the several other states with a similar vacation pay statute. *Every* such state that Division research found to have a similar statute, and to have addressed the issue, has applied the same distinction, which the Division finds to be sound, and consistent with *Nieto*.[4] Proposed Rule 2.17.1 therefore assures that Colorado will follow that consensus among the states, as follows:

(A) What *is not* "vacation" payable upon separation is leave that is *conditional*: usable only "upon occurrence of a qualifying event, such as a medical need, a caretaking requirement, bereavement, or a holiday" (Proposed R. 2.17.1). Employees have no "banked" entitlement to leave they earn only *when and if* a qualifying condition occurs. An employee who departs with 6 vacation and 4 sick days accrued must be paid only for the former 6 days, not the latter 4 days.

(B) What *is* "vacation" payable upon separation is any earned, determinable paid leave, whether or not called vacation, "usable at the employee's discretion (other than procedural requirements such as notice and approval of particular dates)." If an employee departs with accrued days of paid time off by any name that are usable for both vacation and other needs (illness, etc.), under employment

---

[4] **California**: *Paton v. Advanced Micro Devices*, 197 Cal. App. 4th 1505, 1519 (Ct. App. 2011) (regardless of the "name [that] is given to the leave" at issue, what distinguishes paid "vacation time" from other other forms of paid time is whether the paid time "is conditioned upon the occurrence of a specific event or granted for a particular purpose. For example ... some employers offer paid time off for illness, bereavement, or other specific reasons. The employee's right to this type of leave vests when the reason for the leave arises, as when the employee falls ill or a family member dies ... [and] the employee is typically expected to use the leave for the identified purpose" — whereas "vacation time" is paid time off that "is not conditioned upon the occurrence of any event or condition."); Cal. Div. of Labor Stds. Enforcement, Opinion Letter Re: Labor Code § 233 (May 21, 2003).

Illinois: Ill. Admin. Code tit. 56, § 300.520(f)(3) ("The Department recognizes policies under which . . . the employer does not have separate arrangements for vacation and sick leave. Under the policy, employees earn a certain amount of 'paid time off' that they can use for any purpose, including vacation and sick leave. Because employees have an absolute right to take this time off (unlike traditional sick leave in which using sick leave is contingent upon illness), the Department will treat 'paid time off' as earned vacation days.")

Louisiana: *Davis v. St. Francisville Country Manor, L.L.C.*, 136 So. 3d 20, 24 (La. Ct. App. 2013) ("Any purported difference between 'paid days off' and 'vacation time with pay' is a distinction without substance and is simply a matter of semantics. The right to compensation vests as an eligible employee accrues the paid time off.").

Massachusetts: Mass. Att'y Gen'l, Fair Labor Div., Advisory #99/1 (to defeat a claim that the *entire* amount of paid time off is payable, employer must show it *designated* only a *specific portion* of annual leave for discretionary use as vacation) (https://www.mass.gov/files/documents/2016/08/rt/vacation-advisory.pdf); *Catapult Tech. v. Wolfe*, No. 997, 2007 Md. App. Lexis 165, at *15-16 (Ct. Spec. App. Aug. 20, 2007) ("universal leave" is earned wages, payable at separation).

North Carolina: N.C. Dep't of Labor, "Promised Wages Including Wage Benefits," (www.labor.nc.gov/workplace-rights/employee-rights-regarding-time-worked-and-wages-earned/promised-wages-including) ("'Wage benefits' are benefits such as, but not limited to, vacation pay (including PTO and PDO leave), sick leave, jury duty pay, and holiday pay. Once a promise is made ... the employer must pay all promised wages, including wage benefits, accruing to its employees based on any policy, agreement or practice that the employer has established.").

Nebraska: *Fisher v. Payflex Systems USA*, 829 N.W.2d 703, 710-11 (Neb. 2013) ("Regardless of the label" the employer uses, "vacation pay" includes any leave that "is not conditioned upon an event, such as a holiday, an illness, or a funeral," and that an employee may use "for any personal reason without conditions").

terms that allow using all of those days for vacation, then they must be paid for all such days.

If paid time off is usable upon accrual, without any qualifying event, then employees may count on their right to those wages, because that right has no preconditions. They may choose to "bank" it for future use, rather than feel compelled to use it all rapidly when they anticipate (or fear) their job ending. Consistent with the Wage Act's purposes, this definition looks to economic realities, rather than allow formalities to carry the day: the label parties assign is not determinative; departing employees must be paid for any leave that meets the "vacation pay" definition, regardless of what anyone calls it.[5] This is consistent with the realities of how employees may use vacation pay instead of other paid leave: they may use vacation days, for example, to stay home if they are sick but lack (or ran out of) sick days, or for any other reason they may prefer using vacation rather than sick days.

Accordingly, Rule 2.17.1 aims to provide clarity by codifying the Division's interpretation, based on the *Nieto* mandate that "*all* vacation pay that is earned and determinable must be paid," which in turn affirmed the existing Rule 2.17 language that "does not allow a forfeiture of *any* earned (accrued) vacation pay" — all of which conforms to the strong consensus among other states with similar statutes: Whatever it's called, if it's pay usable for vacation, then it's vacation pay, even if it's usable for non-vacation purposes too. The Division considered relying on case-by-case decision-making to elaborate this distinction, rather than promulgate a rule. But the Division is charged by law with enforcing and interpreting wage law, and case-by-case decision-making is an unpredictable, delayed, and less transparent way to provide clarity and enforcement as to a wage right and responsibility as frequently disputed, and with as unclear a recent history, as vacation pay. Awaiting rulings with no definition established by rule or statute would not only perpetuate the lack of clarity that proliferates disputes, but also risk surprising employers not aware of the implications of *Nieto* or the consensus among other states that Colorado is following. Accordingly, the Division finds that rulemaking to clarify and disclose a "vacation pay" definition is superior to the alternative of simply issuing case-by-case rulings applying that interpretation.

B. Rule 3.5.2: Rate of Pay and Number of Hours for Paid Leave Required by HFWA.

In 2020, the General Assembly passed the Healthy Families and Workplaces Act ("HFWA"), C.R.S. § 8-13.3-401 *et seq*., providing for accrual of paid leave for a range of health and safety needs.[6] Proposed Rule 3.5.2 contains additional provisions on how to calculate the number of hours, and rate of pay, for HFWA leave. These provisions arise from the Division's experience since promulgating Rule 3.5.2, and clarify the Rule's application to various unusual situations — where an employee has: (a) a variable pay rate; (b) not yet worked for 30 days; (c) indeterminate shifts that are open-ended in length and end at a time dictated by business needs rather than at a set time; or (d) "on call" hours. The Proposed Rule also clarifies that calculation of the HFWA rate of pay differs from calculation of the COMPS Rule 1.8 overtime "regular rate" in several respects: exclusion of bonuses as HFWA requires; use of a 30-day period as the basis for calculation instead of a single workweek; and for employees with variable rates, use of a weighted average rather than an alternative method applicable only to overtime. Calculation of an employee's rate of pay under Rule 3.5.2 may also be affected by related "regular rate" definition clarifications in proposed Rule 1.8.3 of the COMPS Order, proposed simultaneously with these rules.

C. Rule 3.5.7: Clarifying Applicability of Recordkeeping to All Forms of HFWA Leave.

An edit in proposed Rule 3.5.7 clarifies that the employer obligation to provide HFWA leave records applies to leave taken under *either* C.R.S. § 8-13.3-403 (accrued leave) *or* 405 (public health emergency leave).

---

[5] *See Colo. Custom Maid, LLC v. Indus. Claim Appeals Office*, 2019 CO 43, ¶ 2, 441 P.3d 1005, 1007 (analyzing employment relationship by "the realities of [the employer's] relationship with its cleaners," not its formal characterization of the workers' status as independent contractors); *Dana's Housekeeping v. Butterfield,* 807 P.2d 1218, 1221 (Colo. App. 1990) (refusing to "give determinative weight to the parties'... agreement" as to the nature of the parties' relationship, because "the way parties refer to themselves does not determine whether a claimant is an independent contractor or an employee"); *Jackson Cartage, Inc. v. Van Noy*, 738 P.2d 47, 48 (Colo. App. 1987) ("we are primarily concerned with what is done under the contract and not with what the contract says").

[6] For more detail, *see* Interpretive Notice & Formal Opinion ("INFO") #6B: Paid Leave under the Healthy Families and Workplaces Act ("HFWA"), as of Jan. 1, 2021.

D. Rule 3.5.8: Test for Whether a CBA Provides "Equivalent or More Generous Leave" to HFWA.

An edit in proposed Rule 3.5.8 clarifies when an employer is exempt from providing HFWA leave due to a CBA providing "equivalent or more generous leave," by cross-referencing Rule 3.5.4(A) governing "equivalent or more generous" paid time off policies, and making clear that a qualifying CBA must likewise meet these requirements as well as those in Rule 3.5.8. The Rule 3.5.4(A) requirements include: a written and distributed policy providing for leave in an amount of hours and with pay to satisfy HFWA and implementing rules, and for all the same purposes and under all the same conditions as provided by HFWA and implementing rules.

E. Rule 2.20: Signature Requirements.

Proposed Rule 2.20 clarifies that wherever a "signature" is required on any document related to a claim or Division proceeding, an electronic signature, including a typed signature, is sufficient. This clarification is within Division discretion to manage matters within its jurisdiction; the Wage Act has no specific signature requirement, and the Colorado Uniform Electronic Transactions Act ("UETA") lets state agencies accept electronic signatures, C.R.S. § 24-71.3-118. Accepting electronic signatures reduces barriers to accessing Division services, respects parties' intent in submitting documents, and reduces the likelihood of non-substantive disputes about formalities. Proposed Rule 2.20 also recognizes the validity of signatures by representatives authorized to sign on filers' behalf.

V. EFFECTIVE DATE. These rules take effect January 1, 2022, or as soon thereafter as the rulemaking process is completed.

Scott Moss
Director, Division of Labor Standards and Statistics
Colorado Department of Labor and Employment

September 29, 2021
Date

Notice of Proposed Rulemaking

Tracking number

2021-00615

Department

1100 - Department of Labor and Employment

Agency

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

CCR number

7 CCR 1103-14

Rule title

2022 Publication And Yearly Calculation of Adjusted Labor Compensation (2022 PAY CALC) Order

Rulemaking Hearing

Date

11/01/2021

Time

03:00 PM

Location

633 17th Street, 12th Floor, Denver, CO 80202

Subjects and issues involved

This new set of rules serves to calculate and publish pay and income figures e.g., Colorado minimum wages, and minimum earnings levels for various full or partial labor law exemptions that adjust annually or other periodic bases under the Colorado Overtime and Minimum Pay Standards Order (COMPS Order, or COMPS), 7 CCR 1103-1, or other laws. The pay and income figures in PAY CALC previously were (or, for figures new in 2022, would have been) published in various provisions throughout the COMPS Order. PAY CALC consolidates and facilitates access to such figures by consolidating all of them into an annually published one-page rule, with PAY CALC and COMPS each referencing and incorporating the other.

Statutory authority

These Rules are issued under the authority, and as enforcement, of Section 15 of Article XVIII of the Colorado Constitution and Articles 1, 2, 4, 6, and 12 of C.R.S. Title 8 (2022), and are intended to be consistent with the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq.

Contact information

Name

Michael Primo

Title

Rule Coordinator

Telephone

3033188462

Email

michael.primo@state.co.us

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

2022 Publication And Yearly Calculation of Adjusted Labor Compensation (2022 PAY CALC) Order

7 CCR 1103-14

As proposed on September 29, 2021; if adopted, to be effective January 1, 2022.

Rule 1. Statement of Purpose, Requirements, and Calculations.

1.1 This Publication And Yearly Calculation of Adjusted Labor Compensation Order ("PAY CALC Order"), 7 CCR 1103-14, publishes values that adjust periodically under the Colorado Overtime and Minimum Pay Standards Order ("COMPS Order"), 7 CCR 1103-1, or other laws.

1.2 Coverage and Application. Following are the 2022 minimum pay and income levels and future adjustments in each cited COMPS Order rule, and/or mandated by constitutional, statutory, or rule provisions the COMPS Order implements, or from which it derives.

Minimum Pay Level in COMPS Order Rule		2022 Level (Yearly Calculation)	Future Annual Adjustments
(A)	Full Colorado minimum wage (R. 3.1)	**$12.56** per hour	Last year's minimum adjusted by CPI (Consumer Price Index) for Colorado
(B)	Amount of minimum wage that employers must pay to tipped employees (R. 1.10, 6.2.3)	**$9.54** per hour to the extent that adding tips raises total pay to full minimum wage	**$3.02** per hour below full minimum wage to the extent that adding tips raises total pay to full minimum wage
(C)	Minimum wage for non-emancipated minors (R. 3.3)	**$10.68** per hour	15% below full minimum wage
(D)	Minimum pay for agricultural range workers (R. 2.2.7(E))	**$515.00** per week	Prior year's level adjusted by inflation
(E)	Executive/supervisor, administrative, or professional employees ("EAP") (R. 2.5.1); certain owners or proprietors of non-profit employers (R. 2.2.5)	**$865.38** per week ($45,000 rounded annual equivalent); and sufficient for the minimum wage for all hours worked in a workweek	Per week, **$961.54** in 2023 ($50,000 rounded annually), **$1,057.69** in 2024 ($55,000 rounded annually), and the prior year's level adjusted by CPI each year as of 2025
(F)	Highly technical computer employees (R. 2.5.2, 2.2.10)	**$28.92** per hour or the EAP salary above (Item E)	Prior year's hourly wage adjusted by inflation, or the EAP salary above
(G)	Highly compensated employees (R. 2.2.11)	**$101,250** annually, *and* the EAP salary (row E) weekly	The annual EAP salary (row E) multiplied by 2.25
(H)	Certain drivers and driver's helpers (R. 2.4.6)	**$690.80** per week	Based on Colorado minimum wage each year
(I)	Certain seasonal camp or outdoor education field staff (R. 2.2.7(F))	Full minimum wage or, per week: **$327.52** (adults) or **$248.39** (minors); except at non-profits with up to $25 million in revenue, **$239.60** (adults) or **$160.47** (minors)	Based on Colorado minimum wage each year
(J)	Small agricultural employer threshold (R. 2.3.2)	**$1,000,000** average annual adjusted gross income	Prior year's level adjusted by inflation

1.3 Additional Requirements. Many of the referenced COMPS Order rules have other requirements aside from a minimum pay level, including but not limited to: an employee having duties that qualify for exemption; an employee receiving sufficient tips to allow for a tip credit to be taken; and an employer paying any higher applicable federal, local, or minimum wage.

Rule 2. Authority, Construction, and Definitions.

2.1 Authority and Incorporation by reference. This PAY CALC Order is issued under the authority and as enforcement of Section 15 of Article XVIII of the Colorado Constitution and Articles 1, 4, 6, and 12 of C.R.S. Title 8 (2022), and is intended to be consistent with the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq. Hereby incorporated by reference into this rule are 29 C.F.R. Part 541 Subpart G; Colo. Const. art. XVIII, § 15 (2022); Title 8, Articles 1, 4, 6, 12, and 13.3 of the Colorado Revised Statutes (2022); the COMPS Order, 7 CCR 1103-1 (2022); the Wage Protection Rules, 7 CCR 1103-7 (2022); and the Direct Investigation Rules, 7 CCR 1103-8 (2022). Earlier versions of such laws and rules may apply to events that occurred in prior years. Incorporation excludes later amendments to or editions of the constitution, statutes, and rules; all cited laws are incorporated in the forms that are in effect as of the effective date of this PAY CALC Order. Where these Rules reference another rule, the reference shall be deemed to include all subparts of the referenced rule. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern, so long as they are consistent with Colorado statutory and constitutional provisions. All sources cited or incorporated by reference are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Denver CO 80202. Copies may be obtained from the Division at a reasonable charge or can be accessed from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of them at cost upon request or provide the requestor information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing them. All Division rules are publicly available at www.coloradolaborlaw.gov.

2.2 Administration and Dual Jurisdiction. The Division shall have jurisdiction over all questions arising with respect to the administration and interpretation of this PAY CALC Order. Whenever employers are subjected to Colorado law as well as federal and/or local law, the law providing greater protection or setting the higher standard shall apply. For information on federal law, contact the U.S. Department of Labor, Wage and Hour Division.

2.3 Separability. These Rules are intended to remain in effect to the maximum extent possible. If any part (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the remainder of the Rules remain valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.

2.4 “Division” means the Division of Labor Standards and Statistics in the Colorado Department of Labor and Employment.

COLORADO
Department of
Labor and Employment

Division of Labor Standards and Statistics
633 17th Street, Denver, CO 80202-2107
303-318-8441 | www.coloradolaborlaw.gov

NOTICE OF PUBLIC HEARING CONCERNING PROPOSED RULES:

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to adoption of the below **three sets of proposed rules**, under authority granted to the Division of Labor Standards and Statistics by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of C.R.S. Title 8, Articles 1, 2, 4, 6, 12, 13.3, and 13.5, including but not limited to the statutory sections cited in Rule 1 of COMPS Order #38 (7 CCR 1103-1), Rule 1 of Wage Protection Rules (7 CCR 1103-7), and Rule 2 of the 2022 PAY CALC Order (7 CCR 1103-14), all of which proposed rules accompany and are incorporated into this notice.

(1) 2022 Publication And Yearly Calculation of Adjusted Labor Compensation Order ("2022 PAY CALC Order," or "PAY CALC"), 7 CCR 1103-14 (effective January 1, 2022). This new set of rules serves to calculate and publish pay and income figures — *e.g.*, Colorado minimum wages, and minimum earnings levels for various full or partial labor law exemptions — that adjust annually or other periodic bases under the Colorado Overtime and Minimum Pay Standards Order ("COMPS Order," or "COMPS"), 7 CCR 1103-1, or other laws. The pay and income figures in PAY CALC previously were (or, for figures new in 2022, would have been) published in various provisions throughout the COMPS Order. PAY CALC consolidates and facilitates access to such figures by consolidating all of them into an annually published one-page rule, with PAY CALC and COMPS each referencing and incorporating the other.

(2) Colorado Overtime and Minimum Pay Standards Order ("COMPS Order," or "COMPS") #38, 7 CCR 1103-1 (effective January 1, 2022). These rules amend the prior version of COMPS (Order #37, 2021), Colorado's broad set of wage and hour rules, as follows (in addition to certain non-substantive edits):

(A) removing annually or otherwise periodically adjusted pay and income figures — *e.g.*, Colorado minimum wages, and minimum earnings levels for various full or partial labor law exemptions — from the various COMPS provisions where each has appeared, and replacing them with references to the PAY CALC Order (described above), which now consolidates all such figures;

(B) adding an exemption for "highly compensated employees" not covered by other existing exemptions, substantially similar to the exemption under the federal Fair Labor Standards Act;

(C) adding rules on minimum wages, overtime and maximum hours protections, and meal and rest periods for agricultural employees, pursuant to the Colorado Senate Bill 21-87 requirements that agricultural employees be provided such rights, and that the Division promulgate rules accordingly; and

(D) Rules further detailing how to calculate the "regular rate of pay" of an employee with more than one hourly rate, and expanding this definition to other uses of "regular rate of pay" in the COMPS Order other than calculation of the overtime rate, are added.

(3) Wage Protection Rules, 7 CCR 1103-7 (effective January 1, 2022). These rules amend the Wage Protection Act Rules, 7 CCR 1103-7, which implement the Colorado Wage Act ("CWA," as amended by the Wage Protection Act ("WPA"), C.R.S. § 8-4-101 et seq.), Healthy Families and Workplaces Act ("HFWA," C.R.S. § 8-13.3-401 et seq.), and Agricultural Labor Rights and Responsibilities Act (codified in relevant part at C.R.S. §§ 8-6-101.5, 8-6-120, 8-13.5-201 et seq.), as follows (in addition to certain non-substantive edits):

(A) defining "vacation pay," following a court ruling that vacation pay is non-forfeitable;

(B) clarifying the pay rates and hours for HFWA leave for employees with certain irregular pay or hours;

(C) confirming the acceptability of electronic signatures at the Division;

(D) clarifying employers' HFWA record-keeping requirements; and

(E) clarifying the HFWA exemption for when a CBA provides equivalent or more generous leave.

Public Hearing Information:

Date and Time of Hearing: **Monday, November 1, 2021, from 3:00 pm until at least 6:00 pm**. Division leadership will stay until at least 6:00 pm, or longer if by that time anyone still wishes to speak, to assure opportunity for anyone who may wish to attend in the early evening. You need not arrive by a particular time or stay the entire meeting.

Written Comment Deadline: **Wednesday, November 3, 2021, at 5:00 pm**

The Division is administering this public hearing, and all interested persons are free to offer oral testimony and to listen to part or all of the hearing. However, due to the current public health crisis, **participation will be primarily by remote means**, with limited in-person participation at the Division by RSVP only and subject to (A) space limitations and (B) the possibility of a decision, which would be announced on the **rulemaking page** no later than 24 hours before the meeting, as to whether the public health situation permits in-person attendance or requires an exclusively remote hearing. While not required, we request and highly recommend that **anyone interested in oral testimony use this rulemaking comment form to RSVP**, because at the hearing, after those in person speak, we will first call on those who RSVP'd to speak, followed by testimony from others by remote means. A recording of the hearing will be publicly posted after the hearing on our **rulemaking page**.

Written comments may be submitted through our online **rulemaking comment form**, mailed to the below address, faxed to 303-318-8400, or emailed to michael.primo@state.co.us. Because **written comments become part of the same record as oral testimony**, and are reviewed by the same officials, you **may submit written comments in lieu of oral testimony**, but are free to participate by both means.

Instructions for Hearing Participation: Either of the below options will work to participate, but for orderly administration of participation, and to avoid possible audio feedback, please do not use both simultaneously. (*You do not need to have a Google account to access any of the below means.*)

(A) **To Participate by Internet, *Including* Testifying:**
visit this "Meet" webpage: **meet.google.com/umv-nkzq-mou**

(B) **To Participate by Phone, Whether Just to Listen or to Testify:**
call (US) +1 631-743-5204, and then enter this pin: 421 042 922#

(C) **To Participate in Person** (633 17th Street, Denver, CO, 80202, Room 12A on the 12th floor)
RSVP via our **rulemaking comment form** to attend in person.

Please contact michael.primo@state.co.us with any questions about how to access either the hearing or its recording, or **if you need accommodations or translation services** to attend or participate. This hearing is held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101 et seq., and Colorado Open Meetings Law, C.R.S. § 24-6-401 (2021), to receive any testimony, written, views, or arguments that interested parties wish to submit regarding the proposed rules.

For resources in Spanish: visit **LeyesLaboralesDeColorado.gov**; submit comments on our **Spanish comment form**; RSVP (optionally) to attend or speak on our **Spanish RSVP form**; or call 303-318-8441 and ask for an employee who speaks Spanish.

> ***Para recursos en español****: visite **LeyesLaboralesDeColorado.gov**; envíe comentarios por nuestro **formulario en español para comentarios**; Para asistir o hablar, confirme su asistencia (opcionalmente) en nuestro **formulario RSVP** en español ; o llame al 303-318-8441 y pida un empleado que hable español.*

Copies of proposed rules, including redlined copies showing changes from prior versions, and statements of basis and purpose further detailing the proposed rules, are available at **www.coloradolaborlaw.gov** or by request to: **Division of Labor Standards and Statistics, 633 17th Street, Denver, Colorado 80202**.

COLORADO
Department of
Labor and Employment

Division of Labor Standards and Statistics
633 17th Street
Denver, CO 80202-2107 | (303) 318-8441 | www.coloradolaborlaw.gov

STATEMENT OF BASIS, PURPOSE, SPECIFIC STATUTORY AUTHORITY, AND FINDINGS

2022 Publication And Yearly Calculation of Adjusted Labor Compensation ("2022 PAY CALC") Order, 7 CCR 1103-14 (2022), as proposed September 29, 2021; to be followed and replaced by a final Statement at the conclusion of the rulemaking process.

I. BASIS: The Director ("Director") of the Division of Labor Standards and Statistics ("Division") has authority to adopt rules and regulations on wage-and-hour and workplace conditions, under the authority listed in Part II, which is incorporated into Part I as well.

II. SPECIFIC STATUTORY AUTHORITY: These Rules are issued under the authority, and as enforcement, of Section 15 of Article XVIII of the Colorado Constitution and Articles 1, 2, 4, 6, and 12 of C.R.S. Title 8 (2022), and are intended to be consistent with the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq.

III. FINDINGS, JUSTIFICATIONS, AND REASONS FOR ADOPTION. Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds as follows: **(A)** demonstrated need exists for these rules, as detailed in the findings in Part IV, which are incorporated into this finding as well; **(B)** proper statutory authority exists for the rules, as detailed in the list of statutory authority in Part II, which is incorporated into this finding as well; **(C)** to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply; **(D)** the rules do not conflict with other provisions of law; and **(E)** any duplicating or overlapping has been minimized and is explained by the Division.

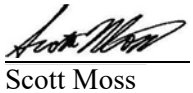
IV. SPECIFIC FINDINGS FOR ADOPTION. Pursuant to C.R.S.§ 24-4-103(6), the Director finds as follows. This 2022 Publication And Yearly Calculation of Adjusted Labor Compensation Order ("PAY CALC Order," or "PAY CALC"), 7 CCR 1103-14, a new set of rules with an effective date of January 1, 2022, serves to publish pay and income levels — most notably, the Colorado minimum wage and the minimum pay for various labor law exemptions — that adjust periodically under the Colorado Overtime and Minimum Pay Standards Order ("COMPS Order," or "COMPS"), 7 CCR 1103-1, or other laws. PAY CALC incorporates COMPS and other relevant labor laws by reference.

Publishing pay and income levels in PAY CALC, rather than within COMPS, serves two key purposes. First, it alleviates the *annual* need to revise the COMPS Order, a wide-ranging set of labor rules of which pay and income levels are only a small part, in years when the sole purpose of a revision would be to update certain pay and income levels. Second, it improves accessibility of key information, such as the upcoming year's minimum wage and exemption salaries, to publish it in PAY CALC, an annual issuance that (A) is short (unlike COMPS, a necessarily lengthy set of labor rules), and (B) has all relevant pay and income levels in a straightforward table on page one (unlike COMPS, which necessarily is organized by rule topic, leaving pay and income levels scattered throughout its various rules), which explains the nature of future increases, and refers the reader to the underlying rule text for additional detail on each published value.

PAY CALC and COMPS calculations are executed based on Section 15 of Colorado Constitution Article XVIII ("Colorado's minimum wage is … adjusted annually for cost of living increases, as measured by the Consumer Price Index ('CPI') used for Colorado"); C.R.S. Title 6, Article 8; and the COMPS Order. Inflation-adjusted values applicable to PAY CALC and COMPS are based on the CPI used for Colorado, the Denver-Aurora-Lakewood CPI published by the federal Bureau of Labor Statistics. Each year's pay levels are published in that year's Minimum Wage Order (through 2020), COMPS Order (in 2020 and 2021), and/or PAY CALC Order (as of 2022). Subsequent years' minimum and exempt wage calculations will be published in each subsequent year's annual PAY CALC Order. Prior years' requirements are detailed in prior PAY CALC, COMPS, and/or Minimum Wage Orders in effect when the wages were owed.

To effectuate the mandate of Section 15 of Article XVIII of the Colorado Constitution, C.R.S. § 8-6-101(3)(a)(II), and COMPS Rule 3.1 that employees must be paid not less than the prior year's minimum wage adjusted for inflation, Division rules must round up, to the nearest cent, any fractional cents yielded by that inflation adjustment. For 2022, an inflation adjustment to the 2022 minimum wage ($12.32) of +1.9%, the mid-2020 to mid-2021 increase in the relevant CPI, yields $12.55408. To guarantee that employees receive not less than $12.55408 per hour, that figure must be rounded up, yielding the 2022 minimum wage of $12.56 per hour. Other than in annually calculating the minimum wage, Division rules calculate pay levels by rounding fractional cents up for values of at least 0.5, and down for values under 0.5.

V. EFFECTIVE DATE. These rules take effect January 1, 2022, or as soon thereafter as rulemaking is completed.



Scott Moss
Director, Division of Labor Standards and Statistics
Colorado Department of Labor and Employment

September 29, 2021
Date

Notice of Proposed Rulemaking

Tracking number

2021-00605

Department

1100 - Department of Labor and Employment

Agency

1107 - Division of Family and Medical Leave Insurance

CCR number

7 CCR 1107-1

Rule title

Regulations Concerning Paid Family Medical Leave Program

Rulemaking Hearing

Date

11/03/2021

Time

05:00 PM

Location

Virtual and 633 17th St, 12th floor conference room, Denver CO 80202

Subjects and issues involved

Regulations implement the procedural and substantive provisions for the Family and Medical Leave Insurance program pursuant to C.R.S. 8-13.3-507, concerning the establishment, collection, and administration of premium collections.

Statutory authority

This regulation is adopted pursuant to the authority in section 8-13.3-501 C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the APA), C.R.S. and the Paid Family and Medical Leave Act, sections 8-13.3-501 through 524 (the Act), C.R.S.

Contact information

Name

Lydia Waligorski

Title

FAMLI Policy Manager

Telephone

303 945 5759

Email

lydia.waligorski@state.co.us

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of FAMLI

REGULATIONS CONCERNING PAID FAMILY MEDICAL LEAVE PROGRAM

7 CCR 1107-1

1.1 Authority

This regulation is adopted pursuant to the authority in section 8-13.3-501 C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the "APA"), C.R.S. and the Paid Family and Medical Leave Act, sections 8-13.3-501 through 524 (the "Act"), C.R.S.

1.2 Scope and Purpose

A.Regulations 1.5 and 1.6 implement the procedural and substantive provisions for the Family and Medical Leave Insurance program pursuant to C.R.S. 8-13.3-507, concerning the establishment, collection, and administration of premium collections.

B.This regulation does not apply to any other premiums, taxes, or collections outlined in unemployment insurance, worker compensation, private temporary disability insurance or private family leave insurance programs or other programs not administered by the Division.

1.3 Applicability

The provision of this Section will apply to employers as defined in 8-13.3-503 (8) C.R.S. who are operating within the State of Colorado, no matter what State, county, or territory the employer is physically located in or claims as a base of operations, unless otherwise specified by exemptions in 8.13.3-503 C.R.S (8) or federal law.

The provisions of this Section will be applicable to self-employed persons who elect coverage under 8-13.3-514 C.R.S. and employees of any local government who elect coverage under 8-13.3-514 C.R.S.

1.4 Definitions

"Calendar Quarter" has the same definition as 8-70-103 (6) C.R.S.

"Division" has the same definition as 8-13.3-503 (5) C.R.S.

"Employee" has the same definition as 8-13.3-503 (7) C.R.S.

“Employee share” is defined as 50 percent of the premium required for an employee by section 8-13.3-507 (3) C.R.S.

“Employer” has the same definition as 8-13.3-503 (8) C.R.S.

“Employer share” is defined as 50 percent of the premium required for an employee by section 8-13.3-507 (3) C.R.S.

“FAMLI” is defined as the Paid Family and Medical Leave Insurance Act, sections 8-13.3-501 through 524 (the “Act”), C.R.S.

“Net earnings from self employment” has the same meanings as in the Internal Revenue Code at 26 U.S.C. § 1402 (a), in effect for the taxable year, and the implementing regulations at 24 CFR § 1.1402 (a).

Gross income has the same meaning as in the Internal Revenue Code at 26 CFR § 1.61-2.

“Premium” is defined as the money payments required pursuant to 8-13.3-507 C.R.S. to finance the payment of family and medical leave insurance benefits and administer the family and medical leave insurance program.

“Self-Employed Person” is defined to include an individual worker who is primarily free from external control and direction in the performance of their duties, or is a sole proprietor, a joint venturer or a member of a partnership, a member of a limited liability company, an independent contractor or a person who is otherwise in business for themselves.

1.5 Assessing and Collecting Premiums

1.5.1 Election, Withdrawal, and Cancellation of Coverage for Self-Employed Persons

A. Self-employed persons may elect coverage under 8-13.3-514 C.R.S.

1. Notice of election of coverage must be submitted to the Division online or in another format approved by the Division.
2. Election coverage begins on the first day of the calendar quarter immediately following the notice of election.
3. A period of coverage is defined as:

    (a) Three years following the first day of elective coverage or any gap in coverage; and

    (b) Each subsequent year.

4. Any self-employed person may file a notice of withdrawal within thirty calendar days after the end of each period of coverage.
5. A notice of withdrawal from coverage must be submitted to the Division online or in another format approved by the Division.

6. Any levy resulting from the Division's cancellation of coverage is in addition to the due and unpaid premiums and interest for the remainder of the period of coverage.

1.5.2 Determining Wages Earned for Self-Employed Persons

A. A self-employed person will update information with the Division not less than quarterly within the period of coverage to ensure timely and accurate benefit coverage amounts.

B. Pursuant to 8-13.3-507 (4)(a) C.R.S., a self-employed person is required to submit only 50 percent of the premium required for an employee by section 8-13.3-507 (3) C.R.S. on that individual's income from self employment.

C. Not less than each quarter, a self- employed person who has elected coverage under 8-13.3-514 C.R.S. will report to the Division net earnings from self employment once they have elected to use net earnings as the basis of both premium collection and benefit payments for the three year opt-in period.

D. Not less than each quarter, a self-employed person who has elected coverage under 8-13.3-514 C.R.S, will report to the Division gross earnings from self employment once they have elected to use gross earnings as the basis for both premium collection and benefit payments for the three year opt-in period. Gross wages from self employment will be reported as gross wages for a specific quarterly pay period and not gross wages for the year to date.

E. If a self-employed individual elects to change their premium and benefit calculation between gross and net, they may do so one time within the three year opt-in period.

F. The Division may require copies of tax returns, bank records, self- attestations, or any other documents deemed necessary by the Division to verify or determine a self-employed person's wages.

G. If a self-employed individual has elected coverage under 8-13.3-514 C.R.S., and is also employed by another or multiple employers, the self-employed person's FAMLI benefit payment will be based on the combined wages.

1.5.3 Determining Wages for All Employees Regarding Premium Assessment

A. Wages reportable to the Division for premium assessment purposes include:

1. Salary or hourly wages, including "wages" as defined by 8-70-141 C.R.S; and other compensation, including board, lodging, payments in kind, and/or other benefits provided as compensation for services performed by employees, including but not limited to domestic and agricultural employees.

2. The Division may, after investigation, determine in individual cases the amounts to be included as reasonable value of remuneration payable in any medium other than cash for the purpose of computing premiums due under the act, but where the cash value of such benefits is agreed upon in a written contract, the amounts agreed upon will presumptively be the reasonable value of such benefits; and
3. Commissions, payments on a piecework basis, or bonuses earned for labor or services performed in accordance with the terms of any agreement between an employer and employee.

B. Tips/gratuities will be considered to be wages for the purposes of the act when the employer exercises significant control over the amount and distribution of money received by an employee as a tip/gratuity.

C. An employer is considered to have significant control over tips/gratuities when they are collected by the employer and then redistributed to employees.

D. Notwithstanding any other provision of this section, any tips/gratuities, used by the employer in order to conform to the minimum-wage requirements of federal or state law will be deemed to be wages for the purposes of the act, to the extent of such use.

1. For the purposes of this section, the inclusion, for the convenience of the customer, of a tip/gratuity in an amount charged by a customer through the use of a credit card will not, by itself, be deemed to constitute significant control.
2. For the purposes of this section, a requirement by an employer that an employee report or account for tip/ gratuities will not, by itself, be deemed to constitute significant control.

E. In addition to the foregoing provisions of this section, wages will also include tips that are received while performing services that constitute employment and that are made known to the employer through a written statement furnished by the employee.

F. In circumstances where the employer's records regarding wages or other compensation pursuant to this section are inaccurate or incomplete, the Division may consider any evidence, written or otherwise, to determine the amount of wages as a matter of just and reasonable inference, absent any specific evidence provided by the employer suggesting that such inference is unreasonable.

1.5.4 Exempted From Wages

A. The Division will not consider the following as wages.

1. Per-diem or mileage reimbursements;

2. Amounts of payments made by the employer on behalf of the employee into other insurance or annuity accounts that are not associated with FAMLI including but not limited to:

(a) Short term or long term disability

(b) Medical or hospitalization expenses in connection with sickness or accident disability

(c) Death

(d) Earnings from investment-interest payments, dividend payments, or rent receipts from rental property, except if the income is earned through a business owned or operated by the claimant.

(e) Severance pay with the exception of payments pursuant to 8-73-110 C.R.S.

1.5.5 Premiums Remitted by an Employer

A. Premiums must be paid not less than quarterly in the form and manner determined by the Division. Quarterly payments will include all premiums with respect to wages paid for employment in all payroll periods that end within the calendar quarter.

1. Due Date of Premiums. Premiums will become due and be paid no later than the last day of the month immediately following the end of the calendar quarter for which the premiums have accrued.

(a) Payment will be considered timely if postmarked or received in person or electronically on or before the due date. If the due date of premiums falls on a Saturday, Sunday, or legal holiday, payment will be considered timely if postmarked or received in person or electronically on the next business day that is not a Saturday, Sunday, or legal holiday.

(b) Quarterly payment will not be required when the total amount of any premiums due, including any penalties and interest accrued for an untimely or incorrect report, is less than five dollars.

2. Erroneous Rate Notice. If, as a result of an incorrect notification or computation of rate by the Division, an employer is required to make an additional payment of premiums, such additional payment will not accrue

interest until thirty days after notification by the Division that such additional payments are due.

3. First payment of a new employer, unless stated otherwise by exemption.

(a) The first premium payment of any employing unit that becomes an employer subject to 8.13.3-501 C.R.S. et seq., at any time during a calendar year will become due and be paid on or before the last day of the month immediately following the calendar quarter in which such an employing unit becomes an employer.

(b) Said payment will include the FAMLI premiums with respect to wages paid for employment occurring on and from the first day of the calendar year through all payroll periods that end within the calendar quarter in which the employing unit becomes an employer.

B. Employers ability to deduct premiums from employees

1. An employer required to remit premiums pursuant to 8-13.3-507 C.R.S. may not deduct more than the maximum allowable employee share of the premium from wages paid for a pay period.

(a) If an employer fails to deduct the maximum allowable employee share of the premium from wages paid for a pay period, the employer is considered to have elected to pay that portion of the employee share under 8-13.3 -507 C.R.S., and the employer cannot deduct this amount from a future paycheck of the employee for a different pay period.

(b) The employer will not deduct the employee share of the premium for a pay period where there is a lack of sufficient employee wages to cover the premium for that pay period.

(c) In the payment of any premiums, a fractional part of a cent will be disregarded unless it amounts to one-half cent or more, in which case it will be increased to one cent.

2. Employers not required to pay the Employer share of the FAMLI premium due to employer size of business pursuant to 8-13.3-507 (5) C.R.S. must remit the employees' share of the premium in the manner outlined by the Division. Such employers may deduct up to 50 percent of the premium required for an employee by section 8-13.3-507 (3) C.R.S., from the employee's wages and will remit 50 percent of the premium required by section 8-13.3-507 (3) C.R.S., to the Division.

3. An employer who is not required to pay the employer share of the premium pursuant to 8.13.3-507 (4)(c), may elect to remit the employee share of the premium for employees who elect coverage under 8-13.3-514 C.R.S.

C. Application of payments made to premiums

1. A payment received by the Division as a premium payment will be applied to the quarter for which the premium assessment applies.

(a) A payment exceeding the legal fees,fines,penalties, interest and premiums due for that quarter will be applied to any other debt owed to the Division in accordance with subsection 2 (c) in part C. of these rules.

(b) If no debt exists, premium overpayments of less than fifty dollars will be credited to future payments due.

(c) If no debt exists, premium overpayments of fifty dollars or more may be refunded to the employer at the employer's request. Otherwise, such overpayments will be credited to future payments due.

2. Payments received will be applied in the following order of priority:

(a) Current quarter balance;

(b) Any previous quarter premium balance due starting with the oldest quarter;

(c) Then beginning with the oldest quarter in which a balance is owed:

(1) Penalties;

(2) Fees; and

(3) Interest charges.

D. Pursuant to § 8-13.3-507 (6), C.R.S., premiums will not be required for employees' wages above the contribution and benefit base limit established annually for the federal social security administration for purposes of the federal old-age survivors, and disability insurance program limits pursuant to 42 U.S.C. § 430.

1.5.6 Calculating Employer Size Related To Premium Exemptions

A. For determining premium exemptions based on employer size as outlined in § 8-13.3-507(5), C.R.S., the rules for counting employees to determine whether an employer is covered under the federal Family and Medical Leave Act apply; the

employer must employ the requisite number of employees “for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year’; “any employee whose name appears on the employer’s payroll will be considered employed each working day of the calendar week, and must be counted whether or not any compensation is received for the week”; “Employees on paid or unpaid leave, including sick or medical leave, leaves of absence, disciplinary suspension, etc. are counted as long as the employer has a reasonable expectation the employee will later return to active employment”; “a corporation is a single employer rather than its separate establishments or divisions.”

1. If the Division determines the employer's status has changed as it relates to premium liability, the Division will notify the employer as to their premium liability.

2. An employer's size for purposes of this regulation 1.5.4 will be calculated annually by counting the number of employees pursuant to regulation 1.5.4 (A) during the preceding calendar year.

3.If an employer has not been in business in Colorado long enough to report employer's size pursuant to regulation 1.5.4 (A), the employer’s size will be calculated after the second quarter of reporting is due by averaging the number of employees reported over the quarters for which reporting exists. Premium calculations based on this determination will begin on this reporting date. This size determination remains in effect through the following calendar year.

B. Determination of employer size for premium collection beginning January 1, 2023.

1. For purposes of premium calculations for calendar year 2023, the Division will determine the size of all employers by reviewing the number of employees reported pursuant to 8-70-113 C.R.S, for the first calendar quarter. Employers that report ten or more employees will be required to pay the employer share of the premium for all calendar quarters in calendar year 2023.

C. Determining in-state status of employees

1. An employee’s wages will be subject to premiums for all services performed within Colorado and for all services performed both within and outside of Colorado where:

(a) The employee’s entire service is performed within Colorado;

(b) The employee’s service is performed both within and outside of Colorado, but the service performed outside the state is incidental to the

employee's work within Colorado or, for example is, temporary or transitory in nature and consists of isolated transactions; or

(c) Services are not localized in any state, but some of the services are performed in Colorado, and

(1) The base of operations is in Colorado, or if there is no base of operations, then the place from which such services is directed or controlled is in Colorado as established in 8-70-117 C.R.S., or

(2) The base of operations or place from which some part of the service is directed or controlled is not in any state in which part of the service is performed, but the individual's residence is in Colorado.

2.Payment to Another Jurisdiction. An employer who has erroneously paid to another jurisdiction an amount as premiums properly payable to Colorado will not be delinquent if premiums properly payable to Colorado are paid within thirty days of the date on which the Division determines that such premiums are payable to Colorado.

1.5.7 Assessments and Recomputations of FAMLI Premiums

A. If, in the judgment of the Division or upon its information and knowledge, the report of wages included in an employer's FAMLI premium report is incomplete or in error, the Division may require a further report, examine the employer's relevant books and records, or use other reasonable measures to the extent necessary to obtain an accurate report.

B. If a contributing employer is either delinquent in filing a premium report within the time prescribed by the Division or whose records are needed to make a proper determination of an amount of indebtedness or other matter declines to make its records available, the Division may, in its discretion:

1. Use the information and knowledge available to the Division to estimate the amount of chargeable wages paid by a contributing employer during the premium period or periods. The amount of chargeable wages so determined will be deemed to have been paid by the employer and will be used to determine the annual payroll;

2. Assess the employer for FAMLI premiums calculated on the basis of the estimated wages; and

3. Issue a subpoena duces tecum to compel an employer to release books and records to the Division for use in obtaining the required information.

C. A contributing employer who is delinquent in filing reports or paying FAMLI premiums will be promptly notified of the assessment by the communication method the employer elected during FAMLI registration. Premiums will not be considered delinquent if paid within thirty days after the date on which the Division notifies the employer of the delinquent payment.

D. The Division may correct errors of computation whenever such erroneous computations are found or brought to the Division's attention.

1.6 Notification of FAMLI Premium Liability

A. The Division will notify employers and individual persons who have elected coverage of their expected premium on the first business day of the calendar month the premium is due to be paid.

1. Notification may be either electronic or sent by postal mail to the address provided to the Colorado Department of Labor and Employment.

(a) Employers, including self-employed persons may choose a business representative such as a payroll service provider, attorney, or accountant to receive notification on their behalf.

(b) Self-employed persons and local government employees who elect coverage pursuant to § 8-13.3-514, C.R.S., may elect to be notified electronically or by postal mail.

(c) Local governments that have declined participation in the FAMLI program pursuant to 8-13.3-522 C.R.S., but which have agreed to withhold and remit the employee share of premiums for employees who elect coverage under 8-13.3-514, C.R.S., will be provided a quarterly list of employees who have elected coverage pursuant to 8-13.3-514 C.R.S. Local governments which have declined participation in the FAMLI program pursuant to section 8-13.3-522, C.R.S., and have declined to withhold and remit the employee share of premiums for employees who elect coverage under 8-13.3-514 C.R.S., will not receive information from the Division regarding any such employees who have voluntarily elected coverage.

2. A schedule of due dates as well as guidance as to how to remit premiums will be posted by the Division on the FAMLI website and will remain publicly available.

B. Employers not subject to a premium liability due to coverage through a pre-approved substitute private plan under 8-13.3-521, C.R.S., will not receive quarterly notifications of premium liability from the Division.

1. In the event of a loss of coverage or significant change in status, the employer is required to notify the Division within 30 days, and a premium liability will begin to accrue from the first day of the previous calendar quarter.

2. Premium liability will then continue to follow the regular calendar quarter payment schedule, until such time as a new and separate waiver has been approved by the Division.

Division of Family And Medical Leave Insurance (FAMLI)

633 17th Street

Denver, CO 80202-2107 | (303)188 -8228 | www.famli.colorado.gov

STATEMENT OF BASIS, PURPOSE, SPECIFIC STATUTORY AUTHORITY, AND FINDINGS Premium Rules, 7 CCR 1107-1 (2021), as adopted on January 1, 2022.

(1) BASIS. The purpose of these rules concerning the Paid Family and Medical Leave Insurance (FAMLI) Rules (or "Rules") is to implement and enforce the Paid Family and Medical Leave Insurance Act, Colorado Revised Statutes ("C.R.S.")Title 8, Article 13.3, Part 5 (C.R.S. 8-13.3-507)(2020).

(2) SPECIFIC STATUTORY AUTHORITY. The Director is authorized to adopt rules and regulations to enforce, execute, implement, apply, and interpret C.R.S. Title 8, Article 13.3, by C.R.S. §§ 8-13.3 -507, -508, -514, -516, -522; and §§ 24-4-103 and -105. These rules are intended to be consistent with the requirements of Colorado's Administrative Procedures Act, C.R.S. §§ 24-4-101, et seq..

(3) FINDINGS, JUSTIFICATIONS, AND REASONS FOR ADOPTION. Pursuant to C.R.S. § 24-4-103(4)(b), the Director finds: **(A)** demonstrated need exists for the rules (detailed in Part 4, which this finding incorporates); **(B)** proper statutory authority exists for the rules (detailed in Part 2, which this finding incorporates); **(C)** to the extent practicable, the rules are clearly stated so that their meaning will be understood by any party required to comply; **(D)** the rules do not conflict with other provisions of law; and **(E)** any duplicating or overlapping has been minimized and is explained by the Division.

(4) SPECIFIC FINDINGS FOR ADOPTION.

(A) Broad Purpose of Rules

The FAMLI Act, a new "Part 5" of C.R.S. Title 8, Article 13.3 (§ 8-13.3-501 to -524), establishes a new Division within the Colorado Department of Labor and Employment (CDLE),the Director of which is responsible for promulgating rules and coordinating the FAMLI program (§ 8-13.3-508 (1)). The Division is an enterprise (§ 8-13.3-508(2a)). The Division shall establish and administer a family and medical leave insurance program and begin collecting premiums as specified by Part 5"(§ 8-13.3-507 & -516(7)). In order

to finance Family and Medical leave Insurance benefits and program administration costs, premiums will be collected through payroll deductions beginning January 1, 2023 (§ 8-13.3-507(1) & (2)).

The Division is a self-sustaining enterprise that has "all the powers and duties authorized by [the Act] pertaining to family and medical leave insurance benefits." § 8-13.3-508(b). As such, the Division is statutorily authorized to administer, carry out, and enforce all provisions of this Part 5, including the promulgation of rules, the ability to investigate complaints, enforce premium collections, and administer guidance as needed and requested.

These Rules pertain to those statutory provisions contained in Part 5, specifically the manner in which the Division is to collect premiums through payroll deductions for the purposes of paying benefits and administering the program. The Division's charge to promulgate rules in support of enforcement and implementation of this Part 5 is mandatory, statutorily taking effect on January 1, 2022. The Division initiated rulemaking in late summer 2021, to assure implementation of rules by that statutory effective date.

The Act created the FAMLI program as a whole and outlines the overall purpose, duties and responsibilities of the Division to fulfill the law passed by over 57% of the voters in November 2020[1] through Proposition 118[2].

These Rules are limited to the collection of premiums and are needed imminently to implement the Division's mandatory authority by the statutory effective date. The promulgation of these Rules does not preclude any later implementation and/or rulemaking as to the Division's authority under the Administrative Procedure Act, C.R.S. § 24-4-103.

(B) Rules 1.1 through 1.4 : Statutory Framework and Definitions

Rule 1.1 through 1.4 details the relationship of these Rules to relevant statutes, and the Division's intent for these Rules to remain in effect to the maximum extent possible if a portion is held invalid[3]. Throughout these rules the Division has capitalized the words

---

[1] https://elections.denverpost.com/results/county-break-down/?Prop-118/7703
[2] https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2019-2020/283Final.pdf
[3] *E.g.,High Gear & Toke Shop v. Beacom*, 689 P.2d 624, 633 n.10 (Colo.1984)(§ 2-4-204, C.R.S., "can be used not only to sever separate sections, subsections, or sentences, but may also be used to sever words and phrases" even in statutes lacking severability provisions) (citing *Shroyer v. Sokol*, 191 Colo. 32, 34, 550 P.2d 309, 311 (1976)).

"Rule" and "Rules" when referring to the specific rules found in this section on premium collection.

(C) Rule 1.5.1 Election, Withdrawal, and Cancellation of Coverage for Self-Employed Persons

Following the ballot provision allowing for self-employed persons to self-elect coverage into the FAMLI program, Section 1.5.1 of Rule 7 CCR 1107-1, creates the mechanism by which a self-employed person becomes eligible for coverage, and outlines how and when a self-employed person may decline further FAMLI coverage after a period of coverage was fulfilled under C.R.S § 8-13.3-514. The same section also applies to people who work for units of local government who have an option to self-elect coverage in the event a local government employer both chooses not to fully participate in the FAMLI program and denies employees the option of a voluntary payroll deduction to assist the employee to remit of premium amount to the Division.

Self-employed persons who have self-elected coverage and then begin working for an employer as defined in C.R.S. § 8-13.3-503(8), during either the three-year minimum coverage period, or subsequent years, may notify the Division they wish to withdraw from their self-elected coverage and the Division will process the request no sooner than 30 days after the notice is filed. The thirty day notice period is outlined in the language of the statue at C.R.S. § 8-13.3-514 (2)

Self-employed persons who work for one or more employers in addition to working for themselves, may stay in the program if they choose to continue to pay the premium amount associated with their status as a self-employed person in addition to any premium required as by an employee share[4] by their succeeding employer. This is consistent with language found in C.R.S 8-13.3-506(2) allowing a "covered individual with multiple jobs to elect whether to take leave from one job or multiple jobs."

(D) Rule 1.5.2 Determining Wages Earned for Self-Employed Persons

This section of the Rules outlines the process for self-employed persons who are electing FAMLI coverage. Quarterly submission of wages earned from self-employment to the Division will help ensure the premium amount assessed is accurate and can

[4] "Employee share" is defined as 50 percent of the premium required for an employee by section 8-13.3-507(3), C.R.S.

support an accurate wage benefit calculation and disbursement for claimants should they apply for benefits.

Self-employed persons may choose between reporting either their gross wages or their net earnings from self-employment. During 2020 and 2021, a national collective experience among states administering Pandemic Unemployment Assistance demonstrated many self-employed persons did not have immediate or quarterly access to tax advisors and other professionals to assist them to properly identify and calculate their net incomes. This has resulted in claimants owing thousands of dollars in repayment which has added burden to state Unemployment insurance programs. Learning lessons from the past 18 months, and following the leads of several other states offering similar paid family and medical leave (PFML) programs, Rule 1.5.2 (E) was created to allow self-employed persons flexibility as to how they may calculate premium and benefits by selecting to base their contributions and payments from either gross earnings or use the well established net earnings for self-employment standard.

Self Employed persons will choose which basis to calculate premiums and benefits at the time they register with the Division and will only be permitted to change their calculation one time within the initial three year enrollment period. After the initial three year enrollment period has passed and the renewal period continues in an annual enrollment cycle, the self-employed person may switch between the gross or the net earnings calculation as long as the change corresponds with the beginning of their annual self-election of FAMLI coverage.

The FAMLI benefit is not subject to state income tax, and as of 2021 we do not have a determination from the IRS as to whether benefits paid under PFML programs will be federally taxable income. Without this Federal guidance the Division will be building the supporting technological solution needed to administer the program with the ability to issue 1099 forms, and will provide standard guidance accordingly, which will direct people to consult with their own tax preparers and professionals.

(E) Rule 1.5.3 Determining Wages For All Employees Regarding Premium Assessment

The Division has made a decision to mirror existing state Unemployment Insurance mechanisms and other state level rules and definitions in an effort to reduce complexity for employers within these premium Rules. The FAMLI program will use the same definition of wages as is currently in use as of 2021. None of the points made in this

section of Rules represent new practices, however the sections do provide more detailed guidance than what has been previously been published by CDLE regarding workers whose wages are dependent on tip credits against their minimum hourly wage obligation[5].

(F) Rule 1.5.4 Exempted from Wages

This section of the rules also mirrors existing practices, with the exception of the treatment of severance pay. A decision was made to closely follow the provisions and guidance from the Colorado Unemployment Insurance Program due to employers' familiarity with the process. These Rules follow the well established guidelines as to what constitutes wages in Colorado state unemployment insurance, which of course also closely aligns with federal unemployment insurance standards.

However, the Division also recognizes employers familiarity and governance under Colorado's wage and hours laws as outlined in the Colorado Overtime and a Minimum Pay standards orders known as COMPS #37[6]. This has created an effort to increase clarity between a few of the various rules specifically for the FAMLI program. As an example, severance pay under COMPS #37 is exempted from wages and will remain exempt in FAMLI under most circumstances. However, when an employer finds it necessary to arrange a series of severance payments over a period of time to a former employee, those payments are considered wages under current Unemployment Insurance standards. To limit confusion and fraud, we have mirrored this exception in the FAMLI rules and have crafted this narrow exemption in Rule at 1.5.4 A.2.(e).

(G) Premiums Remitted by an Employer

Most sections and guidance mirror timeframes and practices found in the Unemployment Insurance system, to reduce complexity and multiple timelines for employers. Each mechanism in Rules section 1.5.5 A., is an existing Unemployment Insurance practice.

Rules section 1.5.5 B., is unique to the FAMLI program and provides guidance for employers who will choose to deduct an employee share of premiums from wages. This

[5] Colorado Overtime and Minimum Pay Standards Order (Comps order) #37
[6] Colorado Overtime and Minimum Pay Standards Order (Comps order) #37

Rule clarifies any wage deductions must be done per pay period and may not be deducted from former or future pay periods.

Rules section 1.5.5 C., mirrors existing Unemployment Insurance practices and describes how the Division will apply employer payments to premium liabilities.

Rules section 1.5.5.D., is language directly from Proposition 118. During the listening session with employers conducted by CDLE in August of 2021, a common question from employers emerged as to the social security wage cap and premium liability and so we have added this ballot language to the rules for clarity.

(H) Calculating Employer Size Related to Premium Exemptions

All Colorado employers with two or more employees are required to participate in the FAMLI program, unless they qualify to opt out of the program by virtue of being a local government entity or they are an employer electing FAMLI coverage under a private insurance program that meets or exceeds FAMLI standards and pricing and has been previously approved by the Colorado Department of Insurance as an adequate substitute.

The Rule in section 1.5.6 A., relies upon a well-established standard under the federal Family and Medical Leave Act (FMLA) to determine if an employee is adequately attached to an employer's payroll and must be counted as an employee to determine the employer's size to determine premium liability under the FAMLI program. The Division will calculate employer size annually.

Rule section 1.5.6.C, addresses the determination of in-state status of employees, through a test metric which mirrors an existing long standing practices found with Colorado's Unemployment Insurance system in C.R.S §§ 8-70-116 and 8-70-117, and is also located in federal[7] requirements.

This type of "localization" is also widely accepted by PFML programs across the country for purposes of premium collection and benefits. This Rule does not expand any existing definition of employment, and mirrors existing mechanisms employers with multistate and multinational workforces are well experienced in executing for purposes of Unemployment Insurance and other benefit programs.

(I) Assessments and recomputations of FAMLI premiums

[7] https://wdr.doleta.gov/directives/attach/Unemployment InsurancePL20-04_AttachI.html

Rule section 1.5.7 follows existing CDLE practices as found in Unemployment Insurance relating to premium payments, assessments, and delinquencies.

(J) Notification of FAMLI Premium Liability

Rule section 1.6, outlines the Division's best practices for communicating with employers regarding the timing and submissions of premiums. Keeping with the spirit of streamlining a time saving process for employers, this mechanism also follows existing practices found in Unemployment Insurance.

Notice of Proposed Rulemaking

Tracking number

2021-00639

Department

500,1008,2500 - Department of Human Services

Agency

2504 - Child Support Services (Volume 6)

CCR number

9 CCR 2504-1

Rule title

RULE MANUAL VOLUME 6, CHILD SUPPORT SERVICES RULES

Rulemaking Hearing

Date

11/05/2021

Time

08:30 AM

Location

Location Pending State's Response to COVID-19. Anticipated to be held entirely online

Subjects and issues involved

The Division of Child Support Services (DCSS) is proposing several rule changes to help ensure county child support offices provide consistent and equitable services to families across the state. Specifically, the proposed rules clarify certification requirements for county employees that conduct, or supervise employees that conduct administrative process actions (APA). The proposed rules also establish a certification requirement for Child Support Services Unit employees that perform, or supervise employees that perform actions associated with the automated enforcement remedies. NOTE: Due to the ongoing COVID-19 situation, it is anticipated that this meeting will take place entirely online. Please check here for any updates on location/connection: https://cdhs.colorado.gov/sbhs

Statutory authority

26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 26-13-103, C.R.S. (2019) 26-13.5-113

Contact information

Name

Elise Topliss

Title

Policy and Performance Manager

Telephone

720.908.7822

Email

elise.topliss@state.co.us

Title of Proposed Rule:	**Child Support Rule Package 2021 – Certification Requirements**	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a.___ [ ] Board [ ] Executive Director

b. [X] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

X	AG Initial Review			Initial Board Reading			AG 2nd Review			Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
2	Amended Rules
13	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	06/2021

What date is being requested for this rule to be effective?	10/01/2021
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION			
Comments:			
Estimated Dates:	1st Board _____	2nd Board _____	Effective Date _____

Title of Proposed Rule:	Child Support Rule Package 2021 – Certification Requirements	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@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. ***1500 Char max***

The Division of Child Support Services (DCSS) is proposing several rule changes to help ensure county child support offices provide consistent and equitable services to families across the state. Specifically, the proposed rules clarify certification requirements for county employees that conduct, or supervise employees that conduct administrative process actions (APA). The proposed rules also establish a certification requirement for Child Support Services Unit employees that perform, or supervise employees that perform actions associated with the automated enforcement remedies. The proposed changes ensure that county professionals receive appropriate training prior to performing these duties. Child Support professionals' work has a substantial impact on families as duties include establishing paternity and support orders, modifying support orders, and monitoring automated enforcement actions, such as driver's license suspension, professional/occupational license suspension, and credit reporting. Last year, only ⅔ of current enforcement professionals passed a test on the driver's license suspension remedy following training webinars. When automated enforcement remedies are not being monitored proactively and used appropriately, it can be very detrimental to our customers. There is also a risk losing the ability to use these remedies administratively and harming relationships with the agencies we partner with to administer the remedies. When professionals do not establish an order correctly it can negatively impact the whole family. An example is if a county establishes an order against a parent without obtaining proper personal jurisdiction and ensuring noticing. The goal of the proposed rules is to ensure all individuals providing the direct service and those leading have the knowledge (training) and ability (testing/certification) to do both accurately.

Currently for Establishment we conduct required training and provide a test following the training to be certified to conduct APA. This process will be extended to Establishment (APA) supervisors and Enforcement professionals. The proposed addition for APA supervisor certification is in response to existing legal and regulatory requirements for the review of default orders. Section 26-13.5-106(2) of the Colorado Revised Statutes requires that a supervisor, administrator, attorney or director of a county department of human or social services review the order and any accompanying documents before filing of the default order. This requirement is also found in existing Child Support Services rules 6.710.1(C), 6.711.1(C), and 6.714.1(A). The training and certification will ensure leaders are equipped with the necessary knowledge to provide a quality review.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

☐ to comply with state/federal law and/or
☐ to preserve public health, safety and welfare

Justification for emergency:

State Board Authority for Rule:

Code	Description

Title of Proposed Rule:	**Child Support Rule Package 2021 – Certification Requirements**	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

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 <u>function</u> AND <u>authority.</u>*

Code	Description
26-13-103, C.R.S. (2019)	State Department to establish a program pursuant to rules and regulations to provide necessary support enforcement services.
26-13.5-113	State board to adopt rules and regulations establishing uniform forms and procedures to implement the administrative process

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:	Child Support Rule Package 2021 – Certification Requirements	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

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

Custodial and non-custodial parents/parties receiving services through the Colorado Child Support Services (CSS) program will benefit from the proposed rule changes as it ensures that county professionals have the appropriate training prior to taking specific actions on cases.

County professionals will benefit from the training opportunities provided by the State Division of Child Support Services for certification purposes.

The State Division of Child Support Services will also benefit from reduced customer inquiries as it pertains to inconsistent county by county practices. The State Division of Child Support Services will be responsible for county training and implementation of the proposed rule changes.

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?

Custodial and Non-Custodial Parents - In both the short- and long-term, will see a reduction in errors being made on cases.

County Professionals - In the short-term, county professionals will be required to participate in certification training. For APA certification for supervisors, the training time will be approximately 4 hours. Automated enforcement training will involve 10-12 hours of self-paced learning and 10-12 hours of live webinars, for a total of approximately 24 training hours. Certification and recertification tests are anticipated to take 1 hour to complete. Existing staff as of October 1, 2021 will have the option to become certified in automated enforcement by taking and passing a certification exam for existing employees prior to December 31, 2021. The passing score for the exam will be 70%. Individuals that pass will need to participate in the 24 hour training any time prior to their recertification date and exam 3 years after initial certification. Those that receive a score of 60-69% on the certification exam for existing employees will have an opportunity to retake the exam one time. Those that score 0-59%, those that do not pass on the second attempt, and staff hired after October 1, 2021 will be required to participate in the training prior to taking or retaking the certification exam. In the long-term, recertification for both APA for supervisors and automated enforcement is required to occur every three years. A grace period will be implemented for existing staff to be trained and certified.

State Division of Child Support Services - In the short-term, staff will bear the burden of training and ensuring procedures, desk-aids and ACSES is updated, as appropriate.

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…."***

Title of Proposed Rule:	Child Support Rule Package 2021 – Certification Requirements	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

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

The cost of training will be absorbed within the positions that currently provide county training and technical support.

County Fiscal Impact

The proposed rule changes will support more streamlined processes and improved parent/county partnerships that are expected to aid in long-term reduction of workload and costs. As noted in Section 2, while there is no monetary cost associated with this training and certification for the county, employees will need to dedicate time for the training and certification/recertification exams. We believe the investment of time required of staff for these trainings (see below for more detail) will be completed in normal working hours and will result in a net zero of additional time as these trainings will lead to less errors and work on the backend.

It is anticipated that the APA certification for supervisors will require 5 hours of training and exam time during the initial certification year and 1 hour every 3 years for the recertification exam. Automated enforcement certification will require approximately 25 hours of training and exam time for staff hired after October 1, 2021 during the initial certification year and 1 hour every 3 years for the recertification exam.

In response to county feedback regarding the automated enforcement certification for existing staff, the State Division of Child Support Services has determined that staff that are employed as of October 1, 2021 may be certified by taking and passing a certification exam for existing employees prior to December 31, 2021. The passing score for the exam will be 70%. Individuals that pass will need to participate in the 24 hour training any time prior to their recertification date and exam 3 years after initial certification. Those that receive a score of 60-69% on the certification exam for existing employees will have an opportunity to retake the exam one time. Those that score 0-59%, those that do not pass on the second attempt, and staff hired after October 1, 2021 will be required to participate in the training prior to taking or retaking the certification exam.

Information regarding the time period to be certified and grace period for existing staff will be outlined in a memo that will be issued after approval of the proposed rules and prior to the effective date of the rule change.

Estimated staffing time cost:
Initial APA certification for supervisors: 4 training hours + 1 exam hour = 5 training and exam hours; 5 hours x $17.00/hour = $85.00/professional, for employee time ($28.90 = county share per participant)

Initial year for automated enforcement certification for new staff hired after October 1, 2021 and within three years for existing staff as of October 1, 2021: 24 training hours + 1 exam hour = 25 training and exam hours; 25 hours x $17.00/hour = $425.00/professional for employee time, ($144.50 = county share per participant)

Title of Proposed Rule:	Child Support Rule Package 2021 – Certification Requirements	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

* Note this cost is shared 34% County and 66% by State and Federal. The $17.00 per hour is an estimate.

Federal Fiscal Impact

There are no fiscal impacts to the federal government.

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

N/A

4. Data Description

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

No specific data or research was used for the proposal of the rule packet.

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…"**

The Division of Child Support Services (DCSS) may be able to implement training and certification as an "option", however this practice would further promote inconsistency and different standards of service across Colorado. By requiring the training and certification in rule, DCSS is ensuring fidelity in the establishment and enforcement process and ensures trust from the family, Judiciary, partner agencies, and DCSS, in the order establishment and enforcement action process. When training has been provided as optional or knowledge checks such as tests have been administered, not all professionals participate nor do all professionals pass the exam prior to performing enforcement functions. In 2020 the DCSS provided Driver's License Suspension training and testing for enforcement professionals and only ⅔ of test takers passed the exam. This demonstrates a need to ensure training is provided and knowledge checks, such as passing a test, are required prior to performing automated enforcement actions, such proactively monitoring to ensure that actions such as suspending an individual's driver's license or impacting their credit are appropriate. Rule-making defines the service expectation and allows for the state supervising agency to require a specific process or practice. It also allows the state supervising agency the ability to pursue disciplinary action when the rule is not followed. By requiring this training in rule, it will ensure that the state provides necessary training and resources to the county.

Title of Proposed Rule:	**Child Support Rule Package 2021 – Certification Requirements**	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@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
6.103	New title	N/A	**6.103 – CERTIFICATION REQUIREMENTS FOR CHILD SUPPORT SERVICES EMPLOYEES**	Technical addition	See below
6.103.1	New rule	N/A	**6.103.1 APA CERTIFICATION** A. CERTIFICATION BY THE STATE DIVISION OF CHILD SUPPORT SERVICES IS REQUIRED FOR: 1. CHILD SUPPORT SERVICES UNIT EMPLOYEES THAT CONDUCT ADMINISTRATIVE PROCESS ACTIONS AS DESCRIBED IN SECTION 6.700 AND 6.261. 2. COUNTY EMPLOYEES THAT SUPERVISE EMPLOYEES THAT CONDUCT ADMINISTRATIVE PROCESS ACTIONS, UNLESS THE DIRECT SUPERVISOR OF AN EMPLOYEE CONDUCTING ADMINISTRATIVE PROCESS ACTIONS IS THE COUNTY HUMAN OR SOCIAL SERVICES DIRECTOR AND THE DIRECTOR HAS DESIGNATED ANOTHER INDIVIDUAL TO	Relocate language from 6.706 and clarify certification requirements for employees performing APA	

			REVIEW AND SIGN APA DEFAULT ORDERS AS REQUIRED BY 6.710.1(C), 6.711.1(C), AND 6.714.1(A). 3. SUPERVISORS, ADMINISTRATORS, OR ATTORNEYS, THAT HAVE BEEN DESIGNATED, IN WRITING, BY THE COUNTY HUMAN OR SOCIAL SERVICES DIRECTOR TO REVIEW AND SIGN APA DEFAULT ORDERS, PURSUANT TO 26-13.5-106 C.R.S. AND REQUIRED BY 6.710.1(C), 6.711.1(C), AND 6.714.1(A). B. RECERTIFICATION MUST OCCUR EVERY THREE (3) YEARS. A CERTIFIED EMPLOYEE MAY TRANSFER HIS OR HER CERTIFIED STATUS FROM ONE COUNTY TO ANOTHER IF DONE WITHIN NINETY (90) DAYS OF TERMINATING EMPLOYMENT WITH THE FIRST COUNTY. C. THE COUNTY CHILD SUPPORT SERVICES UNIT MUST ENSURE THAT EMPLOYEES FULFILL ALL CERTIFICATION AND RECERTIFICATION TRAINING AND TESTING REQUIREMENTS PRIOR TO CONDUCTING OR CONTINUING TO CONDUCT THE ADMINISTRATIVE PROCESS ACTION. D. THE COUNTY DIRECTOR OR THEIR AUTHORIZED DESIGNEE SHALL BE RESPONSIBLE FOR DETERMINING AND		

			AUTHORIZING IN WRITING WHICH CHILD SUPPORT SERVICES UNIT EMPLOYEES MAY CONDUCT APA AND NEGOTIATION CONFERENCES BASED UPON THE EMPLOYEE'S CERTIFICATION STATUS, CLASSIFICATION, AND EXPERIENCE. THE COUNTY DIRECTOR OR THEIR AUTHORIZED DESIGNEE SHALL BE RESPONSIBLE FOR ENSURING THAT ONLY THOSE EMPLOYEES WITH ADEQUATE SKILLS, KNOWLEDGE AND TRAINING CONDUCT NEGOTIATION CONFERENCES. E. IN THE EVENT THAT A COUNTY DOES NOT HAVE AN APA CERTIFIED SUPERVISOR, ADMINISTRATOR, ATTORNEY, OR COUNTY DIRECTOR, DUE SOLELY TO TEMPORARY STAFFING CHANGES, THE COUNTY SHALL NOTIFY DCSS AND COORDINATE WITH ANOTHER COUNTY THAT HAS AGREED TO PROVIDE COVERAGE FOR CONTINUITY OF SERVICES, AS IDENTIFIED IN THE ANNUAL PROGRAM PLAN.		
6.103.2	New rule	N/A	**6.103.2 AUTOMATED ENFORCEMENT CERTIFICATION** A. CERTIFICATION BY THE STATE DIVISION OF CHILD SUPPORT SERVICES IS REQUIRED FOR CHILD SUPPORT SERVICES UNIT EMPLOYEES THAT PERFORM, OR SUPERVISE EMPLOYEES THAT PERFORM, ANY ENFORCEMENT ACTIONS ASSOCIATED WITH THE FOLLOWING AUTOMATED ENFORCEMENT REMEDIES:	Establish certification requirement for employees performing automated enforcement actions	

Title of Proposed Rule:	Child Support Rule Package 2021 – Certification Requirements	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

			1. ADMINISTRATIVE OFFSET 2. CHILD SUPPORT LIEN NETWORK (CSLN) 3. CREDIT REPORTING (CRA) 4. DEPARTMENT OF CORRECTIONS (DOC) 5. DRIVER'S LICENSE SUSPENSION (DLS) 6. FEDERAL TAX OFFSET (IRS) 7. FINANCIAL INSTITUTION DATA MATCH (FIDM) 8. GAMBLING (GAM) 9. LOTTERY (LOT) 10. PASSPORT DENIAL 11. PROFESSIONAL /OCCUPATIONAL LICENSE SUSPENSION (POLS) 12. RECREATIONAL LICENSE SUSPENSION (RLS) 13. STATE REVENUE OFFSET (REV) 14. UNCLAIMED PROPERTY OFFSET (UPO)		

			15. UNEMPLOYMENT COMPENSATION BENEFITS (UCB) 16. VENDOR OFFSET (VO) 17. WORKER'S COMPENSATION (WC) 18. AUTOMATED ENFORCEMENT OF INTERSTATE CASES (AEI) B. RECERTIFICATION MUST OCCUR EVERY THREE (3) YEARS. A CERTIFIED EMPLOYEE MAY TRANSFER HIS OR HER CERTIFIED STATUS FROM ONE COUNTY TO ANOTHER IF DONE WITHIN NINETY (90) DAYS OF TERMINATING EMPLOYMENT WITH THE FIRST COUNTY. C. THE COUNTY CHILD SUPPORT SERVICES UNIT MUST ENSURE THAT EMPLOYEES FULFILL ALL CERTIFICATION AND RECERTIFICATION TRAINING AND TESTING REQUIREMENTS PRIOR TO PERFORMING OR CONTINUING TO PERFORM, THE ENFORCEMENT ACTIONS DESCRIBED IN THIS SECTION. D. THE COUNTY DIRECTOR OR THEIR AUTHORIZED DESIGNEE SHALL BE RESPONSIBLE FOR DETERMINING AND AUTHORIZING IN WRITING WHICH CHILD		

			SUPPORT SERVICES UNIT EMPLOYEES MAY PERFORM THE ENFORCEMENT ACTIONS DESCRIBED IN THIS SECTION BASED UPON THE EMPLOYEE'S CERTIFICATION STATUS, CLASSIFICATION, AND EXPERIENCE. THE COUNTY DIRECTOR OR THEIR AUTHORIZED DESIGNEE SHALL BE RESPONSIBLE FOR ENSURING THAT ONLY THOSE EMPLOYEES WITH ADEQUATE SKILLS, KNOWLEDGE AND TRAINING PERFORM THESE ACTIONS.		
6.706	Technical revision, relocated to 6.103.1	**6.706 NEGOTIATION CONFERENCE** A. The county director shall be responsible for determining and authorizing in writing which child support services unit employees may conduct APA and negotiation conferences based upon the employee's classification and experience, and shall be responsible for assuring that only those employees with adequate skills, knowledge, and training conduct negotiation conferences. Child Support Services Unit employees authorized by their county director to conduct administrative process must also be certified by the State Division of Child Support services and comply with all State Division of	**6.706 NEGOTIATION CONFERENCE** A. ~~The county director shall be responsible for determining and authorizing in writing which Child Support Services Unit employees may conduct APA and negotiation conferences based upon the employee's classification and experience, and shall be responsible for assuring that only those employees with adequate skills, knowledge and training conduct negotiation conferences. Child Support Services Unit employees authorized by their county director to conduct administrative process must also be certified by the State Division of Child Support Services. and comply with all State Division of Child Support Services certification training and testing requirements before conducting administrative process. An APA certified employee may transfer his or her certified status from one county to another if done within 90 days of terminating employment with the first county.~~ CHILD SUPPORT SERVICES UNIT EMPLOYEES MUST BE CERTIFIED BY THE		

		Child Support Services certification training and testing requirements before conducting administrative process. An APA certified employee may transfer his or her certified status from one county to another if done within 90 days of terminating employment with the first county. B. The negotiation conference date is originally scheduled in the notice or amended notice. This date can be continued and the "currently scheduled" date is the date of the notice or amended notice or, if continued, the date in the notice of continuance, whichever date is later. C. The negotiation conference will be conducted in-person (face-to-face) or if requested by the party, the conference may be conducted by telephone, computer program, e-mail, fax or by mail. However, the party that requested an alternative to an in-person negotiation conference will be responsible for signing and delivering a copy of the	STATE DIVISION OF CHILD SUPPORT SERVICES TO CONDUCT APA AND NEGOTIATION CONFERENCES. CERTIFICATION REQUIREMENTS ARE FOUND IN SECTION 6.103.1. B. The negotiation conference date is originally scheduled in the notice or amended notice. This date can be continued and the "currently scheduled" date is the date of the notice or amended notice or, if continued, the date in the notice of continuance, whichever date is later. C. The negotiation conference will be conducted in-person (face-to-face) or if requested by the party, the conference may be conducted by telephone, computer program, e-mail, fax or by mail. However, the party that requested an alternative to an in-person negotiation conference will be responsible for signing and delivering a copy of the signed order to the CSS at the time the conference concludes. D. A copy of any document used by the CSS to calculate the MSO shall be provided to the parties with a copy of the order. E. Prior to concluding the negotiation conference, the child support specialist must review the order commencement date, payment options and possible enforcement remedies with the parties as provided by a state prescribed document.		

		signed order to the CSS at the time the conference concludes. D. A copy of any document used by the CSS to calculate the MSO shall be provided to the parties with a copy of the order. E. Prior to concluding the negotiation conference, the child support specialist must review the order commencement date, payment options and possible enforcement remedies with the parties as provided by a state prescribed document. F. If a default order is issued, the county must send the state prescribed documents regarding payment options and possible enforcement remedies with a copy of the order to the parties of the case.	F. If a default order is issued, the county must send the state prescribed documents regarding payment options and possible enforcement remedies with a copy of the order to the parties of the case.		
6.902.1	Add reference to certification requirements found in 6.103.2	**6.902.1 [Rev. eff. 4/1/13]** The following functions are the responsibility of the child support services unit with regard to the enforcement of child support obligations for all CSS cases.	**6.902.1 [Rev. eff. 4/1/13]** The following functions are the responsibility of the Child Support Services Unit with regard to the enforcement of child support obligations for all CSS cases. CHILD SUPPORT SERVICES UNIT EMPLOYEES MUST BE CERTIFIED BY THE STATE DIVISION OF CHILD SUPPORT SERVICES TO PERFORM FUNCTIONS	Establish certification requirement for employees performing automated enforcemen	

Title of Proposed Rule:	Child Support Rule Package 2021 – Certification Requirements	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

			ASSOCIATED WITH THE AUTOMATED ENFORCEMENT REMEDIES DESCRIBED IN SECTION 6.103.2.	t actions	

STAKEHOLDER COMMENT SUMMARY

Development

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

N/A

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 State of Colorado, Division of Child Support Services
The State of Colorado, Office of Information and Technology - ACSES
County Human Services Directors and Designees
County Child Support Services IV-D Administrators
The Office of Child Support Enforcement - Region 8 Representative
IV-D Attorneys
Colorado Judicial Department
Colorado Legal Services
Center on Fathering

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 [ ] No

Title of Proposed Rule:	**Child Support Rule Package 2021 – Certification Requirements**	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

Name of Sub-PAC	Economic Security Sub-PAC		
Date presented	February 4, 2021 (Initial), March 4, 2021 (Vote), April 8, 2021 (Vote on Amendments)		
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
	8	2	4
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

☐ Yes ☐ No

Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

☒ Yes ☐ 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.

2021 CSS Rule Package - Certification of Employees
Stakeholder Comment/Response

Title of Proposed Rule:	Child Support Rule Package 2021 – Certification Requirements	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

#1
Archuleta
I am not in support or requiring staff (including Directors in many cases) who supervise employees who conduct APA to be "certified"

As you are aware our time is being spread incredibly thin and if you do not have the luxury of an organizational chart that provides for support, you as the Director are required to take on many tasks that there simply is insufficient time for.

I would be more supportive of this being an option to become certified in APA versus a requirement.

State Response
Thank you for your comments. Your county voice is an important piece of the rulemaking process. Section 26-13.5-106(2) of the Colorado Revised Statutes requires that a supervisor, administrator, attorney or director of a county department of human or social services review the order and any accompanying documents before filing of the default order. This requirement is also found in existing Child Support Services rules 6.710.1(C), 6.711.1(C), and 6.714.1(A).

In response to the legal and regulatory requirements, it is critical that the Department of Human Services, Division of Child Support Services (DCSS) provide training and certification to individuals responsible for reviewing default orders and/or supervising certified Administrative Process Action Professionals. The training and certification will ensure leaders are equipped with the necessary knowledge to provide a quality review of child support orders, specifically default orders. Additionally, this training and certification instills confidence in the program as it further ensures default orders (orders entered without participation of the paying party) are issued without error.

In response to feedback from a few counties, DCSS has ensured that this training would be specific to the duties required by law. The training will be a 4 hour training required one time before the initial certification. The certification test will be specific to the role and responsibility of reviewing a default order.

Additionally, we heard your feedback that work-task coverage through natural attrition is a concern. In response to this comment we have added proposed language that indicates a county may utilize another county leader for review of default orders.

In the original proposed rule language, the recertification period would be every two (2) years. In response to the feedback that many leaders are stretched thin for time, DCSS has determined that leaving the recertification period to three (3) years is sufficient for ensuring professionals have the appropriate knowledge to establish paternity and support orders for families. Although this test will be an open book, open resources test, we

anticipate the test would take no longer than one hour to complete. The total estimated time investment for leadership is approximately 5 hours during the initial APA certification year and 1 hour every 3 years for recertification.

Below you will see the revised language that we hope addresses your concerns. Again, thank you for your investment in the Child Support program and the rulemaking process.

#2
Boulder
Thanks for sending this on. I think certification every two years is a nice middle ground intervals, I appreciate your hearing my concerns at the last TF meeting. Here are my only additional suggestions;

I think part "D" should say "The County Director or their authorized delegate shall be responsible for determine and authorizing in writing child support services unit employees may perform the enforcement actions described in this section based upon the employees certification status, classification and experience. The County Director or their authorized delegate (or designee) shall be responsible for ensuring that only those employees with adequate skills, knowledge and training perform these actions."

In large Counties, the County Director doesn't have the time or bandwidth to personally mange certification status for line staff and I think it's crucial for the option of the County Director to delegate that responsibility to whomever they determine the best fit, most times I would guess would be each County Program Manager.

State Response
Thank you for your comments. Your county voice is an important piece of the rulemaking process. The Division of Child Support Services has adopted your recommendations and revised 6.103.1(D) and 6.103.2(D). Please see the attached revised proposed rules.

#3
Logan
I, as the administrator of a medium county, am not in favor of this change. I think that training continues to be an important piece of our jobs. Small and medium counties do not have trainers on staff. What happens in a small one person county when someone goes on maternity leave, for example? They have to count on another county, not on the State, because the State is not equipped to cover what the counties really are able to do. I really think the State people need more in depth training so they are able to help all of us when we have complicated questions. Maybe they

need to visit counties to see what we really do. This is a great program. But there is a lot of knowledge that we have to have to do our jobs. APA is a piece of it but there are so many other facets to it. Please consider what you are putting on our county staff before implementing these kinds of mandates. It is simply not fair to us. As for the new changes in the SEU, maybe the State should take these programs over. If you are taking away the ability to negotiate any kind of agreement with DLS to get someone back working sooner, it really takes away from the relationships we have with our customers. I know I am not the only one that thinks this but the large counties really control what happens in the State. The little guy really has no say anymore. Thanks, Charla

State Response

Thank you for your comments. Your county voice is an important piece of the rulemaking process. The Division of Child Support Services agrees that training is important and we recognize that not all counties have trainers on staff. This rule ensures that the state provides training on APA and automated enforcement. It is our hope that we will be able to visit counties more often as we value learning from all professionals in the program. Comments not specifically related to the proposed rules have been reviewed and shared with the appropriate state staff.

#4

Summit

Hi Jeana, I do not agree with the requirement for Director's to complete APA training, nor do I understand why this is necessary? I think what you will find, if this is implemented, is that Director's will not be able to complete requirement, we just do not have enough time, which will lead to further complications for all.

Thanks for reaching out to get our opinion,

State Response

Thank you for your comments. Your county voice is an important piece of the rulemaking process. Section 26-13.5-106(2) of the Colorado Revised Statutes requires that a supervisor, administrator, attorney or director of a county department of human or social services review the order and any accompanying documents before filing of the default order. This requirement is also found in existing Child Support Services rules 6.710.1(C), 6.711.1(C), and 6.714.1(A).

In response to the legal and regulatory requirements, it is critical that the Department of Human Services, Division of Child Support Services (DCSS) provide training and certification to individuals responsible for reviewing default orders and/or supervising certified Administrative Process Action Professionals. In most cases, this will not be the county director. The training and certification will ensure leaders are equipped with the

necessary knowledge to provide a quality review of child support orders, specifically default orders. Additionally, this training and certification instills confidence in the program as it further ensures default orders (orders entered without participation of the paying party) are issued without error.

In response to feedback from a few counties, DCSS has ensured that this training would be specific to the duties required by law. The training will be a 4 hour training required one time before the initial certification. The certification test will be specific to the role and responsibility of reviewing a default order.

In the original proposed rule language, the recertification period would be every two (2) years. In response to the feedback that many leaders are stretched thin for time, DCSS has determined that leaving the recertification period to three (3) years is sufficient for ensuring professionals have the appropriate knowledge to establish paternity and support orders for families. Although this test will be an open book, open resources test, we anticipate the test would take no longer than one hour to complete. The total estimated time investment for leadership is approximately 5 hours during the initial certification year and 1 hour every 3 years for recertification.

Below you will see the revised language that we hope addresses your concerns. Again, thank you for your investment in the Child Support program and the rulemaking process.

#5
Arapahoe
No issues with this requirement, in fact, I support – makes perfect sense;

State Response
Thank you for your comments. Your county voice is an important piece of the rulemaking process. Thank you for your support on this proposed rule package.

#6
El Paso
I prefer the three-year cycle for certification. I think APA certification should be required for anyone who has been delegated the authority to sign off on an APA proposed order. Perhaps another supervisor or attorney can be a backup. There may be a compromise regarding the level of certification needed for the secondary approver of the proposed order. Perhaps what is appropriate is a lighter training (2 hours) that goes over the

basics and what is jurisdictionally needed to approve an order. This should prevent fatal errors. One can be APA certified to conduct conferences and one could be certified to approve or review the proposed order.

State Response

Thank you for your comments. Your county voice is an important piece of the rulemaking process. The Division of Child Support Services (DCSS) has adopted your recommendation of a three-year recertification time frame for Administrative Process Action (APA). DCSS agrees that there is a critical need to provide training and certification to individuals responsible for reviewing default orders completed by certified APA professionals. DCSS has ensured that this training would be specific to the duties required by law. The training will be a 4 hour training required one time before the initial certification. The certification test will be specific to the role and responsibility of reviewing a default order. Please see the attached revised proposed rules.

#7

Alamosa

On behalf of Alamosa County we are in support of the APA certification. I think it is important that everyone have the appropriate training and development of skill sets to do this work. The certification validates the skill sets needed to complete work processes.

State Response

Thank you for your comments. Your county voice is an important piece of the rulemaking process. We also value investing in child support professionals by providing appropriate training. Thank you for your support on this proposed rule package.

Title of Proposed Rule:	Child Support Rule Package 2021 – Certification Requirements	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

REVISED RULES ONLY

(9 CCR 2504-1)

6.103 CERTIFICATION REQUIREMENTS FOR CHILD SUPPORT SERVICES EMPLOYEES

6.103.1 APA CERTIFICATION

A. CERTIFICATION BY THE STATE DIVISION OF CHILD SUPPORT SERVICES IS REQUIRED FOR:

1. CHILD SUPPORT SERVICES UNIT EMPLOYEES THAT CONDUCT ADMINISTRATIVE PROCESS ACTIONS AS DESCRIBED IN SECTION 6.700 AND 6.261.

2. COUNTY EMPLOYEES THAT SUPERVISE EMPLOYEES THAT CONDUCT ADMINISTRATIVE PROCESS ACTIONS, UNLESS THE DIRECT SUPERVISOR OF AN EMPLOYEE CONDUCTING ADMINISTRATIVE PROCESS ACTIONS IS THE COUNTY HUMAN OR SOCIAL SERVICES DIRECTOR AND THE DIRECTOR HAS DESIGNATED ANOTHER INDIVIDUAL TO REVIEW AND SIGN APA DEFAULT ORDERS AS REQUIRED BY 6.710.1(C), 6.711.1(C), AND 6.714.1(A).

3. SUPERVISORS, ADMINISTRATORS, OR ATTORNEYS, THAT HAVE BEEN DESIGNATED, IN WRITING, BY THE COUNTY HUMAN OR SOCIAL SERVICES DIRECTOR TO REVIEW AND SIGN APA DEFAULT ORDERS, PURSUANT TO 26-13.5-106 C.R.S. AND REQUIRED BY 6.710.1(C), 6.711.1(C), AND 6.714.1(A).

B. RECERTIFICATION MUST OCCUR EVERY THREE (3) YEARS. A CERTIFIED EMPLOYEE MAY TRANSFER HIS OR HER CERTIFIED STATUS FROM ONE COUNTY TO ANOTHER IF DONE WITHIN NINETY (90) DAYS OF TERMINATING EMPLOYMENT WITH THE FIRST COUNTY.

C. THE COUNTY CHILD SUPPORT SERVICES UNIT MUST ENSURE THAT EMPLOYEES FULFILL ALL CERTIFICATION AND RECERTIFICATION TRAINING AND TESTING REQUIREMENTS PRIOR TO CONDUCTING OR CONTINUING TO CONDUCT THE ADMINISTRATIVE PROCESS ACTION.

D. THE COUNTY DIRECTOR OR THEIR AUTHORIZED DESIGNEE SHALL BE RESPONSIBLE FOR DETERMINING AND AUTHORIZING IN WRITING WHICH CHILD SUPPORT SERVICES UNIT EMPLOYEES MAY CONDUCT APA AND NEGOTIATION CONFERENCES BASED

UPON THE EMPLOYEE'S CERTIFICATION STATUS, CLASSIFICATION, AND EXPERIENCE. THE COUNTY DIRECTOR OR THEIR AUTHORIZED DESIGNEE SHALL BE RESPONSIBLE FOR ENSURING THAT ONLY THOSE EMPLOYEES WITH ADEQUATE SKILLS, KNOWLEDGE AND TRAINING CONDUCT NEGOTIATION CONFERENCES.

E. IN THE EVENT THAT A COUNTY DOES NOT HAVE AN APA CERTIFIED SUPERVISOR, ADMINISTRATOR, ATTORNEY, OR COUNTY DIRECTOR, DUE SOLELY TO TEMPORARY STAFFING CHANGES, THE COUNTY SHALL NOTIFY DCSS AND COORDINATE WITH ANOTHER COUNTY THAT HAS AGREED TO PROVIDE COVERAGE FOR CONTINUITY OF SERVICES, AS IDENTIFIED IN THE ANNUAL PROGRAM PLAN.

6.103.2 AUTOMATED ENFORCEMENT CERTIFICATION

A. CERTIFICATION BY THE STATE DIVISION OF CHILD SUPPORT SERVICES IS REQUIRED FOR CHILD SUPPORT SERVICES UNIT EMPLOYEES THAT PERFORM, OR SUPERVISE EMPLOYEES THAT PERFORM, ANY ENFORCEMENT ACTIONS ASSOCIATED WITH THE FOLLOWING AUTOMATED ENFORCEMENT REMEDIES:

1. ADMINISTRATIVE OFFSET
2. CHILD SUPPORT LIEN NETWORK (CSLN)
3. CREDIT REPORTING (CRA)
4. DEPARTMENT OF CORRECTIONS (DOC)
5. DRIVER'S LICENSE SUSPENSION (DLS)
6. FEDERAL TAX OFFSET (IRS)
7. FINANCIAL INSTITUTION DATA MATCH (FIDM)
8. GAMBLING (GAM)
9. LOTTERY (LOT)

10. PASSPORT DENIAL

11. PROFESSIONAL/OCCUPATIONAL LICENSE SUSPENSION (POLS)

12. RECREATIONAL LICENSE SUSPENSION (RLS)

13. STATE REVENUE OFFSET (REV)

14. UNCLAIMED PROPERTY OFFSET (UPO)

15. UNEMPLOYMENT COMPENSATION BENEFITS (UCB)

16. VENDOR OFFSET (VO)

17. WORKER'S COMPENSATION (WC)

18. AUTOMATED ENFORCEMENT OF INTERSTATE CASES (AEI)

B. RECERTIFICATION MUST OCCUR EVERY THREE (3) YEARS. A CERTIFIED EMPLOYEE MAY TRANSFER HIS OR HER CERTIFIED STATUS FROM ONE COUNTY TO ANOTHER IF DONE WITHIN NINETY (90) DAYS OF TERMINATING EMPLOYMENT WITH THE FIRST COUNTY.

C. THE COUNTY CHILD SUPPORT SERVICES UNIT MUST ENSURE THAT EMPLOYEES FULFILL ALL CERTIFICATION AND RECERTIFICATION TRAINING AND TESTING REQUIREMENTS PRIOR TO PERFORMING OR CONTINUING TO PERFORM, THE ENFORCEMENT ACTIONS DESCRIBED IN THIS SECTION.

D. THE COUNTY DIRECTOR OR THEIR AUTHORIZED DESIGNEE SHALL BE RESPONSIBLE FOR DETERMINING AND AUTHORIZING IN WRITING WHICH CHILD SUPPORT SERVICES UNIT EMPLOYEES MAY PERFORM THE ENFORCEMENT ACTIONS DESCRIBED IN THIS SECTION BASED UPON THE EMPLOYEE'S CERTIFICATION STATUS, CLASSIFICATION, AND EXPERIENCE. THE COUNTY DIRECTOR OR THEIR AUTHORIZED DESIGNEE SHALL BE RESPONSIBLE FOR ENSURING THAT ONLY THOSE EMPLOYEES WITH ADEQUATE SKILLS, KNOWLEDGE AND TRAINING PERFORM THESE ACTIONS.

6.706 NEGOTIATION CONFERENCE

A. ~~The county director shall be responsible for determining and authorizing in writing which Child Support Services Unit employees may conduct APA and negotiation conferences based upon the employee's classification and experience, and shall be responsible for assuring that only those employees with adequate skills, knowledge and training conduct negotiation conferences. Child Support Services Unit employees authorized by their county director to conduct administrative process must also be certified by the State Division of Child Support Services. and comply with all State Division of Child Support Services certification training and testing requirements before conducting administrative process. An APA certified employee may transfer his or her certified status from one county to another if done within 90 days of terminating employment with the first county.~~ CHILD SUPPORT SERVICES UNIT EMPLOYEES MUST BE CERTIFIED BY THE STATE DIVISION OF CHILD SUPPORT SERVICES TO CONDUCT APA AND NEGOTIATION CONFERENCES. CERTIFICATION REQUIREMENTS ARE FOUND IN SECTION 6.103.1.

B. The negotiation conference date is originally scheduled in the notice or amended notice. This date can be continued and the “currently scheduled” date is the date of the notice or amended notice or, if continued, the date in the notice of continuance, whichever date is later.

C. The negotiation conference will be conducted in-person (face-to-face) or if requested by the party, the conference may be conducted by telephone, computer program, e-mail, fax or by mail. However, the party that requested an alternative to an in-person negotiation conference will be responsible for signing and delivering a copy of the signed order to the CSS at the time the conference concludes.

D. A copy of any document used by the CSS to calculate the MSO shall be provided to the parties with a copy of the order.

E. Prior to concluding the negotiation conference, the child support specialist must review the order commencement date, payment options and possible enforcement remedies with the parties as provided by a state prescribed document.

F. If a default order is issued, the county must send the state prescribed documents regarding payment options and possible enforcement remedies with a copy of the order to the parties of the case.

6.902.1 [Rev. eff. 4/1/13]

The following functions are the responsibility of the Child Support Services Unit with regard to the enforcement of child support obligations for all CSS cases. CHILD SUPPORT SERVICES UNIT EMPLOYEES MUST BE CERTIFIED BY THE STATE DIVISION OF CHILD SUPPORT SERVICES TO PERFORM FUNCTIONS ASSOCIATED WITH THE AUTOMATED ENFORCEMENT REMEDIES DESCRIBED IN SECTION 6.103.2.

Title of Proposed Rule:	**Child Support Rule Package 2021 – Certification Requirements**	
CDHS Tracking #:	21-01-11-01	
Office, Division, & Program:	Rule Author: Elise Topliss	Phone: 720-908-7822
CDHS, Office of Economic Security – Division of Child Support Services		E-Mail: elise.topliss@state.co.us

Notice of Proposed Rulemaking

Tracking number

2021-00616

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 - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY

Rulemaking Hearing

Date

11/12/2021

Time

09:00 AM

Location

(VIRTUAL) 303 East 17th Avenue, 11th Floor, Denver, CO 80203

Subjects and issues involved

see attached

Statutory authority

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)

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, November 12, 2021, 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 21-02-09-A, Revision to the Medical Assistance Rule concerning the Home and Community Based Services Final Settings Rule, Section 8.484

Medical Assistance. In 2014, the federal Centers for Medicare & Medicaid Services (CMS) published a rule requiring Home- and Community-Based Services (HCBS) to be provided in settings that meet certain criteria. The criteria ensure that HCBS participants have access to the benefits of community living and live and receive services in integrated, non-institutional settings. These rules codify in regulation the federal requirements for all HCBS Waivers.

The authority for this rule is contained in Consolidated Appropriations Act 2021, Section 208; 42 C.F.R. §435.406; Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021); Section 25.5-4-205, C.R.S. (2021) and Section 24.4-4-103(6)(a), C.R.S. (2021).

MSB 21-06-08-A, Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Expanding Electronic Monitoring to Include Remote Supports, Section 8.488

Medical Assistance. The Office of Community Living (OCL), Benefits and Services Management Division is requesting to revise the current Electronic Monitoring regulations, already included in five HCBS adult waivers, to in include the addition of a Remote Supports component that will increase efficiencies, improve quality of care, and achieve cost savings. When hands-on care is not required, Remote Supports makes it possible for direct care staff to provide supervision, prompting, or instruction from a remote location. Examples of Remote Supports include technology for cooking safely, overnight support, medication adherence, fall detection, and wandering. The Department must add a service definition and regulations for the operation of Remote Supports. The addition of regulations will give members and providers regulatory parameters for how Remote Supports can be utilized in HCBS to maintain service integrity and ensure member's health and safety.

The authority for this rule is contained in 42 C.F.R. § 441.301(C)(4)); Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021), Sections 25.5-6-301 through 25.5-6-706, C.R.S. (2018) and

Section 25.5-6-1301 through 25.5-6-1304, C.R.S. (2018).

MSB 21-06-09-A, Revision to the Medical Assistance Act Rule concerning In-Home Support Services, Section 8.552

Medical Assistance. Revision of In-Home Support Services (IHSS) Rule to strike language regarding the option for IHSS agencies to be a participant's Authorized Representative (AR) to align with current IHSS statue C.R.S. § 25.5-6-1202(2).

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021) and 25.5-6-1203, C.R.S. (2021).

MSB 21-07-07-A, Revision to the Medical Assistance Act Rule concerning Adult Dental Annual Limit Maximum, Section 8.201.6

Medical Assistance. The proposed rule extends the maximum adult dental annual benefit of $1,500 indefinitely per Senate Bill 21-211. SB21-211 restores the $1,500 maximum adult dental annual benefit that was reduced to $1,000 by the 2020 Long Bill (HB20-1360), and House Bill 20-1361, beginning when the higher federal match afforded through the federal "Families First Coronavirus Response Act", Pub.L. 116-127 (FFCRA) expires. The adult dental annual benefit is currently maintained at $1500 with the FFCRA higher match. This rule will maintain the $1,500 after the FFCRA higher federal match expires.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021); Section 25.5-4-205, C.R.S. (2021) and Section 25.5-5-202(1)(w) C.R.S. (2020).

MSB 21-07-20-B, Revision to the Medical Assistance Rule concerning Provider Participation, Section 8.130

Medical Assistance. This revision is necessary to provide additional guidance on the expectations of all providers and to specifically outline the provider inactivation procedure.

The authority for this rule is contained in 42 CFR § 431.17; 42 CFR § 431.20; 42 CFR § 455.400 and Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021).

MSB 21-08-05-B, Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Service Plan Authorization Limits (SPAL) and the Exception Review Process, Section 8.500.102

Medical Assistance. The Office of Community Living (OCL), Benefits and Services Management Division (BSMD) is requesting to revise regulations to include the addition of The SLS Waiver Exception Review Process as requested through R – 08 and approved through the Long Bill, SB 21 – 205. The addition of this review process is a policy change and this rule revision will allow specific members on the HCBS – SLS waiver to access additional supports and services beyond the current SPAL and/ or service unit limitation caps. This review process is anticipated to allow for members to continue to live in the community of their choice while postponing or eliminating the need for an emergency enrollment onto the HCBS – DD waiver.

The authority for this rule is contained in 42 CFR § 441.300 and § 440.180; Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021) and Sections 25.5-6-404, C.R.S.

MSB 21-08-10-C, Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Non-Medical Transportation, Sections 8.494 and 8.611

Medical Assistance. The purpose of these revisions is to modify the requirements for our Home and Community Based Services (HCBS) transportation providers. Effective July 1, 2021, House Bill 21-1206 transferred the responsibility of safety and oversight for Non-Medical Transportation (NMT) and Non-Emergent Medical Transportation (NEMT) from the Public Utilities Commission (PUC) to the Department, with the exception of taxi providers. These regulations remove the requirement that providers obtain a Medicaid Client Transport (MCT) permit through the PUC and outline the new provider agency, vehicle and driver requirements developed with the assistance of stakeholders.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021); Sections 25.5-6 and Sections 25.5-10 C.R.S. and 25.5.-1-802 C.R.S.

Notice of Proposed Rulemaking

Tracking number

2021-00638

Department

500,1008,2500 - Department of Human Services

Agency

2506 - Food Assistance Program (Volume 4B)

CCR number

10 CCR 2506-1

Rule title

RULE MANUAL VOLUME 4B, FOOD ASSISTANCE

Rulemaking Hearing

Date

11/05/2021

Time

08:30 AM

Location

Location Pending State's response to COVID-19. Anticipated to be held entirely

Subjects and issues involved

This proposed regulation contains unified terminology based on feedback from SNAP regulation workgroup, improved placement of definitions, removal of revision history, updated sections to align with federal regulation, and removal of obsolete language that is not in alignment with federal regulations. Also included is general technical cleanup of grammar, phrasing, and the update of the program name throughout the entirety of regulation from Food Assistance to SNAP to mirror the federal name of the program. NOTE: Due to the ongoing COVID-19 situation, it is anticipated that this meeting will take place entirely online. Please check here for any updates on location/connection: https://cdhs.colorado.gov/sbhs

Statutory authority

26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015); 26-2-301 (2020), C.R.S. 26-2-302 (2020), C.R.S.; Agricultural Act of 2014 (Public Law 113-79)

Contact information

Name

Andrea Poole

Title

SNAP Programs Initiative Supervisor

Telephone

303.829.7245

Email

andrea.poole@state.co.us

Title of Proposed Rule:	SNAP Technical Cleanup 2021	
CDHS Tracking #:	20-08-10-01	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a.___ [X] Board [ ] Executive Director

b. [X] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[X] AG Initial Review [X] Initial Board Reading [ ] AG 2nd Review [ ] Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
209	Amended Rules
0	New Rules
7	Repealed Rules
0	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	July 2021

What date is being requested for this rule to be effective?	October 2021
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

Title of Proposed Rule:	SNAP Technical Cleanup 2021	
CDHS Tracking #:	20-08-10-01	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@state.co.us

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION
Comments:

Estimated Dates:	1st Board	July 2021	2nd Board	August 2021	Effective Date	October 2021

Title of Proposed Rule:	SNAP Technical Cleanup 2021	
CDHS Tracking #:	20-08-10-01	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@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. ***1500 Char max***

This proposed regulation contains unified terminology based on feedback from SNAP regulation workgroup, improved placement of definitions, removal of revision history, updated sections to align with federal regulation, and removal of obsolete language that is not in alignment with federal regulations. Also included is general technical cleanup of grammar, phrasing, and the update of the program name throughout the entirety of regulation from Food Assistance to SNAP to mirror the federal name of the program.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- ☐ to comply with state/federal law and/or
- ☐ to preserve public health, safety and welfare

Justification for emergency:

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.

Title of Proposed Rule:	SNAP Technical Cleanup 2021	
CDHS Tracking #:	20-08-10-01	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@state.co.us

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
26-2-301 (2020), C.R.S.	Designates the Colorado Department of Human Services as the responsible agency to administer the Food Assistance Program in the State of Colorado.
26-2-302 (2020), C.R.S.	Prohibits any interference that would prevent the Colorado Department of Human Services from complying with federal mandates prescribed under the federal "Food Stamp Act" as amended.
Agricultural Act of 2014 (Public Law 113-79)	Federal program authority

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:	SNAP Technical Cleanup 2021	
CDHS Tracking #:	20-08-10-01	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@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?

SNAP applicants and recipients, CDHS SNAP program area staff, county SNAP administrators and eligibility technicians

2. Describe the qualitative and quantitative impact.

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

The technical corrections made to overall language and improvements to structure enhances state level administration of SNAP by creating uniformity of the terminology used while also improving the searchability of regulation and better uniformity of concepts for county administrators and eligibility technicians who serve SNAP applicants and recipients. Changing the program name of the volume and throughout regulation from Food Assistance to the Supplemental Nutrition Assistance Program (SNAP) better aligns CDHS SNAP regulation with terminology used at the national level to further improve understanding at a county and client level. Also included in this rulemaking are efforts to align with first-person language for persons over aged 60 (formerly known as elderly), persons experiencing homelessness (formerly known as homeless), and undocumented non-citizens (formerly known as illegal aliens). Federal SNAP regulation alignments were necessary in several areas and included a correction of language regarding periodic report, and corrections needed to application processing. The removal of language regarding a household's requirement to prove how they are meeting needs when no income is reported is not supported by and is more restrictive than federal SNAP regulation; this language was improved to include scenarios in which it is possible for a household to have no income and state they are not able to currently meet their needs. Additional removals included language regarding SNAP applications received from the Social Security Administration but Colorado does not have such an agreement as well as removing a section regarding Federal responsibilities which Colorado does not have jurisdiction to mandate.

3. Fiscal Impact

Title of Proposed Rule:	SNAP Technical Cleanup 2021	
CDHS Tracking #:	20-08-10-01	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@state.co.us

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)*

Improvements to the periodic report are already being incorporated into CBMS and is funded by the Process and Technology Improvement Grant (PTIG). An improvement regarding application processing was already implemented into CBMS as project number 14284- Reopen Functionality.

County Fiscal Impact

Counties would be fiscally impacted should Colorado receive fiscal sanctions from the Food and Nutrition Service (FNS) because of SB16-190.

Federal Fiscal Impact

If alignments are not made to Federal SNAP regulation and/or Colorado continues to decline in error rates, Colorado could be fiscally sanctioned by not administering SNAP according to Federal SNAP regulation.

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

Title of Proposed Rule:	SNAP Technical Cleanup 2021	
CDHS Tracking #:	20-08-10-01	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@state.co.us

There are no other fiscal impacts associated with this rule change.

4. Data Description

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

Federal policy letters, regulations, and guidance materials from FNS were used to develop these regulations.

5. Alternatives to this Rule-making

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

There is no other alternative to this rulemaking as improvements to existing regulations were required to better align with Federal SNAP regulation and this is the only mechanism to do so.

OVERVIEW OF PROPOSED RULE

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

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000	*Incorrect Statutory Reference*	*Section 26.5.103 C.R.S.*	*Section 26.5-101(3) C.R.S.*		
	Program name updates to header	**DEPARTMENT OF HUMAN SERVICES** **Food Assistance Program RULE MANUAL** **VOLUME 4B, FOOD ASSISTANCE** **10 CCR 2506-1** **[Editor's Notes follow the text of the rules at the end of this CCR Document.]**	**DEPARTMENT OF HUMAN SERVICES** **Supplemental Nutrition Program (SNAP)** **RULE MANUAL VOLUME 4, SNAP** **10 CCR 2506-1** **[Editor's Notes follow the text of the rules at the end of this CCR Document.]**	Updating program name	
	Removing revision history	**HISTORICAL RECORD OF STATEMENT OF BASIS AND PURPOSE, FISCAL IMPACT/REGULATORY ANALYSIS AND SPECIFIC STATUTORY AUTHORITY OF REVISIONS MADE TO STAFF MANUAL VOLUME 4B FOOD STAMPS** Revisions to sections B-4223.1, B-4223.4, B-4223.5, B-4230 and B-4515.1 were adopted on an emergency and final basis at the 11/1/85 State Board meeting, with an effective date of 11/1/85 (Document 9). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4216.4, B-4216.41, B-4220.6, B-4223.5, B-4240, and B-4242.12 were finally adopted at the 11/1/85 State Board meeting, with an effective date of 1/1/86 (Document 8). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule.		This information is duplicative to maintain in Volume 4 as it is captured by Secretary of State, SNAP was given approval to remove this section from regulation	

		These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4225.4 and B-4225.5 were adopted on an emergency basis at the 12/6/85 meeting, with an effective date of 12/6/85 (Document 6). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4213, B-4213.2, and B-4213.32 were adopted at the 12/6/85 meeting, with an effective date of 2/1/86 (Document 5). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4217, B-4217.1, B-4217.2, B-4221.11, B-4221.21, B-4221.24, B-4221.25, B-4222.6, B-4222.7, and B-4310 were finally adopted at the 1/3/86 meeting, with an effective date of 3/1/86 (Document 6). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4225.4 and B-4225.5 were extended as permanent rules at the 1/3/86 meeting, with an effective date of 3/6/86 (Document 5). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to Sections B-4014, B-4014.66, B-4220.4, were			

		finally adopted following publication at the 2/7/86 meeting, with an effective date of 4/1/86 (Document 1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to Sections B-4311.5 - Cont., B-4311.51 - Concl. B-4317, B-4317.1, B-4317.6 - Concl., were emergency adopted at the 4/11/86 meeting, with an effective date of 4/11/86 (Document 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4014 - B-4014.3, B-4014.66 - B-4015.5, B-4220.4 - B-4220.6, were finally adopted following publication at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 8). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4216.4 - Cont. - B-4216.4 - Cont., were emergency adopted at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 12). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4222.7 - B-4223.2, B-4223.31 - B-4223.5, B-4224 - B-4224.3, B-4225.9 - B-4230.1, B-4242 - B-4242.2, B-4311.51 - Concl., were emergency adopted at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These			

		materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4713.1 - B-4714-Concl., B-4742.11 - B-4742.15-Concl., were finally adopted following publication at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 6). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4225.4, B-4242, B-4242.1, B-4242.12, B-4242.13, B-4242.2, B-4242.21, B-4242.3, B-4242.31, B-4242.32, B-4430.1, B-4430.2, B-4515.1, were finally adopted following publication at the 6/6/86 meeting, with an effective date of 8/1/86 (Documents 4, 6, 10, 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4110; B-4220.11 - B-4220.12; were emergency adopted at the 7/11/86 meeting, with an effective date of 7/11/86 (Document 2). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4011.1, B-4011.6, B-4012, B-4015.2, B-4110.1, B-4221, B-4225, B-4243.3, B-4311.5, B-4317, and B-4321, were finally adopted following publication at the 9/5/86 meeting, with an effective date of 11/1/86 (Document 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.			

		Revisions to sections B-4110, B-4211, B-4217, B-4220, B-4223.51, B-4223.52, B-4240.1, and B-4311.5, were finally emergency adopted at the 9/5/86 meeting, with an effective date of 9/5/86 (Document 15). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4011.1, B-4011.2, B-4011.3, B-4209, B-4211.1, B-4213, B-4220, B-4223, B-4224, B-4230, and B-4242.2 were emergency adopted at the 10/3/86 meeting, with an effective date of 10/3/86 (Documents 12 and 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4011.1, B-4011.22, B-4011.3, B-4209, B-4211.1, B-4213, B-4220, B-4220.1, B-4223.31, B-4223.1, B-4223.4, B-4223.5, B-4224, B-4230, and B-4242.2, were finally adopted emergency at the 11/7/86 meeting, with an effective date of 10/3/86 (Documents 9, 10). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions, additions, and deletions to sections B-4217, B-4221.24, B-4222.6, B-4242.2, B-4242.3, B-4430.1, B-4430.22, B-4430.25, B-4714, and B-4742.11, were finally adopted at the 12/5/86 State Board meeting, with an effective date of 2/1/87 (Document 4). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4213 and B-4223.4 were			

		emergency adopted at the 1/21/87 State Board meeting, with an effective date of 1/21/87 (Document 2). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4014.2, B-4014.3, B-4220.6, B-4220.7, B-4222.6, B-4242.2, B-4311.4, B-4317.3, and B-4515.1 were finally adopted following publication at the 2/6/87 State Board meeting, with an effective date of 4/1/87 (Documents 10, 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4213 and B-4223.4 were finally adopted emergency at the 2/6/87 State Board meeting, with an effective date of 1/21/87 (Document 12). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4212, B-4216.2 and B-4222.6 were adopted emergency at the 3/6/87 State Board meeting, with an effective date of 3/6/87 (Documents 6 and 16). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4212, B-4216.2 and B-4222.6 were finally adopted emergency at the 4/3/87 State Board meeting, with an effective date of 3/6/87 (Document 14).			

		Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4500, B-4511 and applicable forms were finally adopted following publication at the 4/3/87 State Board meeting, with an effective date of 6/1/87 (Document 12). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to section B-4316 were emergency adopted at the 4/3/87 State Board meeting, with an effective date of 4/3/87 (Document 15). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4216 and B-4316 were finally adopted emergency at the 5/1/87 State Board meeting, with an effective date of 3/6/87 (Document 15) and 4/3/87 (Document 14). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4215 through B-4216 were finally adopted following publication at the 6/5/87 State Board meeting, with an effective date of 8/1/87 (Document 1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.			

		Revisions to sections B-4110, B-4220, and B-4223.5 were emergency adopted at the 6/5/87 State Board meeting, with an effective date of 6/5/87 (Documents 5 and 7). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4110, B-4220, and B-4223.5 were finally adopted emergency at the 7/10/87 State Board meeting, with an effective date of 6/5/87 (Documents 14 and 16). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4010, B-4011, B-4013, B-4014, B-4214, B-4215 through B-4216, B-4220 through B-4221, B-4430, and B-4821 through B-4832 were finally adopted following publication at the 7/10/87 State Board meeting, with an effective date of 9/1/87 (Documents 12 and 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to section B-4212 were adopted emergency at the 7/10/87 State Board meeting, with an effective date of 7/10/87 (Document 17). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to section B-4212 were finally adopted emergency at the 8/7/87 State Board meeting, with an effective date of 7/10/87 (Document 17). Statement of Basis and Purpose, Fiscal Impact, and specific statutory			

		authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to section B-4010, B-4011, B-4213, B-4220, B-4221, B-4222, and B-4225 were finally adopted following publication at the 9/11/87 State Board meeting, with an effective date of 11/1/87 (Document 8 and 17). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to section B-4212, B-4222, B-4223, and B-4225 were emergency adopted at the 9/11/87 State Board meeting, with an effective date of 9/11/87 (Documents 12 and 27). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4223 and B-4230 were finally adopted emergency at the 10/2/87 State Board meeting, with an effective date of 10/1/87 (Document 3). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4111 through B-4121, B-4216 through B-4217, B-4224, B-4400 through B-4410, B-4514 through B-4515, and B-4723 through B-4740 were finally adopted following publication at the 10/2/87 State Board meeting, with an effective date of 12/1/87 (Documents 1 and 2). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials			

		are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4100 through B-4110.2 were adopted emergency at the 10/2/87 State Board meeting, with an effective date of 10/1/87 (Document 4). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4100 through B-4110.2 were finally adopted emergency at the 11/6/87 State Board meeting, with an effective date of 10/1/87 (Document 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4212 were emergency and final adopted at the 11/6/87 State Board meeting, with an effective date of 11/6/87 (Document 15). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4013, B-4111 through B-4121, B-4224, B-4318 through B-4319, B-4321 through B-4322, B-4410 through B-4425, B-4430, and B-4524 were finally adopted following publication at the 11/6/87 State Board meeting, with an effective date of 1/1/88 (Document 10). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.			

		Revisions to sections B-4011 and B-4220 were emergency adopted at the 11/6/87 State Board meeting, with an effective date of 11/6/87 (Documents 16 and 23). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4011 and B-4220 were finally adopted emergency at the 12/4/87 State Board meeting, with an effective date of 11/6/87 (Documents 8 and 9). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4212, B-4221, B-4222 and B-4223 were finally adopted following publication at the 12/4/87 State Board meeting, with an effective date of 2/1/88 (Document 6). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4011, B-4014, B-4200, B-4220 - B-4221, B-4223, B-4242, B-4425, B-4427 - B-4428, B-4430, and B-4540 were finally adopted following publication at the 1/8/88 State Board meeting, with an effective date of 3/1/88 (Documents 6 and 7). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4222.7 through B-4223.2 were adopted emergency at the 2/5/88 State Board meeting (CSPR# 87-12-21-1), with an effective date of 2/5/88. Statement of Basis and Purpose, Fiscal Impact, and			

		specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4222.7 through B-4223.2 were finally adopted emergency at the 3/4/88 State Board meeting (CSPR# 87-12-21-1), with an effective date of 2/5/88. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to section B-4222.7 through B-4223 were adopted emergency at the 3/4/88 State Board meeting (CSPR# 88-1-20-1), with an effective date of 3/4/88. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4222.7 through B-4223 were final adoption of emergency at the 4/1/88 State Board meeting, with an effective date of 3/4/88 (CSPR# 88-1-20-1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services. Revisions to sections B-4014, B-4015, B-4215, B-4216, B-4220, B-4221, B-4222, B-4225 and B-4319 were finally adopted following publication at the 5/6/88 State Board meeting, with an effective date of 7/1/88 (CSPR# 88-2-12-1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison,			

		Department of Social Services. Revisions to sections B-4713 - B-4714 and B-4742 were finally adopted following publication at the 6/3/88 State Board meeting, with an effective date of 8/1/88 (CSPR# 88-3-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4316 were adopted emergency at the 6/3/88 State Board meeting, with an effective date of 6/3/88 (CSPR# 88-4-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4316 were final adoption of emergency at the 7/8/88 State Board meeting, with an effective date of 6/3/88 (CSPR# 88-4-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4011 were finally adopted following publication at the 7/8/88 State Board meeting, with an effective date of 9/1/88 (CSPR# 88-4-20-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4212, B-4215, and B-4222 were final adoption following publication at the 8/5/88 State Board meeting, with an effective date of 10/1/88 (CSPR#'s 88-1-15-2, 88-3-8-1 and 88-5-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These			

		materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services Revisions to sections B-4100 - B-4110, B-4220, B-4222, B-4223, and B-4225 - B-4230 were emergency adopted at the 9/9/88 State Board meeting, with an effective date of 9/1/88 (CSPR# 88-8-12-2) and effective date of 10/1/88 (CSPR# 88-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 - B-4110, B-4220, B-4222, B-4223, and B-4225 - B-4230 were final adoption of emergency at the 10/7/88 State Board meeting, with an effective date of 9/1/88 (CSPR# 88-8-12-2) and effective date of 10/1/88 (CSPR# 88-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections Table of Contents, B-4215, B-4216 and Form. FS-4J were final adoption following publication at the 11/4/88 State Board meeting, with an effective date of 1/1/89 (CSPR#'s 88-6-28-2 and 88-8-24-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4013, B-4215, and B-4216 were emergency adopted at the 12/2/88 State Board meeting, with an effective date of 12/2/88 (CSPR# 88-9-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.			

		Revisions to sections B-4013, B-4215, and B-4216 were final adoption of emergency at the 1/6/89 State Board meeting, with an effective date of 12/2/88 (CSPR# 88-9-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4014 and B-4220 - B-4221 were adopted emergency at the 1/6/89 State Board meeting, with an effective date of 1/6/89 (CSPR# 88-11-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4014 and B-4220 - B-4221 were final adoption of emergency at the 2/3/89 State Board meeting, with an effective date of 1/6/89 (CSPR# 88-11-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4110 - B-4121 and B-4221 were adopted emergency at the 2/3/89 State Board meeting, with an effective date of 2/1/89 (CSPR# 88-12-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4110 - B-4121 and B-4221 were final adoption of emergency at the 3/3/89 State Board meeting, with an effective date of 2/1/89 (CSPR# 88-12-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by			

		reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4010, B-4011, B-4111 - B-4121, B-4212, B-4222, B-4223, B-4318 - B-4319, and forms following section B-4515 were adopted emergency at the 3/3/89 State Board meeting, with an effective date of 3/3/89 (CSPR#'s 88-12-5-1 and 89-1-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4010, B-4011, B-4111 - B-4121, B-4212, B-4222, B-4223, B-4318 - B-4319, and forms following section B-4515 were final adoption of emergency at the 4/7/89 State Board meeting, with an effective date of 3/3/89 (CSPR#'s 88-12-5-1 and 89-1-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011, B-4230, and B-4410 were adopted emergency at the 4/7/89 State Board meeting, with an effective date of 5/1/89 (CSPR# 89-3-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011, B-4230, and B-4410 were final adoption of emergency at the 5/5/89 State Board meeting, with an effective date of 5/1/89 (CSPR# 89-3-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social			

		Services. Revisions to sections B-4642 through B-4644, B-4713 through B-4716, and B-4812 through B-4820 were adopted emergency at the 6/2/89 State Board meeting, with an effective date of 6/2/89 (CSPR# 89-5-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4642 through B-4644, B-4713 through B-4716, and B-4812 through B-4820 were final adoption of emergency at the 7/7/89 State Board meeting, with an effective date of 6/2/89 (CSPR# 89-5-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4400 through B-4428 and B-4430 were adopted emergency at the 7/7/89 State Board meeting, with an effective date of 7/1/89 (CSPR# 89-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4400 through B-4428 and B-4430 were adopted emergency and final at the 8/4/89 State Board meeting, with an effective date of 7/1/89 (CSPR# 89-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4010, B-4011, B-4100 - B-4110, B-4222 - B-4223, B-4225, B-4242 and B-4518 - B-4519 were			

		adopted emergency at the 8/4/89 State Board meeting, with an effective date of 8/4/89 (CSPR#'s 89-7-14-1 and 89-7-19-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4010, B-4011, B-4100 - B-4110, B-4222 - B-4223, B-4225, B-4242 and B-4518 - B-4519 were final adoption of emergency at the 9/8/89 State Board meeting, with an effective date of 8/4/89 (CSPR#'s 89-7-14-1 and 89-7-19-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 - B-4110, B-4220, B-4222 - B-4223, and B-4225 - B-4230 were adopted emergency at the 9/8/89 State Board meeting, with an effective date of 10/1/89 (CSPR# 89-8-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 - B-4110, B-4220, B-4222 - B-4223, and B-4225 - B-4230 were final adoption of emergency at the 10/6/89 State Board meeting, with an effective date of 10/1/89 (CSPR# 89-8-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4740 - B-4742 were adopted emergency at the 10/6/89 State Board meeting, with an effective date of 10/6/89 (CSPR# 89-8-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the			

		rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4330 - B-4331 and B-4740 - B-4742 were adopted emergency and final at the 11/3/89 State Board meeting, with effective dates of 10/6/89 and 11/3/89 (CSPR# 89-8-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011, B-4012, B-4014, B-4015, B-4218 - B-4220 - B-4221, B-4222 - B-4223, B-4230 - B-4242, B-4243 - B-4311, B-4330, B-4331, B-4410, B-4430, and B-4600 - B-4834 were final adoption following publication at the 12/1/89 State Board meeting, with effective dates of 2/1/90 (CSPR#'s 89-7-20-1, 89-9-8-1, and 89-9-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4110 through B-4111, B-4213, and B-4311 were adopted emergency at the 1/5/90 State Board meeting, with effective dates of 1/5/90 (CSPR#'s 89-11-7-1 and 89-12-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4110 through B-4111, B-4213, and B-4311 were final adoption of emergency at the 2/2/90 State Board meeting, with effective dates of 1/5/90 (CSPR#'s 89-11-7-1 and 89-12-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State			

		Board Liaison, Department of Social Services. Revisions to sections B-4010 - B-4011, B-4221 - B-4223, B-4225, B-4230 - B-4240, B-4242 - B-4311, B-4317, B-4430, and B-4625 - B-4651 were final adoption following publication at the 7/6/90 State Board meeting, with an effective date of 9/1/90 (CSPR# 90-4-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4222 and B-4225 were final adoption following publication at the 8/3/90 State Board meeting, with an effective date of 10/1/90 (CSPR# 90-5-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 - B-4110, B-4220, B-4222 - B-4223, and B-4225 - B-4230 were adopted emergency at the 10/5/90 State Board meeting, with an effective date of 10/5/90 (CSPR# 90-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 through B-4110, B-4220, B-4222 through B-4223, and B-4225 through B-4230 were final adoption of emergency at the 11/2/90 State Board meeting, with an effective date of 10/5/90 (CSPR# 90-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.			

		Revisions to sections B-4013, B-4111 through B-4121, B-4215, and B-4318 through B-4319 were adopted emergency at the 12/7/90 State Board meeting, with an effective date of 12/7/90 (CSPR# 90-10-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4013, B-4111 through B-4121, B-4215, and B-4318 through B-4319 were final adoption of emergency at the 1/4/91 State Board meeting, with an effective date of 12/7/90 (CSPR# 90-10-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4430 were adopted emergency at the 1/4/91 State Board meeting, with an effective date of 1/4/91 (CSPR# 90-12-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4430 were final adoption of emergency at the 2/1/91 State Board meeting, with an effective date of 1/4/91 (CSPR# 90-12-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4213, B-4222, B-4223, B-4225, B-4242, B-4425, and B-4712 through B-4760 were final adoption following publication at the 2/1/91 State Board meeting, with an effective date of 4/1/91 (CSPR# 90-11-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for			

		review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4223.61 were adopted emergency at the 2/1/91 State Board meeting, with an effective date of 3/1/91 (CSPR# 90-12-28-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4223.61 were final adoption of emergency at the 3/8/91 State Board meeting, with an effective date of 3/1/91 (CSPR# 90-12-28-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4222, B-4225, and B-4430 were adopted emergency at the 5/3/91 State Board meeting, with an effective date of 5/3/91 (CSPR# 91-3-26-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4222, B-4225, and B-4430 were final adoption of emergency at the 6/7/91 State Board meeting, with an effective date of 5/3/91 (CSPR# 91-3-26-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4430 were final adoption following publication at the 7/12/91 State Board meeting, with an effective date of 9/1/91 (CSPR# 91-4-4-1). Statement of			

		Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4222 were adopted emergency at the 7/12/91 State Board meeting, with an effective date of 7/12/91 (CSPR# 91-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4222 were final adoption of emergency at the 8/2/91 State Board meeting, with an effective date of 7/12/91 (CSPR# 91-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4430 were final adoption following publication at the 8/2/91 State Board meeting, with an effective date of 10/1/91 (CSPR# 91-6-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011, B-4221, B-4223, and B-4318 through B-4319 were adopted emergency at the 8/2/91 State Board meeting, with an effective date of 8/2/91 (CSPR# 91-6-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011, B-4221, B-4223, and B-4318 through B-4319 were final adoption of emergency at the			

		9/6/91 State Board meeting, with an effective date of 8/2/91 (CSPR# 91-6-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 through B-4110, B-4220, B-4222, B-4223, and B-4225 through B-4230 were adopted emergency at the 9/6/91 State Board meeting, with an effective date of 10/1/91 (CSPR# 91-8-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 through B-4110, B-4220, B-4222, B-4223, and B-4225 through B-4230 were final adoption of emergency at the 10/4/91 State Board meeting, with an effective date of 10/1/91 (CSPR# 91-8-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4215 were final adoption following publication at the 10/4/91 State Board meeting, with an effective date of 12/1/91 (CSPR# 91-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4240 were adopted emergency at the 11/1/91 State Board meeting, with an effective date of 11/1/91 (CSPR# 91-8-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board			

		Liaison, Department of Social Services. Revisions to section B-4240 were final adoption of emergency at the 12/6/91 State Board meeting, with an effective date of 11/1/91 (CSPR# 91-8-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4420 were final adoption following publication at the 2/7/92 State Board meeting, with an effective date of 4/1/92 (CSPR# 91-11-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011, B-4212, B-4213 - B-4214, B-4221, B-4222, B-4223, B-4225 - B-4230 and B-4318 were adopted emergency at the 2/7/92 State Board meeting, with an effective date of 2/1/92 (CSPR# 91-12-17-1); to sections B-4215 and B-4222, with an effective date of 2/7/92 (CSPR# 91-12-10-1); and, to section B-4223, with an effective date of 3/1/92 (CSPR# 91-12-30-3). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4215 and B-4222 were final adoption of emergency at the 3/6/92 State Board meeting, with an effective date of 2/7/92 (CSPR# 91-12-10-1); and, to section B-4223, with an effective date of 3/1/92 (CSPR# 91-12-30-3). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4430 were final adoption following			

		publication at the 3/6/92 State Board meeting, with an effective date of 5/1/92 (CSPR# 91-12-16-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4111 through B-4121, B-4216 through B-4217, B-4222, B-4225, and B-4430 were adopted emergency at the 3/6/92 State Board meeting, with an effective date of 3/6/92 (CSPR# 92-1-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011, B-4212, B-4214, B-4221, B-4222, B-4223, B-4230 and B-4318 were adopted emergency and final at the 4/3/92 State Board meeting, with an effective date of 2/1/92 and 4/3/92 (CSPR# 91-12-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4111 through B-4121, B-4216 through B-4217, B-4222, B-4225, and B-4430 were final adoption of emergency at the 4/3/92 State Board meeting, with an effective date of 3/6/92 (CSPR# 92-1-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4013, B-4222 through B-4223, and B-4225 were adopted emergency at the 6/5/92 State Board			

		meeting, with an effective date of 6/5/92 (CSPR#'s 92-4-9-1 and 92-4-29-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4013, were final adoption of emergency at the 7/10/92 State Board meeting, with an effective date of 6/5/92 (CSPR# 92-4-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4430 were final adoption following publication at the 8/7/92 State Board meeting, with an effective date of 10/1/92 (CSPR# 92-5-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4215 and B-4222 were final adoption following publication at the 9/4/92 State Board meeting, with an effective date of 11/1/92 (CSPR# 92-6-18-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 through B-4110, B-4220, and B-4222 through B-4223 were adopted emergency at the 10/2/92 State Board meeting, with an effective date of 10/1/92 (CSPR# 92-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.			

		Revisions to sections B-4100 through B-4110, B-4220, and B-4222 through B-4223 were final adoption of emergency at the 11/6/92 State Board meeting, with an effective date of 10/1/92 (CSPR# 92-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4010, B-4213, B-4215, B-4222, and B-4223 were final adoption following publication at the 3/5/93 State Board meeting, with an effective date of 5/1/93 (CSPR# 92-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4240.1 were adopted emergency at the 4/2/93 State Board meeting, with an effective date of 4/2/93 (CSPR# 93-2-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4240.1 were final adoption of emergency at the 5/7/93 State Board meeting, with an effective date of 4/2/93 (CSPR# 93-2-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4215 through B-4216 were final adoption following publication at the 5/7/93 State Board meeting, with an effective date of 7/1/93 (CSPR# 93-2-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the			

		Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011 and B-4220 were adopted emergency at the 6/4/93 State Board meeting, with an effective date of 6/4/93 (CSPR# 93-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011 and B-4220 were final adoption of emergency at the 7/9/93 State Board meeting, with an effective date of 6/4/93 (CSPR# 93-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4011 were final adoption following publication at the 7/9/93 State Board meeting, with an effective date of 9/1/93 (CSPR# 93-3-25-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4222 were adopted emergency at the 7/9/93 State Board meeting, with an effective date of 7/1/93 (CSPR# 93-6-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4222 were final adoption of emergency at the 8/6/93 State Board meeting, with an effective date of 7/1/93 (CSPR# 93-6-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the		

		rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4010, B-4013, B-4213, B-4215, B-4216, B-4221, B-4223, B-4230 - B-4240, B-4242, B-4318 - B-4319, B-4410, B-4430, B-4612 - B-4651, B-4660 - B-4662, and B-4712 - B-4760 were final adoption following publication at the 8/6/93 State Board meeting, with an effective date of 10/1/93 (CSPR# 93-5-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011 and B-4632 were adopted emergency at the 9/10/93 State Board meeting, with an effective date of 9/10/93 (CSPR# 93-7-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4011 and B-4632 were final adoption of emergency at the 10/1/93 State Board meeting, with an effective date of 9/10/93 (CSPR# 93-7-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4218 through B-4220 were final adoption following publication at the 10/1/93 State Board meeting, with an effective date of 12/1/93 (CSPR# 93-8-18-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.			

		Revisions to sections B-4400 through B-4410 and B-4425 were adopted emergency and final at the 10/1/93 State Board meeting, with an effective date of 10/1/93 (CSPR# 93-6-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 through B-4110, B-4220, B-4222 through B-4223, and B-4225 through B-4230 were adopted emergency at the 10/1/93 State Board meeting, with an effective date of 10/1/93 (CSPR# 93-8-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4100 through B-4110, B-4220, B-4222 through B-4223, and B-4225 through B-4230 were adopted emergency and final at the 11/5/93 State Board meeting, with effectives date of 10/1/93 and 11/5/93 (CSPR# 93-8-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to section B-4430 were final adoption following publication at the 2/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-11-16-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4222, B-4224, B-4672 through B-4676, B-4694, and B-4704 through B-4760 were adopted emergency at the 2/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-10-15-1). Statement of			

		Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4222, B-4224, B-4672 through B-4676, B-4694, and B-4704 through B-4760 were adopted emergency and final at the 3/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4000 - B-4010, B-4011, B-4013, B-4216 - B-4218, B-4220, B-4221, B-4222, B-4230 - B-4240, and B-4242 were final adoption following publication at the 3/4/94 State Board meeting, with an effective date of 5/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4010 and B-4223 were final adoption following publication at the 5/6/94 State Board meeting, with an effective date of 7/1/94 (CSPR#'s 94-1-20-1 and 94-3-3-3). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services. Revisions to sections B-4215, B-4222 - B-4223, B-4225, and B-4430 were final adoption following publication at the 6/3/94 State Board meeting, with an effective date of 8/1/94 (CSPR# 94-2-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during			

		normal working hours at the Office of the State Board Liaison, Department of Social Services. Deletion of forms, including sections B-4500 and B-4900, were final adoption following publication at the 7/8/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-3-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4011, B-4012, B-4100 - B-4110, B-4213 - B-4214, B-4215, B-4222, B-4223, B-4225, B-4317, and B-4427 were adopted emergency at the 8/5/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-6-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4011, B-4012, B-4100 - B-4110, B-4213 - B-4214, B-4215, B-4222, B-4223, B-4225, B-4317, and B-4427 were adopted emergency and final at the 9/9/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-6-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4110, B-4220, B-4222, and B-4225 through B-4230 were adopted emergency at the 9/9/94 State Board meeting, with an effective date of 10/1/94 (CSPR# 94-7-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4110, B-4220, B-4222, and B-4225 through B-4230 were final adoption of emergency at the		

		10/7/94 State Board meeting, with an effective date of 10/1/94 (CSPR# 94-7-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4010, B-4011, B-4222, B-4225, B-4318 - B-4319, B-4425, B-4430, and B-4695 - B-4711 were final adoption following publication at the 11/4/94 State Board meeting, with an effective date of 1/1/95 (CSPR#'s 94-7-21-1, and 94-8-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4010 - B-4214, B-4216 - B-4220, B-4222, B-4223 - B-4225, B-4230 - B-4240, B-4242, B-4314 - B-4316, B-4318 - B-4410, B-4425 - B-4428, and B-4430 - B-4770 were final adoption following publication at the 3/3/95 State Board meeting, with an effective date of 5/1/95 (CSPR# 94-12-1-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to section B-4223 were final adoption following publication at the 5/5/95 State Board meeting, with an effective date of 7/1/95 (CSPR# 95-2-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to section B-4100 - B-4110, B-4220, and B-4223 - B-4230 were adopted emergency at the 10/6/95 State Board meeting, with an effective date of 10/1/95 (CSPR# 95-8-31-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by			

		reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4100 - B-4110, B-4220, and B-4223 - B-4230 were adopted emergency and final at the 11/3/95 State Board meeting, with effective dates of 10/1/95 and 12/1/95 (CSPR# 95-8-31-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4215 through B-4220, B-4240 through B-4242, B-4321 through B-4322, B-4410, B-4425, B-4633 through B-4640, B-4660 through B-4662, and B-4695 through B-4698 were final adoption following publication at the 1/5/96 State Board meeting, with an effective date of 3/1/96 (CSPR# 95-10-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4425 through B-4427 were final adoption following publication at the 2/2/96 State Board meeting, with an effective date of 4/1/96 (CSPR# 95-11-29-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4222 and B-4225 were final adoption following publication at the 7/12/96 State Board meeting, with an effective date of 9/1/96 (CSPR# 96-4-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4011, B-4100 through B-4110, B-			

		4214, B-4220, B-4222 through B-4230, and B-4317 through B-4318 were adopted emergency at the 10/4/96 State Board meeting, with an effective date of 10/1/96 (CSPR# 96-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4011, B-4100 through B-4110, B-4214, B-4220, B-4222 through B-4230, and B-4317 through B-4318 were final adoption of emergency at the 11/8/96 State Board meeting, with an effective date of 10/1/96 (CSPR# 96-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions/additions to sections B-4010, B-4430, B-4600 through B-4612, B-4625 through B-4651, and B-4800 were final adoption following publication at the 12/6/96 State Board meeting, with an effective date of 2/1/97 (CSPR# 96-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to section B-4215 were adopted emergency at the 12/6/96 State Board meeting, with an effective date of 12/6/96 (CSPR# 96-10-21-1) and sections B-4010, B-4012, B-4111 through B-4121, B-4212, B-4222 through B-4223, B-4321 through B-4322, B-4425, and B-4430 were adopted emergency at the 12/6/96 State Board meeting, with an effective date of 1/1/97 (CSPR#'s 96-10-7-1 and 96-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to section B-4215 were adopted emergency and			

		final at the 1/3/97 State Board meeting, with an effective date of 12/6/96 (CSPR# 96-10-21-1) and sections B-4010, B-4012, B-4111 through B-4121, B-4212, B-4222 through B-4223, B-4321 through B-4322, B-4425, and B-4430 were adopted emergency and final at the 1/3/97 State Board meeting, with an effective date of 1/1/97 (CSPR#'s 96-10-7-1 and 96-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4010, B-4430, B-4600 to B-4612, B-4625 through B-4651, and B-4800 were re-promulgated as final adoption following publication at the 3/7/97 State Board meeting, with an effective date of 5/1/97 (CSPR# 96-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4011, B-4013, B-4215, B-4216, B-4223 through B-4225, and B-4430 were final adoption following publication at the 6/6/97 State Board meeting, with an effective date of 8/1/97 (CSPR# 97-4-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4400 through B-4410 were adopted emergency at the 6/20/97 State Board meeting, with an effective date of 7/1/97 (CSPR# 97-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4400 through B-4410 were adopted emergency and final at the 8/1/97 State Board meeting, with effective dates of 7/1/97 and 8/1/97 (CSPR#			

		97-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4010, B-4215, B-4222, B-4225, and B-4427 through B-4430 were final adoption following publication at the 10/3/97 State Board meeting, with an effective date of 12/1/97 (CSPR# 97-7-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4100 through B-4111, B-4220, and B-4225 through B-4230 were adopted emergency at the 10/3/97 State Board meeting, with an effective date of 10/1/97 (CSPR# 97-9-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4100 through B-4111, B-4220, and B-4225 through B-4230 were final adoption of emergency at the 11/7/97 State Board meeting, with an effective date of 10/1/97 (CSPR# 97-9-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4212 and B-4321 were adopted emergency at the 11/7/97 State Board meeting, with an effective date of 11/7/97 (CSPR# 97-9-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External			

		Affairs, Department of Human Services. Revisions to sections B-4212 and B-4321 were final adoption of emergency at the 12/5/97 State Board meeting, with an effective date of 11/7/97 (CSPR# 97-9-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4111 - B-4121, B-4212 - B-4213, B-4215, B-4222, B-4225, B-4321 through B-4322, and B-4430 were final adoption following publication at the 2/6/98 State Board meeting, with an effective date of 4/1/98 (CSPR# 97-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to section B-4430 were final adoption following publication at the 5/1/98 State Board meeting, with an effective date of 7/1/98 (CSPR# 98-1-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4100, B-4220, B-4223 and B-4230 were adopted emergency at the 10/2/98 State Board meeting, with an effective date of 10/1/98 (CSPR# 98-8-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to section B-4212 were adopted emergency at the 10/2/98 State Board meeting, with an effective date of 11/1/98 (CSPR# 98-8-24-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These			

		materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4100, B-4220, B-4223 and B-4230 were final adoption of emergency at the 11/6/98 State Board meeting, with an effective date of 10/1/98 (CSPR# 98-8-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to section B-4212 were final adoption of emergency at the 11/6/98 State Board meeting, with an effective date of 11/1/98 (CSPR# 98-8-24-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4011, B-4111, B-4212, B-4215 through B-4217, B-4220, B-4222 - B-4225, and B-4240 were final adoption following publication at the 11/6/98 State Board meeting, with an effective date of 1/1/99 (CSPR# 98-8-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4100, B-4220, and B-4230 were adopted emergency at the 9/3/99 State Board meeting, with an effective date of 10/1/99 (CSPR# 99-8-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4100, B-4220, and B-4230 were final adoption of emergency at the 10/1/99 State Board meeting, with an effective date of 10/1/99 (CSPR# 99-8-			

		17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services. Revisions to sections B-4011, B-4214, B-4220, B-4221, B-4223, B-4240, B-4242, B-4321 B-4672, B-4694, B-4704, B-4733, and B-4770 were final adoption following publication at the 4/7/2000 State Board meeting, with an effective date of 6/1/2000 (CSPR# 99-12-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of Public Affairs, Department of Human Services. Revisions to sections B-4100, B-4220, B-4223, and B-4230 were adopted emergency at the 9/8/2000 State Board meeting, with an effective date of 10/1/2000 (CSPR# 00-8-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to sections B-4100, B-4220, B-4223, and B-4230 were final adoption of emergency at the 10/6/2000 State Board meeting, with an effective date of 10/1/2000 (CSPR# 00-8-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to sections B-4242.11 to B-4242.12 were final adoption following publication at the 11/3/2000 State Board meeting, with an effective date of 1/1/2001 (CSPR# 00-8-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for			

		review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to sections B-4224.4 and B-4225 were final adoption following publication at the 12/1/2000 State Board meeting, with an effective date of 2/1/2001 (CSPR# 00-9-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revision to section B-4223.5 was adopted as emergency at the 2/2/2001 State Board meeting, with an effective date of 3/1/2001 (CSPR# 01-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revision to section B-4223.5 was final adoption of emergency rule at the 3/2/2001 State Board meeting, with an effective date of 3/1/2001 (CSPR# 01-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4224.4 through B-4225.6 were final adoption following publication at the 4/6/2001 State Board meeting, with an effective date of 6/1/2001 (CSPR# 01-1-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by			

		reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4011.2, B-4242.11, B-4242.21 and B-4242.33 were final adoption following publication at the 5/4/2001 State Board meeting, with an effective date of 7/1/2001 (CSPR# 01-2-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4224, B-4225 and B-4430 were final adoption following publication at the 7/6/2001 State Board meeting, with an effective date of 9/1/2001 (CSPR# 01-4-16-1 and 01-4-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Section B-4223.51 were adopted emergency at the 7/6/2001 State Board meeting, with an effective date of 7/6/2001 (CSPR# 01-5-22-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Section B-4223.51 were final adoption of emergency rule at the 8/3/2001 State Board meeting, with an effective date of 7/6/2001 (CSPR# 01-5-22-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by			

		reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4010 - B-4012, B-4100 - B-4112, B-4212 - B-4213, B-4221 - B-4223, B-4230 - B-4240, B-4243 - B-4316, and B-4321 - B-4322 were final adoption following publication at the 9/7/2001 State Board meeting, with an effective date of 11/1/2001 (CSPR# 01-2-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4100, B-4220, B-4223.5, and B-4230 were adopted on an emergency basis at the 9/7/2001 State Board meeting, with an effective date of 10/1/2001 (CSPR# 01-8-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4100, B-4220, B-4223.5, and B-4230 were adopted on as emergency and final at the 10/5/2001 State Board meeting, with an effective date of 10/5/2001 (CSPR# 01-8-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4224.2, B-4224.4, Br4225.11, B-4225.4 through B-4225.63, B-4225.9, and addition of B-4242.34 through B-4242.343 were final adoption following		

		publication at the 4/5/2002 State Board meeting, with an effective date of 6/1/2002 (CSPR#s 01-12-20-1 and 01-12-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4011.3, B-4011.4, B-4011.52, B-4215.45, B-4215.6, B-4217.1, B-4221.13, B-4222.7, B-4240.1, B-4242.2, B-4314.1, B-4318, B-4318.4, B-4319.1, B-4330.1, 3-4430.21, and B-4430.22 were adopted following publication at the 7/12/2002 State Board meeting, with an effective date of 9/1/2002 (CSPR# 01-12-28-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, and B-4230 were adopted as emergency at the 9/6/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR#01-8-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4212.3, B-4223.1, B-4223.6, B-4224, B-4242.342, and B-4242.343 were adopted as emergency at the 10/4/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR# 01-7-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement,			

		Boards and Commissions Division, State Board Administration. Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, and B-4230 were final adoption of emergency rules at the 11/1/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR# 01-8-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4212.3, B-4223.1, B-4223.6, B-4224, B-4242.342, and B-4242.343 were adopted as emergency and final at the 11/1/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR# 01-7-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4215.42, B-4215.72, B-4215.73, and B-4242.11 were adopted following publication at the 2/7/2003 State Board meeting, with an effective date of 4/1/2003 (Rule-making #02-11-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4111.2, B-4111.6, B4212.3, B-4215.2, B-4222.3, B-4240, B-4240.1, B-4242.11, B-4314.1, B-4319, B-4319.1, and B-4321.1 were adopted following publication at the 6/6/2003 State Board meeting, with an effective date of 8/1/2003 (Rule-making #03-2-10-1). Statement of Basis and Purpose and specific statutory			

		authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4215.45, B-4242, and B-4242.11 were adopted following publication at the 9/5/2003 State Board meeting, with an effective date of 11/1/2003 (Rule-making# 03-6-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, and B-4230 were adopted as emergency at the 10/3/2003 State Board meeting, with an effective date of 10/1/2003 (Rule-making# 03-8-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement Boards and Commissions Division, State Board Administration. Revisions to Section B-4223.51 were final adoption of emergency at the 1/9/2004 State Board meeting, with an effective date of 1/1/2004 (Rule-making# 03-11-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Section B-4230.1 were adopted following publication at the 3/5/2004 State Board meeting, with an effective date of 5/1/2004 (Rule-making# 03-8-28-1). Statement of Basis and Purpose and specific statutory			

		authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, B-4223.51, and B-4230 were adopted as emergency at the 10/1/2004 State Board meeting, with an effective date of 10/1/2004 (Rule-making# 04-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, B-4223.51, and B-4230 were adopted as final emergency rules at the 11/5/2004 State Board meeting, with an effective date of 10/1/2004 (Rule-making# 04-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Section B-4223.51 were adopted as emergency at the 2/3/2006 State Board meeting, with an effective date of 3/1/2006 (Rule-making# 06-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Section B-4223.51 were final (permanent) adoption of emergency rules at the 3/3/2006 State Board meeting, with an effective date of 3/1/2006 (Rule-making#			

		06-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4010, B-4010.1, B-4010.11, B-4011.21, B-4100, B-4220.11, B-4220.12, B-4222.7, B-4223, B-4223.1, B-4223.4, B-4223.5, B-4223.51, B-4224.1, B-4224.2, B-4224.3, B-4225.5, B-4230, and B-4242.11 were adopted as emergency at the 9/5/2008 State Board meeting, with an effective date of 10/1/2008 (Rule-making# 08-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4010, B-4010.1, B-4010.11, B-4011.21, B-4100, B-4220.11, B-4220.12, B-4222.7, B-4223, B-4223.1, B-4223.4, B-4223.5, B-4223.51, B-4224.1, B-4224.2, B-4224.3, B-4225.5, B-4230, and B-4242.11 were final (permanent) adoption of emergency rules at the at the 10/3/2008 State Board meeting, with an effective date of 12/1/2008 (Rule-making# 08-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration. Revisions to Sections B-4010.11 and B-4230 were adopted on an emergency basis at the 3/6/2009 State Board meeting, with an effective date of 4/1/2009 (Rule-making# 09-3-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.			

		Revisions to Sections B-4010.11 and B-4230 were final (permanent) adoption of emergency rules at the 5/1/2009 State Board meeting, with an effective date of 7/1/2009 (Rule-making# 09-3-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration. Revisions to Sections B-4242 through B-4242.1 and B-4242.12 through B-4242.13 were final adoption following publication at the 1/8/2010 State Board meeting, with an effective date of 3/2/2010 (Rule-making# 09-10-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration. Revisions to Sections B-4011.1 through B-4011.11, B-4011.131 through B-4011.136, B-4011.22 through B-4011.23, B-4011.3, B-4220 through B-4220.12, B-4224, B-4230.1, B-4242.11 through B-4242.13, B-4430.11, B-4430.2 through B-4430.22 were final adoption following publication at the 12/3/2010 State Board meeting, with an effective date of 2/1/2011 (Rule-making# 10-7-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration. Revisions to Sections B-4222.8, B-4223, and B-4225.7 were adopted on an emergency basis at the 6/10/2011 State Board meeting, with an effective date of 6/10/2011 (Rule-making# 11-4-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions,			

		State Board Administration. Revisions to Sections B-4222.8, B-4223, and B-4225.7 were final (permanent) adoption of prior emergency rules at the 7/8/2011 State Board meeting, with an effective date of 9/1/2011 (Rule-making# 11-4-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration. Revisions to Section B-4224 were adopted on an emergency basis at the 9/9/2011 State Board meeting, with an effective date of 10/1/2011 (Rule-making# 11-8-30-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration. Revisions to Section B-4224 were adopted as final (permanent) at the 11/4/2011 State Board meeting, with an effective date of 1/1/2012 (Rule-making# 11-8-30-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration. Revisions and/or repeals of Sections B-4225.62 through B-4225.63, B-4230.11 through B-4230.12, B-4230.2 through B-4230.21, B-4240, B-4242.34 through B-4242.343, B-4242.35 through B-4242.36, B-4315, B-4315.2, B-4317.4, B-4317.6, B-4600 through B-4611.1, B-4640 through B-4653, B-4691.1 through B-4697.2, B-4698 through B-4698.3, B-4730 through B-4733, B-4740 through B-4760, and B-4800.1 through B-4800.3 were final adoption following publication at the 3/2/2012 State Board meeting (Rule-making# 11-11-16-2), with an effective date of 5/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by			

		reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration. Revisions of Sections B-4430.22 and B-4430.32 were final adoption following publication at the 5/4/2012 State Board meeting (Rule-making# 12-1-27-1), with an effective date of 7/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration. Revisions of Sections B-4010.42 through B-4010.424 were final adoption following publication at the 6/1/2012 State Board meeting (Rule-making# 11-8-11-2), with an effective date of 8/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration. Revisions of Sections B-4011.31 through B-4011.32 and B-4110.1 through B-4110.2 were final adoption following publication at the 9/7/2012 State Board meeting (Rule-making# 11-12-23-1), with an effective date of 11/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration. Revisions to Section B-4224 were final adoption following publication at the 2/1/2013 State Board meeting (Rule-making# 12-12-3-1), with an effective date of 4/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference			

		into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration. Revisions to Sections B-4100, B-4220.11 and B-4220.12, B-4223.1, B-4223.5 and B-4223.51 were adopted on an emergency basis at the 9/6/2013 State Board meeting (Rule-making# 13-5-14-2), with an effective date of 10/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration. Revisions to Sections B-4100, B-4220.11 and B-4220.12, B-4223.1, B-4223.5 and B-4223.51 were final (permanent) adoption of prior emergency rules at the 10/4/2013 State Board meeting (Rule-making# 13-5-14-2), with an effective date of 12/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration. Revisions to Sections B-4010.12, B-4230 through B-4230.1, and B-4430.4 were adopted as emergency at the 10/4/2013 State Board meeting (Rule-making# 13-8-19-1), with an effective date of 11/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration. Revisions to Sections B-4010.12, B-4230 through B-4230.1, and B-4430.4 were adopted as final (permanent) following publication at the 11/8/2013 State Board meeting			

		(Rule-making# 13-8-19-1), with an effective date of 1/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration. Sections B-4000 through B-4800.4 were repealed in entirety and rewritten as Sections 4.000 through 4.906 and adopted as final following publication at the 7/11/14 State Board meeting (Rule-making# 12-1-3-2), with an effective date of 9/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration. Revisions to Sections 4.207.3, 4.401.1, 4.407.1, and 4.407.3 through 4.407.31 were adopted on an emergency basis at the 9/5/2014 State Board meeting (Rule-making# 14-8-12-1), with an effective date of 10/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration. Revisions to Sections 4.207.3, 4.401.1, 4.407.1, and 4.407.3 through 4.407.31 were final (permanent) adoption of prior emergency rules at the10/3/2014 State Board meeting (Rule-making# 14-8-12-1), with an effective date of 12/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration. Revisions to Sections 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3, and 4.407.31 were adopted as emergency at			

		the10/2/2015 State Board meeting (Rule-making# 15-9-1-1), with an effective date of 10/1/2015. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration. Revisions to Sections 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3, and 4.407.31 were adopted as final (permanent) at the11/6/2015 State Board meeting (Rule-making# 15-9-1-1), with an effective date of 1/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration. Revisions to Sections 4.704.1, 4.801.2 through 4.801.43, 4.803 through 4.803.41, 4.803.43, 4.803.5, 4.803.7, and 4.804.1 were adopted as final following publication at the11/6/2015 State Board meeting (Rule-making# 15-2-9-1), with an effective date of 1/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration. Addition of Sections 4.609 through 4.609.6 were final adoption following publication at the12/4/2015 State Board meeting (Rule-making# 15-9-30-1), with an effective date of 2/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration. Revisions to Sections 4.208.1 and 4.603 were adopted as final following publication at the 2/5/2016 State Board			

		meeting (Rule-making# 15-10-23-1), with an effective date of 4/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration. Revisions to Section 4.609.1 were adopted on an emergency basis at the 2/5/2016 State Board meeting (Rule-making# 16-1-14-1), with an effective date of 2/5/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration. Revisions to Section 4.609.1 were final (permanent) adoption of prior emergency rules at the 3/4/2016 State Board meeting (Rule-making# 16-1-14-1), with an effective date of 5/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.			
4.100	Moving definitions	**4.100 DEFINITIONS** “Able-Bodied Adult Without Dependent (ABAWD)” means an individual between the ages of eighteen (18) and forty-nine (49) without a physical or mental disability, who is not pregnant, and who lives in a Food Assistance household with no one under the age of eighteen (18). “Administrative disqualification hearing (ADH)” means a disqualification hearing against an individual accused of wrongfully obtaining or attempting to obtain assistance. “Administrative law judge (ALJ)” means the person that presides over fair hearings and administrative disqualification hearings at the state level.	**4.000.1 SNAP DEFINITIONS** “Able-Bodied Adult Without Dependents (ABAWD)” means an individual between the ages of eighteen (18) and fifty (50) without a physical or mental disability, who is not pregnant, and who lives in a SNAP household with no one under the age of eighteen (18). “Administrative disqualification hearing (ADH)” means a disqualification hearing against an individual accused of wrongfully obtaining or attempting to obtain assistance. “Administrative law judge (ALJ)” means the person that presides over fair hearings and administrative disqualification hearings at the state level.	Moving definitions from 4.100 to 4.000.1	

		“Adverse action” means any action taken by a local office that causes a household’s benefits to be reduced or terminated. “Adverse action period” means the period of time that elapses prior to the adverse action becoming effective during the certification period. “Agency error claim” means that a debt has been established for the household to repay due to an overpayment of benefits that was issued to the household resulting from an error made by the local office. “Allotment” means the total amount of Food Assistance benefits a household is authorized to receive in a particular month. “Appeal” means a request made by a household to have a decision about its case reviewed by an impartial third party to determine whether the decision was correct. “Application filing date” means the date an application for assistance is received by the county office. “Application” means a request on a state-approved form for benefits, which can include the electronic State-prescribed form.” “Application for redetermination/recertification (RRR)” means an application submitted prior to the last month of the certification period to determine a household’s continued eligibility for the next certification period. “Application process” means the required process a household must complete for purposes of determining eligibility for benefits. “Authorized representative” means an individual who has been designated in writing by a responsible member of the household to act on behalf of or assist the household with the application process, obtaining benefits, and/or in using benefits at authorized retailers. “Automated Child Support Enforcement System (ACSES)” means the automated computer system used by Child Support Services to record child support payments. “Basic Categorical Eligibility (BCE)” means the status granted	“Adverse action” means any action taken by a local office that causes a household’s benefits to be reduced or terminated. “Adverse action period” means the period of time that elapses prior to the adverse action becoming effective during the certification period. “Agency error claim” means that a debt has been established for the household to repay due to an over-issuance of benefits that was issued to the household resulting from an error made by the local office. “Allotment” means the total amount of SNAP benefits a household is authorized to receive in a particular month. “Appeal” means a request made by a household to have a decision about its case reviewed by an impartial third party to determine whether the decision was correct. “Application filing date” means the date an application for assistance is received by the county office. “Application” means a request on a state-approved form for benefits, which can include the electronic State-prescribed form. “Application for recertification” means an application submitted prior to the last month of the certification period to determine a household’s continued eligibility for the next certification period. “Application process” means the required process a household must complete for purposes of determining eligibility for benefits. “Authorized representative” means an individual who has been designated in writing by a responsible member of the household to act on behalf of or assist the household with the application process, obtaining benefits, and/or in using benefits at authorized retailers. “Automated Child Support Enforcement System (ACSES)” means the automated computer system used by Child Support Services to record child support payments. “Available for inspection” means copies of documents can be viewed during normal working hours or by contacting: Food		

		to any household that is not eligible for Expanded Categorical Eligibility and contains only members who receive, or are eligible to receive, benefits from Colorado Works, Supplemental Security Income, Old Age Pension, Aid to the Needy and Disabled, Aid to the Blind, or a combination of these benefits. “Basic Utility Allowance (BUA)” means a fixed deduction applied to a household that does not pay for heating or cooling and incurs at least two (2) non-heating or non-cooling utility costs, such as electricity, water, sewer, trash, cooking fuel, or telephone. “Boarder” means an individual residing with others and paying reasonable compensation to others for lodging and meals. “Boarding house” means an establishment that is licensed as a commercial enterprise and which offers meals and lodging for compensation. “Case payee” means the person appointed to receive the household’s benefits. “Case record” means a combination of the physical case file that contains documents pertinent to a household’s case; similar documents maintained in an electronic database; and information about the household that is contained within the statewide automated system. “Certification period” means the period of time for which a household has been certified to receive benefits. “Civil union” means a legally binding partnership between two individuals without the legal recognition of these individuals as spouses. “Claim” means a debt resulting from an overpayment of benefits that a household is obligated to repay. “Clear and convincing evidence” means evidence which is stronger than a preponderance of evidence and which is unmistakable and free from serious or substantial doubt. “Collateral contact” means a verbal or written confirmation of a household's circumstances by a person outside the household who has first-hand knowledge of the information, made either in person, electronically submitted or by	and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203; or a state publications depository library. “Basic Categorical Eligibility (BCE)” means the status granted to any household that is not eligible for Expanded Categorical Eligibility and contains only members who receive, or are eligible to receive, benefits from Colorado Works, Supplemental Security Income, Old Age Pension, Aid to the Needy and Disabled, Aid to the Blind, or a combination of these benefits. “Basic Utility Allowance (BUA)” means a fixed deduction applied to a household that does not pay for heating or cooling and incurs at least two (2) non-heating or non-cooling utility costs, such as electricity, water, sewer, trash, cooking fuel, or telephone. “Boarder” means an individual residing with others and paying reasonable compensation to others for lodging and meals. “Boarding house” means an establishment that is licensed as a commercial enterprise and which offers meals and lodging for compensation. “Case record” means a combination of the physical case file that contains documents pertinent to a household’s case; similar documents maintained in an electronic database; and information about the household that is contained within the statewide automated system. “Certification period” means the period of time for which a household has been certified to receive benefits. “Civil union” means a legally binding partnership between two individuals without the legal recognition of these individuals as spouses. “Claim” means a debt resulting from an over-issuance of benefits that a household is obligated to repay. “Clear and convincing evidence” means evidence which is stronger than a preponderance of evidence and which is unmistakable and free from serious or substantial doubt. “Collateral contact” means a verbal or written confirmation of a household's circumstances by a person outside the		

		telephone. “Colorado Benefits Management System (CBMS)” means the computer system used to determine food assistance eligibility. “Colorado Electronic Benefit Transfer System (CO/EBTS)” means the electronic system that enables Food Assistance participants or their authorized representatives to redeem their Food Assistance benefits at point-of-sale terminals. “Colorado Unemployment Benefits System (CUBS)” means the electronic system by which Unemployment Insurance Benefits (UIB) are determined by Colorado Department of Labor and Employment. “Communal dining facility” means an establishment approved by FNS that prepares and serves meals for elderly persons, or for Supplemental Security Income (SSI) recipients, and their spouses. This also includes federally subsidized housing for elderly persons at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate State or local agency to offer meals at concessional prices to elderly persons or SSI recipients, and their spouses. “Compromise” means the decision to reduce the amount of a claim that is owed by a household. “Countable month” means a month in which an ABAWD received full Food Assistance allotment but did not meet work requirements or have an exemption from those requirements. “County Assistance Office” means the county social or human services office that is responsible for administering the Food Assistance Program. “Demand letter”, see “Notice of Overpayment.” “Disaster Supplemental Nutrition Assistance Program (D-SNAP) means the food assistance provided to the affected areas when a Presidential disaster declaration for individual assistance is declared and the decision to implement this Program after a Presidential declaration shall be at the affected county’s discretion in coordination with the State Food Assistance Office and FNS.	household who has first-hand knowledge of the information, made either in person, electronically submitted or by telephone. “Colorado Electronic Benefit Transfer System (CO/EBTS)” means the electronic system that enables SNAP participants or their authorized representatives to redeem their SNAP benefits at point-of-sale terminals. “Colorado Unemployment Benefits System (CUBS)” means the electronic system by which Unemployment Insurance Benefits (UIB) are determined by the Colorado Department of Labor and Employment. “Communal dining facility” means an establishment approved by FNS that prepares and serves meals for persons aged 60 and older, or for Supplemental Security Income (SSI) recipients, and their spouses. This also includes federally subsidized housing for persons aged 60 and older at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate State or local agency to offer meals at concessional prices to persons aged 60 and older or SSI recipients, and their spouses. “Compromise” means the decision to reduce the amount of a claim that is owed by a household. “Countable month” means a month in which an ABAWD received a full SNAP allotment but did not meet work requirements or have an exemption from those requirements. “Demand letter”, see “Notice of Overpayment.” “Disaster Supplemental Nutrition Assistance Program (D-SNAP) means the assistance provided to the affected areas when a Presidential disaster declaration for individual assistance is declared and the decision to implement this Program after a Presidential declaration shall be at the affected county’s discretion in coordination with the State SNAP Office and FNS. “Dispute resolution conference (DRC)” means an informal meeting between a household and the local office to review an action taken on a case and the relevant facts pertaining to such action. “Disqualification Consent Agreement (DCA)” means the form		

		“Dispute resolution conference (DRC)” means an informal meeting between a household and the local office to review an action taken on a case and the relevant facts pertaining to such action. “Disqualification Consent Agreement (DCA)” means the form that allows the individual(s) suspected of intentional Program violation/fraud to consent to his/her disqualification in cases of deferred adjudication. “Disqualified individuals” means any individual who is ineligible to receive Food Assistance due to having been disqualified for an Intentional Program Violation/fraud, failure to provide or obtain a SSN, ineligible non-citizens, individuals disqualified for failure to cooperate with work requirements, individuals disqualified for failure to cooperate with the State quality assurance division, and ABAWDs who already received three countable months of Food Assistance within thirty-six (36) months without meeting an exemption or ABAWD work requirements. “Documentary evidence” means written information used to verify the income, expenses, and other circumstances of a household. “Documentation” means the collection of documentary evidence, verification, case notes, and other information related to a household’s case upon which eligibility determinations and other decisions are based. “Drug and Alcohol Treatment Center (DAA)” means any residential facility run by a private, nonprofit organization or institution, or a publicly operated community mental health center, under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) that provides rehabilitative treatment to persons participating in a drug or alcohol treatment program. “Dual participation” means the receipt of benefits in more than one Food Assistance household or state in the same calendar month. “Elderly” means an individual that is sixty (60) years of age or older. “EBT” means Electronic Benefit Transfer.	that allows the individual(s) suspected of intentional Program violation/fraud to consent to his/her disqualification in cases of deferred adjudication. “Disqualified individuals” means any individual who is ineligible to receive SNAP due to having been disqualified for an Intentional Program Violation/fraud, failure to provide or obtain a SSN, ineligible non-citizens, individuals disqualified for failure to cooperate with work requirements, individuals disqualified for failure to cooperate with the State quality assurance division, and ABAWDs who already received three countable months of SNAP within thirty-six (36) months without meeting an exemption or ABAWD work requirements. “Documentary evidence” means written information used to verify the income, expenses, and other circumstances of a household. “Documentation” means the collection of documentary evidence, verification, case notes, and other information related to a household’s case upon which eligibility determinations and other decisions are based. “Drug and Alcohol Treatment Center (DAA)” means any residential facility run by a private, nonprofit organization or institution, or a publicly operated community mental health center, under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) that provides rehabilitative treatment to persons participating in a drug or alcohol treatment program. “Dual participation” means the receipt of benefits in more than one SNAP household or state in the same calendar month. “EBT” means Electronic Benefit Transfer. “Eligibility has been determined” means a required interview was completed and all required verifications were received for a valid SNAP application and a determination of eligibility or ineligibility was made with a resulting Notice of Action. “EBT card” means the card issued to persons authorized to receive SNAP to which the household’s allotment is credited. Used for SNAP purposes to purchase eligible foods at approved retailers.		

		“EBT card” means the card issued to persons authorized to receive Food Assistance to which the household’s allotment is credited. Used for Food Assistance purposes to purchase eligible foods at approved retailers. “Employment and Training Program” means a program operated by the Department of Human Services consisting of work, training, education, work experience, and/or job search activities designed to help recipients obtain gainful employment. “Employment First (EF)” means Colorado’s Employment and Training program. “Excess medical deduction” means a deduction from a household's total gross income applied when a person with a disability or a person who is elderly has medical expenses over a specified monthly amount. “Exempt income” means income that is exempt from consideration when determining eligibility for Food Assistance. “Expanded Categorical Eligibility (ECE)” means households that are exempt from having resources considered when determining eligibility for Food Assistance. “Expedited service” means the method by which an application for Food Assistance is processed to ensure that the neediest households have access to Food Assistance benefits no later than the seventh (7th) calendar day following the date of application. “Fair Hearing” means a hearing conducted in person or on the telephone by the Office of Administrative Courts to provide an impartial decision on a household’s appeal of a local office’s decision or action. “Financial criteria” means the set of rules governing gross and net income and resource standards and the proper methods for computing a household’s income and resources. “Fleeing felon” means an individual who is fleeing to avoid prosecution or arrest for a felony under a state or federal law. “FNS” means the Food and Nutrition Service of the U.S. Department of Agriculture.	“Employment and Training Program” means a program operated by the Department of Human Services consisting of work, training, education, work experience, and/or job search activities designed to help recipients obtain gainful employment. “Employment First (EF)” means Colorado’s Employment and Training program. “Excess medical deduction” means a deduction from a household's total gross income applied when a person with a disability or a person aged 60 and older has medical expenses over a specified monthly amount. “Exempt income” means income that is exempt from consideration when determining eligibility for SNAP. “Expanded Categorical Eligibility (ECE)” means households that are exempt from having resources considered when determining eligibility for SNAP. “Expedited service” means the method by which an application for SNAP is processed to ensure that the neediest households have access to benefits no later than the seventh (7th) calendar day following the date of application. “Expungement” is a process by which the Colorado Department of Human Services removes SNAP benefits from EBT cards when SNAP benefits are considered as unused or the EBT account is considered as inactive. “Fair Hearing” means a hearing conducted in person or on the telephone by the Office of Administrative Courts to provide an impartial decision on a household’s appeal of a local office’s decision or action. “Financial criteria” means the set of rules governing gross and net income and resource standards and the proper methods for computing a household’s income and resources. “Fleeing felon” means an individual who is fleeing to avoid prosecution or arrest for a felony under a state or federal law. “FNS” means the Food and Nutrition Service of the U.S. Department of Agriculture.		

		“Fraud” means the act committed by a person when obtaining, attempting to obtain, or aiding and abetting another to obtain assistance benefits through intentionally false statements, representations, or the withholding of material information. “Full-time student” means a person who has a school schedule equivalent to a full-time curriculum as defined by the institute of higher education the person is attending. “Good cause” means a waiver granted to a person or household a) excusing them from complying with a specific eligibility requirement because compliance could cause adverse consequences to the person or household, or b) providing the household with more time to comply with a specific eligibility requirement. “G-845” means the form submitted to the U.S. Citizenship and Immigration Services to request immigration status verification for a Food Assistance applicant or participant. “Gross Income” means the total of all non-exempt earned and unearned income added together before any deduction or disregard is considered. “Group Living Arrangement (GLA)” means a public or private non-profit facility certified under Section 1616(e) of the Social Security Act which serves no more than sixteen (16) people. “Head of household (HOH)” means the person who is generally regarded as the person with the most knowledge of the household’s circumstances. The head of household is the person to whom the local office addresses correspondence and notices about the household’s case. This person is generally the individual who completes the application process and is responsible for obtaining and using the household’s EBT card. “Heating/Cooling Utility Allowance (HCUA)” means a fixed deduction applied to any household that incurs a heating or cooling expense. “Homeless” means an individual who lacks a fixed and regular nighttime residence or whose primary residence is: a supervised shelter designed for temporary accommodations, a halfway house or similar facility that provides temporary residence, a place not designed for or ordinarily used as regular sleeping accommodations for human beings, or a	“Fraud” means the act committed by a person when obtaining, attempting to obtain, or aiding and abetting another to obtain assistance benefits through intentionally false statements, representations, or the withholding of material information. “Full-time student” means a person who has a school schedule equivalent to a full-time curriculum as defined by the institution of higher education the person is attending. “G-845” means the form submitted to the U.S. Citizenship and Immigration Services to request immigration status verification for a SNAP applicant or participant. “Good cause” means a waiver granted to a person or household a) excusing them from complying with a specific eligibility requirement because compliance could cause adverse consequences to the person or household, or b) providing the household with more time to comply with a specific eligibility requirement. “Gross Income” means the total of all non-exempt earned and unearned income added together before any deduction or disregard is considered. “Group Living Arrangement (GLA)” means a public or private non-profit facility certified under Section 1616(e) of the Social Security Act which serves no more than sixteen (16) people. “Head of household (HOH)” means the person who is generally regarded as the person with the most knowledge of the household’s circumstances. The head of household is the person to whom the local office addresses correspondence and notices about the household’s case. This person is generally the individual who completes the application process and is responsible for obtaining and using the household’s EBT card. “Heating/Cooling Utility Allowance (HCUA)” means a fixed deduction applied to any household that incurs a heating or cooling expense. “Homeless” means an individual who lacks a fixed and regular nighttime residence or whose primary residence is: a supervised shelter designed for temporary accommodations, a halfway house or similar facility that provides temporary residence, a place not designed for or ordinarily used as		

		temporary accommodation in the residence of another individual for ninety (90) days or less. “Homeless meal provider” means: A. A public or private nonprofit establishment that feeds homeless persons; or, B. A restaurant which contracts with an appropriate State agency to offer meals at concessional (low or reduced) prices to homeless persons. “Household” means a group of individuals who live together and customarily purchase and prepare food together. “Household income” means all earned and unearned income received or anticipated to be received by household members from all sources, unless specifically exempted for Food Assistance eligibility purposes. “Inadvertent Household Error Claim” means a debt that has been established for the household to repay due to an overpayment of benefits that was issued to a household due to a misunderstanding or unintentional error on the part of the household. “Income and Eligibility Verification System (IEVS)” means a system used to match applicants’ and participants’ Social Security Numbers with the Social Security Administration, Internal Revenue Service, and the Department of Labor and Employment to obtain information about household income. “Initial application” means a household’s first application for assistance or an application for assistance that is received after the household has been off of the Program for any period following the end of a certification period. “Initial month of application” means the first month for which the household is certified for participation in the Program for those who have not received food benefits in the State previously or following any break after the end of the certification period where the household was not certified for participation. If the household submits an application for recertification prior to the expiration of its certification period and is found eligible for the first month following the end of the certification period, that month shall not be an initial month. “Indigent non-citizen” means a sponsored non-citizen who,	regular sleeping accommodations for human beings, or a temporary accommodation in the residence of another individual for ninety (90) days or less. “Homeless meal provider” means: 1. A public or private nonprofit establishment that feeds persons experiencing homelessness; or, 2. A restaurant which contracts with an appropriate State agency to offer meals at concessional (low or reduced) prices to persons experiencing homelessness. “Household” means a group of individuals who live together and customarily purchase and prepare food together. “Household income” means all earned and unearned income received or anticipated to be received by household members from all sources, unless specifically exempted for SNAP eligibility purposes. “Inadvertent Household Error (IHE) Claim” means a debt that has been established for the household to repay due to an over-issuance of benefits that was issued to a household due to a misunderstanding or unintentional error on the part of the household. “Income and Eligibility Verification System (IEVS)” means a system used to match applicants’ and participants’ Social Security Numbers with the Social Security Administration, Internal Revenue Service, and the Department of Labor and Employment to obtain information about household income. “Indigent non-citizen” means a sponsored non-citizen who, after considering all income and contributions provided by the sponsor and other sources in conjunction with the non-citizen’s own income, is unable to obtain food and shelter amounting to one hundred thirty percent (130%) of the federal poverty level for the non-citizen’s household size. When a non-citizen is declared indigent, only the amount provided by the sponsor shall be deemed to the non-citizen. A declaration of indigence may last up to twelve (12) months but may be renewed at the end of such a period, if necessary. The local office must notify the U.S. Attorney General of each indigence determination, including the name of the sponsor and the sponsored non-citizen.		

		after considering all income and contributions provided by the sponsor and other sources in conjunction with the non-citizen's own income, is unable to obtain food and shelter amounting to one hundred thirty percent (130%) of the federal poverty level for the non-citizen's household size. When a non-citizen is declared indigent, only the amount provided by the sponsor shall be deemed to the non-citizen. A declaration of indigence may last up to twelve (12) months, but may be renewed at the end of such a period, if necessary. The local office must notify the U.S. Attorney General of each indigence determination, including the name of the sponsor and the sponsored non-citizen. "Institution of higher education" means institutions that normally require a high school diploma or equivalency certificate for a student to enroll, such as colleges, universities, and vocational or technical schools. "Intentional Program Violation (IPV)" means when an individual has intentionally made a false or misleading statement or misrepresented, concealed or withheld facts, or committed or intended to commit any act that constitutes a violation of the Food and Nutrition Act of 2008, the Food Assistance Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Assistance benefits. "Intentional" means a false representation of a material fact with knowledge of that falsity or omission of a material fact with knowledge of that omission. "IPV hearing", see "Administrative disqualification hearing." "IPV hearing waiver", see "Waiver of administrative disqualification hearing." "Issuance month" means the calendar month for which a benefit allotment is issued. "Lawful Permanent Resident" means a non-citizen legally admitted into the United States to reside on a permanent basis. "Level sanction" means a specified period of ineligibility imposed against an individual who failed to take a required action as part of his or her eligibility for Food Assistance.	"Initial application" means a household's first application for assistance or an application for assistance that is received after the household has been off the Program for any period following the end of a certification period. "Initial month of application" means the first month for which the household is certified for participation in the Program for those who have not received food benefits in the State previously or following any break after the end of the certification period where the household was not certified for participation. If the household applies for recertification prior to the expiration of its certification period and is found eligible for the first month following the end of the certification period, that month shall not be an initial month. "Institution of higher education" means institutions that normally require a high school diploma or equivalency certificate for a student to enroll, such as colleges, universities, and vocational or technical schools. "Intentional" means a false representation of a material fact with knowledge of that falsity or omission of a material fact with knowledge of that omission. "Intentional Program Violation (IPV)" means when an individual has intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts, or committed or intended to commit any act that constitutes a violation of the Food and Nutrition Act of 2008, the SNAP regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits. "IPV hearing", see "Administrative disqualification hearing." "IPV hearing waiver", see "Waiver of administrative disqualification hearing." "Issuance month" means the calendar month for which a benefit allotment is issued. "Lawful Permanent Resident" means a non-citizen legally admitted into the United States to reside on a permanent basis. "Level sanction" means a specified period of ineligibility imposed against an individual who failed to take a required		

		“Liquid resources” means assets such as cash on hand or assets that can be easily converted to cash such as money in checking or savings accounts, saving certificates, or stocks and bonds. “Live-in attendants” means individuals who reside with a household to provide medical, housekeeping, child care, or other personal services. “Local-level Dispute Resolution Conference”, see “Dispute Resolution Conference.” “Local office” means the county department of social/human services that is responsible for administering the Food Assistance Program. In those counties that have more than one office that administers the Food Assistance Program, “local office” shall be inclusive of all local offices within the county that administer the Program. “Low-Income Home Energy Assistance Program (LEAP)” means the Colorado program designed to help low-income applicants pay a portion of their winter heating costs. “Management Evaluation (ME) reviews” means state or federal reviews of each county’s administration of the Food Assistance Program to determine each county’s adherence to federal- and state-mandated requirements. Such reviews are mandated by the Food and Nutrition Service of the USDA. “Mandatory Work Registrant” means an individual age sixteen (16) to sixty (60) who has not met any Federal exemptions from SNAP work requirements and is therefore required to register for work or be registered by the State agency. “Mass update” means a change in data or policy that affects the entire state-wide caseload or a portion of the caseload. “Material information” means information to which a reasonable person would attach importance when determining a course of action. “Migrant farm worker” means a person who travels away from home on a regular basis to follow the flow of seasonal agricultural work.	action as part of his or her eligibility for SNAP. “Liquid resources” means assets such as cash on hand or assets that can be easily converted to cash such as money in checking or savings accounts, saving certificates, or stocks and bonds. “Live-in attendants” means individuals who reside with a household to provide medical, housekeeping, childcare, or other personal services. “Local office” means the county department of social/human services that is responsible for administering SNAP. In those counties that have more than one office that administers SNAP, “local office” shall be inclusive of all local offices within the county that administer the Program. “Low-Income Home Energy Assistance Program (LEAP)” means the Colorado program designed to help low-income applicants pay a portion of their winter heating costs. “Management Evaluation (ME) reviews” means state or federal reviews of each county’s administration of SNAP to determine each county’s adherence to federal- and state-mandated requirements. Such reviews are mandated by the Food and Nutrition Service of the USDA. “Mass update” means a change in data or policy that affects the entire state-wide caseload or a portion of the caseload. “Material information” means information to which a reasonable person would attach importance when determining a course of action. “Migrant farm worker” means a person who travels away from home on a regular basis to follow the flow of seasonal agricultural work. “Minimum benefit” means the minimum amount of benefits issued to one- and two-person households that are eligible for assistance, but whose issuance calculates to less than the federally prescribed minimum allotment. “Net income test” means the one hundred percent (100%) federal poverty level under which a household’s income must fall after all allowable deductions are considered in order to be considered eligible. This level is specific to the household		

		“Minimum benefit” means the minimum amount of benefits issued to one- and two-person households that are eligible for assistance, but whose issuance calculates to less than the federally prescribed minimum allotment. “Net income test” means the one hundred percent (100%) federal poverty level under which a household’s income must fall after all allowable deductions are considered in order to be considered eligible. This level is specific to the household size as defined by USDA, FNS. “Non-liquid resources” means assets which cannot be easily converted into cash such as vehicles and real property. “Non-financial criteria” means the set of rules governing elements not related to the gross and net income and resource standards. “Notice of Action (NOA)” means the state-prescribed form sent to a household every time an action is taken to increase, decrease, suspend, deny, terminate, or otherwise affect a household’s benefits. This form describes the action taken upon a household’s case and the resulting effect. “Notice of overpayment” means a notice sent to a household upon the establishment of a claim against the household for an overpayment of benefits. “On-the-job training (OJT)” means training provided to an employee after he or she is hired. Such training is designed for individuals who do not have the necessary work experience required for the job. “One Utility Allowance (OUA)” means a fixed deduction given to any household that is not eligible to receive the HCUA or BUA and incurs only one (1) non-heating or non-cooling utility expense, such as electricity, water, sewer, trash, or cooking fuel. The OUA is not allowed if the household’s only utility expense is a telephone. “Over-issuance” means the amount of Food Assistance benefits issued to a household that exceeds the amount it was eligible to receive. “Parolee” means a non-citizen allowed into the United States for urgent humanitarian reasons or when the non-citizen’s entry is determined to be for significant public benefit. Parole	size as defined by USDA, FNS. “Non-financial criteria” means the set of rules governing elements not related to the gross and net income and resource standards. “Non-liquid resources” means assets which cannot be easily converted into cash such as vehicles and real property. “Notice of Action (NOA)” means the state-prescribed form sent to a household every time an action is taken to increase, decrease, suspend, deny, terminate, or otherwise affect a household’s benefits. This form describes the action taken upon a household’s case and the resulting effect. “Notice of overpayment” means a notice sent to a household upon the establishment of a claim against the household for an overpayment of benefits. “On-the-job training (OJT)” means training provided to an employee after he or she is hired. Such training is designed for individuals who do not have the necessary work experience required for the job. “One Utility Allowance (OUA)” means a fixed deduction given to any household that is not eligible to receive the HCUA or BUA and incurs only one (1) non-heating or non-cooling utility expense, such as electricity, water, sewer, trash, or cooking fuel. The OUA is not allowed if the household’s only utility expense is a telephone. “Over-issuance” means the amount of SNAP benefits issued to a household that exceeds the amount it was eligible to receive. “PA households” means households that contain only persons who receive TANF or Adult Financial cash grants. “Parolee” means a non-citizen allowed into the United States for urgent humanitarian reasons or when the non-citizen’s entry is determined to be for significant public benefit. Parole does not constitute a formal admission to the United States and confers temporary status only, requiring parolees to leave when the conditions supporting their parole cease to exist. “Payment Error Rate (PER)” means the sum of the		

		does not constitute a formal admission to the United States and confers temporary status only, requiring parolees to leave when the conditions supporting their parole cease to exist. "Payment Error Rate (PER)" means the sum of the overpayment error rate and the underpayment error rate, which is the value of all over and underpaid allotments expressed as a percentage of all allotments issued to the cases reviewed, excluding those cases processed by SSA personnel or participating in certain demonstration projects designated by FNS. "Period of ineligibility" means the period of time a person is ineligible to receive Food Assistance benefits as a result of a failure to cooperate with either a state or federal QA review. "Periodic Report Form (PRF)" means the report that must be submitted by the household during the twelfth (12th) month of a twenty four (24) month certification period. The purpose of this form is to allow the household to report any changes that occurred during the first half of the twenty four (24) month certification period and for the local office to determine the household's continued eligibility for the remaining twelve (12) months of the household's certification period. "Person with disabilities" means a person who: 1. Receives Supplemental Security Income benefits under Title XVI of the Social Security Act, or the Colorado Supplement, or Aid To The Needy And Disabled-Supplemental Security Income- Colorado Supplement (AND-SSI-CS), or Aid To The Blind-Supplemental Security Income-Colorado Supplement (AB-SSI-CS); or Disability Or Blindness Payments under Title I, II, X, or IXV of the Social Security Act; 2. Is a veteran with a service-connected disability rated or paid as a total disability under Title 38 of the United States Code or is a veteran receiving a pension for a non-service connected disability; 3. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the Code; 4. Is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code;	overpayment error rate and the underpayment error rate, which is the value of all over and underpaid allotments expressed as a percentage of all allotments issued to the cases reviewed, excluding those cases processed by SSA personnel or participating in certain demonstration projects designated by FNS. "Period of ineligibility" means the period of time a person is ineligible to receive SNAP benefits as a result of a failure to cooperate with either a state or federal QA review. "Periodic Report Form (PRF)" means the report that must be submitted by the household during the twelfth (12th) month of a twenty-four (24) month certification period. The purpose of this form is to allow the household to report any changes that occurred during the first half of the twenty-four (24) month certification period and for the local office to determine the household's continued eligibility for the remaining twelve (12) months of the household's certification period. "Person with disabilities" means a person who: 1. Receives Supplemental Security Income benefits under Title XVI of the Social Security Act, or the Colorado Supplement, or Aid to the Needy And Disabled- Supplemental Security Income- Colorado Supplement (AND-SSI-CS), or Aid To The Blind-Supplemental Security Income- Colorado Supplement (AB-SSI-CS); or Disability Or Blindness Payments under Title I, II, X, or IXV of the Social Security Act; 2. Is a veteran with a service-connected disability rated or paid as a total disability under Title 38 of the United States Code or is a veteran receiving a pension for a non-service connected disability; 3. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the Code; 4. Is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code; 5. Is a surviving spouse or child of a veteran and		

		5. Is a surviving spouse or child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. “Entitled”, as used in this definition, refers to those veterans’ surviving spouses and children who are receiving the compensation or benefits or have been approved for such benefits but are not yet receiving them; 6. Is a person who has a disability considered permanent under Section 221(i) of the Social Security Act (SSA) and receives a federal, state, or local public disability retirement pension; 7. Is a person who receives an annuity for disability from the Railroad Retirement Board who is considered AS A disabled person with disabilities by the SSA or who qualifies for Medicare as determined by the Railroad Retirement Board; or 8. Is a recipient of interim assistance benefits pending the receipt of the Supplemental Security Income (SSI), disability-related medical assistance under Title XIX of the Social Security Act, or disability-based state assistance benefits provided that the eligibility to receive these benefits is based on disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act. “Post high school education” means colleges, universities, and post-high school level technical and vocational schools. “Prospective budgeting” means the method of computing a household’s monthly allotment by using current circumstances and reasonably anticipated income for the month in which the allotment will be issued. “Prudent Person Principle (PPP)” means a worker’s reasonable judgment when determining the proper course of action in a given situation in order to make an eligibility determination. “Public Assistance (PA)” means any of the following programs authorized by the Social Security Act of 1935, as amended: Old Age Pension, TANF, Aid to the Blind, Aid to the Permanently and Totally Disabled, and Aid to the Aged, Blind, or Disabled.	considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. “Entitled”, as used in this definition, refers to those veterans’ surviving spouses and children who are receiving the compensation or benefits or have been approved for such benefits but are not yet receiving them; 6. Is a person who has a disability considered permanent under Section 221(i) of the Social Security Act (SSA) and receives a federal, state, or local public disability retirement pension; 7. Is a person who receives an annuity for disability from the Railroad Retirement Board who is considered AS A disabled person with disabilities by the SSA or who qualifies for Medicare as determined by the Railroad Retirement Board; or 8. Is a recipient of interim assistance benefits pending the receipt of the Supplemental Security Income (SSI), disability-related medical assistance under Title XIX of the Social Security Act, or disability-based state assistance benefits provided that the eligibility to receive these benefits is based on disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act. “Post high school education” means colleges, universities, and post-high school level technical and vocational schools. “Prospective budgeting” means the method of computing a household’s monthly allotment by using current circumstances and reasonably anticipated income for the month in which the allotment will be issued. “Prudent Person Principle (PPP)” means a worker’s discretion to apply reasonable judgment when determining the proper course of action in specific situations in order to make an eligibility determination. “Public Assistance (PA)” means any of the following programs authorized by the Social Security Act of 1935, as amended: Old Age Pension, TANF, Aid to the Blind, Aid to the Permanently and Totally Disabled, and Aid to the Aged, Blind,		

		“PA households” means households that contain only persons who receive TANF or adult financial cash grants. “Quality Assurance (QA)” means the division responsible for reviewing Food Assistance cases to determine if the proper eligibility determination was made and if the correct amount of benefits were issued to a household in a given month. “QA active case” means cases where a household was certified prior to or during the sample month and issued Food Assistance benefits for the sample month. “QA negative case” means cases where a household was denied certification to receive Food Assistance benefits in the sample month or which had its participation in the Program terminated during a certification period effective for the sample month. “Qualified non-citizen” means an individual who meets the specific definition of “qualified alien” as defined by the Food and Nutrition Service, United States Department of Agriculture, which includes lawful permanent residents, asylees, refugees, parolees, individuals granted withholding of deportation or removal, conditional entrants, Cuban or Haitian entrants, battered aliens, and non-citizen victims of a severe form of trafficking. This term is not itself an immigration status, but rather includes a collection of immigration statuses. It is a term used solely for Federal public benefits purposes. Qualified non-citizens are not automatically eligible for assistance, but rather must meet all other eligibility requirements. “Quality Control review” means a review of a statistically valid sample of active and negative cases to determine the extent to which households are receiving the Food Assistance allotments to which they are entitled, and to determine the extent to which decisions to deny, suspend, or terminate cases are correct. “QUEST card” means Colorado’s specific version of the EBT card. “Questionable” means inconsistent or contradictory information, statements, documents or case documentation that requires verification from the household to determine eligibility.	or Disabled. “Quality Assurance (QA)” means the division responsible for reviewing SNAP cases to determine if the proper eligibility determination was made and if the correct amount of benefits were issued to a household in a given month. “QA active case” means cases where a household was certified prior to or during the sample month and issued SNAP benefits for the sample month. “QA negative case” means cases where a household was denied certification to receive SNAP benefits in the sample month or which had its participation in the Program terminated during a certification period effective for the sample month. “Qualified non-citizen” means an individual who meets the specific definition of “qualified alien” as defined by the Food and Nutrition Service, United States Department of Agriculture, which includes lawful permanent residents, asylees, refugees, parolees, individuals granted withholding of deportation or removal, conditional entrants, Cuban or Haitian entrants, battered aliens, and non-citizen victims of a severe form of trafficking. This term is not itself an immigration status, but rather includes a collection of immigration statuses. It is a term used solely for Federal public benefits purposes. Qualified non-citizens are not automatically eligible for assistance, but rather must meet all other eligibility requirements. “Quality Control review” means a review of a statistically valid sample of active and negative cases to determine the extent to which households are receiving SNAP allotments to which they are entitled, and to determine the extent to which decisions to deny, suspend, or terminate cases are correct. “QUEST card” means Colorado’s specific version of the EBT card. “Questionable” means inconsistent or contradictory information, statements, documents, or case documentation that requires verification from the household to determine eligibility. “Recoupment” means the withholding of a portion of a household’s monthly allotment to pay back an over-issuance.		

		“Recoupment” means the withholding of a portion of a household’s monthly allotment to pay back an over-issuance. “Repayment agreement” means the form sent to a household upon the establishment of a claim that outlines the household’s responsibility and options for repayment. “Restoration” means a payment of benefits made to a household who was eligible to receive the amount in a past month but did not receive the payment. “Roomer” means an individual to whom a household furnishes lodging, but not meals, for compensation. “Sanction” means a specified period of ineligibility imposed against an individual who failed to take a required action as part of his or her eligibility for either Food Assistance or Colorado Works. “Self-employment” means a situation where some or all income is received from a self-operated business or enterprise in which the individual retains control over work or services offered and assumes the necessary business risks and expenses connected with the operation of the business. “Shelter for battered women and children” means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. “Simplified Reporting” means the reporting status granted to households receiving either a six (6) or twenty-four (24) month certification period. Households considered simplified reporting households are not required to report any changes to household circumstances throughout the course of the certification period unless the change that occurred causes the household’s combined gross income to rise above one hundred thirty percent (130%) of the federal poverty level for the applicable household size. Households receiving a twenty four (24) month certification period have the additional requirement of completing and submitting a periodic report form (PRF) (see “Periodic report form”) at the twelve (12) month point of the certification period on which all changes that have occurred since initial application must be reported.	“Repayment agreement” means the form sent to a household upon the establishment of a claim that outlines the household’s responsibility and options for repayment. “Restoration” means a payment of benefits made to a household who was eligible to receive the amount in a past month but did not receive the payment. “Roomer” means an individual to whom a household furnishes lodging, but not meals, for compensation. “Sanction” means a specified period of ineligibility imposed against an individual who failed to take a required action as part of his or her eligibility for either SNAP or Colorado Works. “Self-employment” means a situation where some or all income is received from a self-operated business or enterprise in which the individual retains control over work or services offered and assumes the necessary business risks and expenses connected with the operation of the business. “Shelter for battered women and children” means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. “Simplified Reporting” means SNAP households are required to report mid-certification changes that cause the household’s combined gross income to rise above one hundred thirty percent (130%) FPL for the applicable household size, when a member of the household wins substantial lottery or gambling winnings, and if an ABAWD’s work/volunteer hours fall below twenty (20) hours per week. “SNAP'' means Supplemental Nutrition Assistance Program, formerly known as the Food Assistance Program in Colorado. “Sponsor” means a person who has executed an affidavit(s) of support or similar agreement on behalf of a non-citizen as a condition of the non-citizens entry or admission to the US as a permanent resident. “Sponsored non-citizen” means those non-citizens lawfully admitted for permanent residence into the United States who		

		“SNAP” means Supplemental Nutrition Assistance Program, which is referred to as the Food Assistance Program in Colorado. “Sponsor” means a person who has executed an affidavit(s) of support or similar agreement on behalf of a non-citizen as a condition of the non-citizen’s entry or admission to the US as a permanent resident. “Sponsored non-citizen” means those non-citizens lawfully admitted for permanent residence into the United States who have been sponsored by an individual for entry into the country. “Standard Eligibility” means the set of rules applicable to households that do not fall under “Expanded categorical eligibility” or “Basic categorical eligibility.” Households considered under standard eligibility rules are subject to resource limits as a condition of eligibility. “State Department” means the Colorado Department of Human Services. “State office or Division” means the agency of the state government that has the responsibility for the oversight and monitoring of each county department’s administration of the Food Assistance Program. “State-level fair hearing” means a review requested by an applicant or recipient which is held before an Administrative Law Judge (ALJ) to establish whether an action or eligibility determination taken was correct. “Striker” means an individual who is involved in a strike or other concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement and any concerted slowdown or other concerted interruption of operations by employees. “Substantial lottery or gambling winnings” is a cash prize won in a single game before taxes or other amounts are withheld that is equal to or greater than the resource limit for elderly and persons with disabilities. “Supplement” means a payment of additional allowable benefits made for the current issuance month. “Supplemental Security Income (SSI)” means monthly cash payments made under the authority of: (1) Title XVI of the	have been sponsored by an individual for entry into the country. “Standard Eligibility” means the set of rules applicable to households that do not fall under “Expanded categorical eligibility” or “Basic categorical eligibility.” Households considered under standard eligibility rules are subject to resource limits as a condition of eligibility. “State Department” means the office/division within the Colorado Department of Human Services that administers SNAP. Currently, this is the Food and Energy Assistance Division within the Office of Economic Security. “State-level fair hearing” means a review requested by an applicant or recipient which is held before an ALJ to establish whether an action or eligibility determination taken was correct. “Striker” means an individual who is involved in a strike or other concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement and any concerted slowdown or other concerted interruption of operations by employees. “Substantial lottery or gambling winnings” is a cash prize won in a single game, before taxes or other amounts are withheld, that is equal to or greater than the resource limit for persons aged 60 and older and persons with disabilities. “Supplement” means a payment of additional allowable benefits made for the current issuance month. “Supplemental Security Income (SSI)” means monthly cash payments made under the authority of: (1) Title XVI of the Social Security Act, as amended, to the aged, blind, and disabled; (2) Section 1616(A) of the Social Security Act; or (3) Section 212(A) of Pub. L. 93-66. “Systematic Alien Verification for Entitlements (SAVE)” means the system allowing for the validation of immigration statuses of non-citizen applicants and participants through access to centralized U.S. Citizenship and Immigration Service (USCIS) data. “Telephone allowance” means a fixed deduction given to any household not incurring utility expenses other than the		

		Social Security Act, as amended, to the aged, blind and disabled; (2) Section 1616(A) of the Social Security Act; or (3) Section 212(A) of Pub. L. 93-66. “Systematic Alien Verification for Entitlements (SAVE)” means the system allowing for the validation of immigration statuses of non-citizen applicants and participants through access to centralized U.S. Citizenship and Immigration Service (USCIS) data. “Telephone allowance” means a fixed deduction given to any household not incurring utility expenses other than the expense for a telephone. “Temporary Assistance for Needy Families (TANF) or Colorado Works (CW)” means the cash assistance program also known as Title IV-A of the Social Security Act. “Temporary emergency” means an emergency caused by any natural or human-caused disaster, other than a major disaster declared by the President of the United States under the Disaster Relief Act of 1974, which is determined by FNS to have disrupted commercial channels of food distribution. “Thrifty Food Plan” means the diet required to feed a family of four (4) persons consisting of a man and a woman twenty (20) through fifty (50) years of age, a child six (6) through eight (8) years of age, and a child nine (9) through eleven (11) years of age, determined in accordance with the U.S. Department of Agriculture. The cost of such a diet shall be the basis for uniform allotments for all households regardless of their actual composition. “Trafficking” means attempting to buy, sell, steal, or otherwise affect an exchange of Food Assistance benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and Personal Identification Numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone. Trafficking also includes (1) the exchange of food assistance benefits for firearms, ammunition, explosives, or controlled substances, (2) the resale of a product purchased with food assistance benefits in exchange for cash or consideration other than eligible food, and (3) the purchase of a product that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the	expense for a telephone. “Temporary Assistance for Needy Families (TANF) or Colorado Works (CW)” means the cash assistance program also known as Title IV-A of the Social Security Act. “Temporary emergency” means an emergency caused by any natural or human-caused disaster, other than a major disaster declared by the President of the United States under the Disaster Relief Act of 1974, which is determined by FNS to have disrupted commercial channels of food distribution. “Thrifty Food Plan” means the diet required to feed a family of four (4) persons consisting of a man and a woman twenty (20) through fifty (50) years of age, a child six (6) through eight (8) years of age, and a child nine (9) through eleven (11) years of age, determined in accordance with the U.S. Department of Agriculture. The cost of such a diet shall be the basis for uniform allotments for all households regardless of their actual composition. “Trafficking” means attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and Personal Identification Numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone. Trafficking also includes (1) the exchange of SNAP benefits for firearms, ammunition, explosives, or controlled substances, (2) the resale of a product purchased with SNAP benefits in exchange for cash or consideration other than eligible food, and (3) the purchase of a product that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount. “Unclear information” Unclear information is information that is not verified, or information that is verified but the local office needs additional information to act on the change. “Under-issuance” means the difference between the allotment the household was eligible to receive and the allotment the household received, which was lower than what the household was eligible to receive. “Valid application” means a state-prescribed form completed		

		container for the deposit amount. “Under-issuance” means the difference between the allotment the household was eligible to receive and the allotment the household actually received, which was lower than what the household was eligible to receive. “Valid application” means a state-prescribed form completed with name, address, and signature. “Vendor payments” means money payments that are not payable directly to a household, but are paid to a third party for a household expense. “Verification” means confirmation of a household’s statements through written, verbal, or electronic means “Verified upon receipt (VUR)” means information that is provided directly from the primary source and which is not questionable. “Voluntary quit” means when a Food Assistance recipient voluntarily quit a job of 30 or more hours a week or reduced work effort to less than 30 hours a week without good cause. “Voluntary Work Registrant” means an individual who chooses to participate in the program and is not mandated to participate by the State or Federal regulations. “Waiver of Administrative Disqualification Hearing” means a waiver sent to individuals suspected of intentional Program violation which presents the individual with the option of waiving his or her right to an administrative hearing, essentially accepting the appropriate disqualification without necessarily admitting the violation.	with name, address, and signature. “Vendor payments” means money payments that are not payable directly to a household but are paid to a third party for a household expense. “Verification” means confirmation of a household’s statements through written, verbal, or electronic means. “Verified upon receipt (VUR)” means information that is provided directly from the primary source and which is not questionable. “Voluntary quit” means when a SNAP recipient voluntarily quit a job of 30 or more hours a week or reduced work effort to less than 30 hours a week without good cause. “Voluntary Work Registrant” means an individual who chooses to participate in the program and is not mandated to participate by the State or Federal regulations. “Waiver of Administrative Disqualification Hearing” means a waiver sent to individuals suspected of intentional Program violation which presents the individual with the option of waiving his or her right to an administrative hearing, essentially accepting the appropriate disqualification without necessarily admitting the violation.		
4.010	Renumbering; and program name update	**4.010 PROGRAM INTRODUCTION** This material sets forth rules, policies, and procedures concerned with eligibility determination and certification of persons who apply to participate in the Food Assistance Program, and, if determined eligible, the requirements concerning the use of Food Assistance benefits. The rules and regulations herein are promulgated in accordance with Program regulations of the United States Department of	**4.100 SNAP INTRODUCTION** This material sets forth rules, policies, and procedures concerned with eligibility determination and certification of persons who apply to participate in SNAP, and, if determined eligible, the requirements concerning the use of SNAP benefits. The rules and regulations herein are promulgated in accordance with Program regulations of the United States Department of Agriculture (USDA), 7 CFR 271–274 (2012), as	Renumbering section due to moving section 4.100; and updating	

		Agriculture (USDA), 7 CFR 271–274 (2012), as amended, and the State Plan of Operation. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of 7 CFR Parts 271 through 274 are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203. Electronic copies of 7 CFR parts 271 through 274 may be found by accessing the electronic code of federal regulations at http://www.ecfr.gov.	amended, and the State Plan of Operation. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of 7 CFR Parts 271 through 274 are available for inspection. Electronic copies of 7 CFR parts 271 through 274 may be found by accessing the electronic code of federal regulations at http://www.ecfr.gov.	Food Assistance to SNAP	
4.020	Renumbering; and program name update	**4.020 USE OF THE FOOD ASSISTANCE MANUAL** Below is a summary of the information contained in each section: Section 4.000 contains general Program information, confidentiality requirements, and complaint procedures, including complaints regarding alleged discrimination. Section 4.100 contains Program-specific definitions. Section 4.200 sets forth policies and procedures for the application and recertification processes. Information contained in this section includes the process of filing an application and recertification, interview requirements, timely processing standards, determination of certification periods, and initial month allotment proration. Section 4.300 outlines the non-financial criteria a household must meet in order to be eligible for the Program. Non-financial criteria include identity of applicant, Social Security Number (SSN) requirement, residency, household composition, citizenship and non-citizenship status, and work program requirements. Section 4.400 sets forth the financial criteria a household must meet in order to be eligible for the Program. Financial criteria include gross and net income standards, resource standards, and deductions from income. Section 4.500 sets forth policies and procedures regarding the verification and documentation of a household's circumstances.	**4.110 USE OF THE SNAP MANUAL** Below is a summary of the information contained in each section: Section 4.000 contains SNAP specific definitions. Section 4.100 contains general program information, confidentiality requirements, and complaint procedures (including complaints regarding alleged discrimination). Section 4.200 sets forth policies and procedures for the application and recertification processes. Information contained in this section includes the process of filing an application and recertification, interview requirements, timely processing standards, determination of certification periods, and initial month allotment proration. Section 4.300 outlines the non-financial criteria a household must meet to be eligible for the Program. Non-financial criteria include identity of applicant, Social Security Number (SSN) requirement, residency, household composition, citizenship and non-citizenship status, and work program requirements. Section 4.400 sets forth the financial criteria a household must meet to be eligible for SNAP. Financial criteria include gross and net income standards, resource standards, and deductions from income. Section 4.500 sets forth policies and procedures regarding the verification and documentation of a household's circumstances. Section 4.600 outlines a household's obligation to report	Renumbering section due to moving section 4.100; and updating Food Assistance to SNAP	

		Section 4.600 outlines a household's obligation to report changes during the certification period, and how certain changes are handled by the county department. Section 4.700 sets forth policies and procedures for issuing Food Assistance benefits, including restoration and replacement of issuances. Section 4.800 outlines the rules and processes regarding claims, appeals, and fraud. Section 4.900 outlines state and county administrative requirements.	changes during the certification period, and how certain changes are handled by the local. Section 4.700 sets forth policies and procedures for issuing SNAP benefits, including restoration and replacement of issuances. Section 4.800 outlines the rules and processes regarding claims, appeals, and fraud. Section 4.900 outlines state and county administrative requirements.		
4.030	Renumbering; and program name update	**4.030 PURPOSE OF THE FOOD ASSISTANCE PROGRAM** The purpose of the Food Assistance Program is expressed by the United States Congress in Section 2 of the Food and Nutrition Act of 2008, Public Law No. 110-246 (codified at 7 USC 2012). The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203. The Food Assistance Program is designed to promote the general welfare and to safeguard the health and well-being of the nation's population by raising the levels of nutrition among low-income households.	**4.120 PURPOSE OF SNAP** The purpose of SNAP is expressed by the United States Congress in Section 2 of the Food and Nutrition Act of 2008, Public Law No. 110-246 (codified at 7 USC 2012). The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection. SNAP is designed to promote the general welfare and to safeguard the health and well-being of the nation's population by raising the levels of nutrition among low-income households.	Renumbering section due to moving section 4.100; and updating Food Assistance to SNAP	
4.040	Renumbering; and program name updates	**4.040 USING FOOD ASSISTANCE BENEFITS** Food assistance benefits received by an eligible household may be used at any time by the household or other persons whom the household selects to purchase eligible food for the household. Food Assistance benefits are issued through an Electronic Benefit Transfer (EBT) system in which benefit allotments are stored on an electronic benefit transfer card and used to purchase	**4.130 USING SNAP BENEFITS** SNAP benefits received by an eligible household may be used at any time by the household or other persons whom the household selects to purchase eligible food for the household. SNAP benefits are issued through an Electronic Benefit Transfer (EBT) system in which benefit allotments are stored on an electronic benefit transfer card and used to purchase authorized items at a point-of-sale (POS) terminal. EBT cards	Renumbering section due to moving section 4.100; and updating Food Assistance to SNAP	

		authorized items at a point-of-sale (POS) terminal. EBT cards shall be presented only to retailers authorized by USDA/FNS to accept food benefit payment for food purchases. Food Assistance benefits must be used to pay for food currently purchased and cannot be used to pay for foods previously or subsequently secured or to pay back bills owed the grocer. The only exceptions are that Food Assistance benefits may be used to pay for food items such as milk or bakery goods that are delivered to the home on a regular basis, or for advance payment to a non-profit cooperative food venture when food purchased is to be delivered at a later date.	shall be presented only to retailers authorized by USDA/FNS to accept food benefit payment for food purchases. SNAP benefits must be used to pay for food currently purchased and cannot be used to pay for foods previously or subsequently secured or to pay back bills owed the grocer. The only exceptions are that SNAP benefits may be used to pay for food items such as milk or bakery goods that are delivered to the home on a regular basis, or for advance payment to a non-profit cooperative food venture when food purchased is to be delivered later. A. Expungement 1. Upon approval of benefits, SNAP recipients are provided information in writing that any SNAP benefits issued to the EBT card that are unused after 9 months (274 days) will be considered as an expungement and removed from the account. 2. Upon approval of benefits, SNAP recipients are provided information in writing that if the EBT account goes inactive (no food purchases or returns) after 9 months (274 days), the inactive SNAP benefits will be considered as an expungement and removed from the account.		
4.040.1	Renumbering; and non-standardized language; and program name updates	**4.040.1 WHERE HOUSEHOLDS CAN USE FOOD ASSISTANCE BENEFITS** A. Specified persons may use their Food Assistance benefits to purchase meals from the following: 1. A meal delivery service approved by the USDA, Food and Nutrition Service (FNS); 2. A communal dining facility for elderly persons and/or SSI households; 3. An authorized drug or alcoholic treatment and rehabilitation center; 4. An authorized public or private, nonprofit group	**4.130.1 WHERE HOUSEHOLDS CAN USE SNAP BENEFITS** A. Specified persons may use their SNAP benefits to purchase meals from the following: 1. A meal delivery service approved by the USDA, Food and Nutrition Service (FNS); 2. A communal dining facility for persons aged 60 and older and/or SSI households; 3. An authorized drug or alcoholic treatment and rehabilitation center; 4. An authorized public or private, nonprofit group living arrangement facility; and	Renumbering section due to moving section 4.100; standardizing language; and updating Food Assistance to SNAP	

		living arrangement facility; and 5. A shelter for battered women and children. B. Homeless households shall be permitted to use their benefits to purchase prepared meals from an authorized public or private nonprofit provider for homeless persons. A meal provider for homeless persons means a public or private non-profit establishment, including, but not limited to, soup kitchens and temporary shelters which feed homeless persons. In order to be considered a homeless meal provider, the meal provider must be approved as such by the USDA, FNS. Homeless households may also purchase meals from restaurants if the restaurant offers discounts to homeless households or serves food to homeless households at concessional (reduced) prices, and the restaurant is authorized by the USDA, FNS as a retailer.	5. A shelter for battered women and children. B. Households containing persons experiencing homelessness shall be permitted to use their benefits to purchase prepared meals from an authorized public or private nonprofit provider for persons experiencing homelessness. A meal provider for persons experiencing homelessness means a public or private non-profit establishment, including, but not limited to, soup kitchens and temporary shelters which feed persons experiencing homelessness. To be considered a meal provider to persons experiencing homelessness, the meal provider must be approved as such by the USDA, FNS. Households containing persons experiencing homelessness may also purchase meals from restaurants if the restaurant offers discounts or serves food to persons experiencing homelessness at concessional (reduced) prices, and the restaurant is authorized by the USDA, FNS as a retailer.		
4.040.2	Renumbering; and program name update	**4.040.2 ELIGIBLE FOODS** Households can only purchase eligible foods with Food Assistance benefits. Eligible foods include: A. Any food or food product intended for human consumption, except for alcoholic beverages, tobacco, and hot food, including hot food products prepared by the retailer and sold at above room temperature for immediate consumption. B. Seeds and plants to grow foods for the personal consumption by eligible household members.	**4.130.2 ELIGIBLE FOODS** Households can only purchase eligible foods with SNAP benefits. Eligible foods include: A. Any food or food product intended for human consumption, except for alcoholic beverages, tobacco, and hot food, including hot food products prepared by the retailer and sold at above room temperature for immediate consumption. B. Seeds and plants to grow foods for personal consumption by eligible household members.	Renumbering section due to moving section 4.100; and updating Food Assistance to SNAP	
4.050	Renumbering and program name update	**4.050 CONFIDENTIALITY** A. If there is a written request by a responsible member of the household, or it's ITS currently authorized representative, or a person acting on behalf of the household to review materials contained in the case record, the material and information contained in the case record shall be made available for inspection during normal business hours. B. The local office shall withhold confidential	**4.140 CONFIDENTIALITY** A. If there is a written request by a responsible member of the household, the current authorized representative, or a person acting on behalf of the household to review materials contained in the case record, the material and information contained in the case record shall be made available for inspection. B. The local office shall withhold confidential information, such as the names of persons who have disclosed	Renumbering section due to moving section 4.100; and updating Food Assistance to SNAP	

		information, such as the names of persons who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal investigations or prosecutions. C. Use or disclosure of information obtained from a Food Assistance applicant or household or from any State or Federal agency included in the Income and Eligibility Verification System (IEVS), including the Internal Revenue Service (IRS), Social Security Administration (SSA) and Colorado Department of Labor and Employment (DOLE) exclusively for the Food Assistance Program, shall be restricted to the following persons: 1. Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, other Federal assistance programs, federally- assisted State programs providing assistance on a means-tested basis to low income individuals, or general assistance programs which are subject to the joint processing requirements in 4.202.1. 2. Employees of the Comptroller General's office of the United States for audit examination authorized by any other provision of law; 3. Local, State or Federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the identity of the individual requesting the information and his/her authority to do so, the violation being investigated, and the identity of the person about whom the information is requested; Local, State, or Federal law enforcement officers acting in their official capacity, upon written request by such law enforcement officers that includes the name of the household member being sought, for the purpose of obtaining the address, social security number, and, if available, photograph of the household member, if the member is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that	information about the household without the household's knowledge, or the nature or status of pending criminal investigations or prosecutions. C. Use or disclosure of information obtained from a SNAP applicant or household or from any State or Federal agency included in the Income and Eligibility Verification System (IEVS), including the Internal Revenue Service (IRS), Social Security Administration (SSA) and Colorado Department of Labor and Employment (DOLE) exclusively for SNAP, shall be restricted to the following persons: 1. Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, other Federal assistance programs, federally- assisted State programs providing assistance on a means-tested basis to low-income individuals, or general assistance programs which are subject to the joint processing requirements in 4.202.1. 2. Employees of the Comptroller General's office of the United States for audit examination authorized by any other provision of law; 3. Local, State or Federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the identity of the individual requesting the information and his/her authority to do so, the violation being investigated, and the identity of the person about whom the information is requested; Local, State, or Federal law enforcement officers acting in their official capacity, upon written request by such law enforcement officers that includes the name of the household member being sought, for the purpose of obtaining the address, social security number, and, if available, photograph of the household member, if the member is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or a high misdemeanor in New Jersey), or is violating a condition of probation or parole imposed under a Federal or State law. The agency shall provide information regarding a household member, upon		

		would be classified as a felony (or a high misdemeanor in New Jersey), or is violating a condition of probation or parole imposed under a Federal or State law. The agency shall provide information regarding a household member, upon written request of a law enforcement officer acting in his or her official capacity that includes the name of the person being sought, if the other household member has information necessary for the apprehension or investigation of the other household member who is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole imposed under Federal or State law. The agency must accept any document that reasonably establishes the identity of the household member being sought by law enforcement authorities. If a law enforcement officer provides documentation indicating that a household member is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole, the agency shall follow the procedures in 4.304.4 to determine whether the member's eligibility in the Food Assistance program should be terminated. A determination and request for information that does not comply with the terms and procedures in 4.304.4 is not sufficient to terminate the member's participation. The agency shall disclose only such information as is necessary to comply with a specific written request of a law enforcement agency authorized by this paragraph. 4. Persons Connected with the Parent Locator Service Information made available to the Parent Locator Service must be restricted to the recipient or applicant's most recent address and place of employment; 5. Persons directly connected with the administration of the Child Support Program under part D, title IV of the Social Security Act, in order to assist in the administration of their program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or	written request of a law enforcement officer acting in his or her official capacity that includes the name of the person being sought, if the other household member has information necessary for the apprehension or investigation of the other household member who is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole imposed under Federal or State law. The agency must accept any document that reasonably establishes the identity of the household member being sought by law enforcement authorities. If a law enforcement officer provides documentation indicating that a household member is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole, the agency shall follow the procedures in 4.304.4 to determine whether the member's eligibility in the SNAP program should be terminated. A determination and request for information that does not comply with the terms and procedures in 4.304.4 is not sufficient to terminate the member's participation. The agency shall disclose only such information as is necessary to comply with a specific written request of a law enforcement agency authorized by this paragraph. 4. Persons connected with the Parent Locator Service. Information made available to the Parent Locator Service must be restricted to the recipient or applicant's most recent address and place of employment; 5. Persons directly connected with the administration of the Child Support Program under part D, title IV of the Social Security Act, in order to assist in the administration of their program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under titles II and XVI of the Social Security Act; 6. Persons directly connected with the verification of immigration status of non-citizen SNAP applicants through the Systematic Alien Verification for Entitlements (SAVE) system, to the extent the information is necessary to identify the individual for verification purposes;		

		benefits under titles II and XVI of the Social Security Act; 6. Persons directly connected with the verification of immigration status of non-citizen Food Assistance applicants through the Systematic Alien Verification for Entitlements (SAVE) system, to the extent the information is necessary to identify the individual for verification purposes; 7. School authorities for the purpose of determining which children are from families who participate in the Program. This information is used to determine eligibility for meals under the National School Lunch or Breakfast Program; and, 8. Persons directly connected with the administration or enforcement of programs included in the Income and Eligibility Verification System (IEVS). Information obtained through the IEVS will be stored and processed so that no unauthorized personnel may acquire or retrieve the information for unauthorized purposes. All persons with access to information obtained pursuant to the IEVS requirements will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.	7. School authorities for the purpose of determining which children are from families who participate in the Program. This information is used to determine eligibility for meals under the National School Lunch or Breakfast Program; and, 8. Persons directly connected with the administration or enforcement of programs included in the Income and Eligibility Verification System (IEVS). Information obtained through the IEVS will be stored and processed so that no unauthorized personnel may acquire or retrieve the information for unauthorized purposes. All persons with access to information obtained pursuant to the IEVS requirements will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.		
4.060	Renumbering; and program name update	**4.060 RIGHT AND OPPORTUNITY TO REGISTER TO VOTE** An applicant for Food Assistance benefits shall be provided the opportunity to register to vote. The county department shall provide to all applicants the prescribed voter registration application. The county department shall not: A. Seek to influence the applicant's political preference or party registration. B. Display any political preference or party allegiance. C. Make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote.	**4.150 RIGHT AND OPPORTUNITY TO REGISTER TO VOTE** An applicant for SNAP benefits shall be provided the opportunity to register to vote. The local office shall provide to all applicants the prescribed voter registration application. The local office shall not: A. Seek to influence the applicant's political preference or party registration. B. Display any political preference or party allegiance. C. Make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote. D. Make any statement to an applicant or take any action, the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any	Renumbering section due to moving section 4.100; and updating Food Assistance to SNAP	

		D. Make any statement to an applicant or take any action, the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.	bearing on the availability of services or benefits.		
4.060.1	Renumbering; and non-standardized language	**4.060.1 Transmittal of Voter Registration Records** A completed voter registration application shall be transmitted to the county clerk and recorder for the county in which the county department is located not later than ten (10) calendar days after the date of acceptance; except that, if a registration application is accepted within five (5) calendar days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk and recorder for the county not later than five (5) calendar days after the date of acceptance.	**4.150.1 Transmittal of Voter Registration Records** A completed voter registration application shall be transmitted to the county clerk and recorder for the county in which the local office is located not later than ten (10) calendar days after the date of acceptance; except that, if a registration application is accepted within five (5) calendar days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk and recorder for the county not later than five (5) calendar days after the date of acceptance.	Due to moving section 4.100, renumbering section; updating Food Assistance to SNAP; standardizing language	
4.060.2	Renumbering; and non-standardized language	**4.060.2 Confidentiality of Voter Registration Records** Records concerning voter registration and declination to register to vote shall be maintained for two years by the county department, and these records shall not be a part of the Food Assistance case record and are not subject to subpoena. The county department shall ensure the confidentiality of individuals registering or declining to register to vote. A voter registration application completed at the agency is not to be used for any purpose other than voter registration.	**4.150.2 Confidentiality of Voter Registration Records** Records concerning voter registration and declination to register to vote shall be maintained for two years by the local office, and these records shall not be a part of the SNAP case record and are not subject to subpoena. The local office shall ensure the confidentiality of individuals registering or declining to register to vote. A voter registration application completed at the agency is not to be used for any purpose other than voter registration.	Due to moving section 4.100, renumbering section; and updating Food Assistance to SNAP	
4.070	Renumbering	**4.070 COMPLAINT REQUIREMENTS** The local office shall publicize the state's complaint system. In addition, the local office shall advise any household wishing to file a complaint of the complaint procedure and offer assistance in filing a complaint, if appropriate. The State Department shall ensure that information is made available to potential participants, applicants, participants, or other interested persons concerning the complaint system, and the procedure for filing a complaint at the state or county level. Such information shall be made available to potential participants, applicants, and other interested parties through written materials and posters which shall be prominently displayed in all certification and issuance offices. The local office shall make every effort to resolve all complaints, excluding complaints of discrimination, brought	**4.160 COMPLAINT REQUIREMENTS** The local office shall publicize the state's complaint system. In addition, the local office shall advise any household wishing to file a complaint of the complaint procedure and assist the household with filing a complaint, if appropriate. The State Department shall ensure that information is made available to potential participants, applicants, participants, or other interested persons concerning the complaint system, and the procedure for filing a complaint at the state or county level. Such information shall be made available to potential participants, applicants, and other interested parties through written materials and posters which shall be prominently displayed in all certification and issuance offices. The local office shall make every effort to resolve all complaints, excluding complaints of discrimination, brought to their attention at the local level. However, all complainants shall be informed they have the right to contact the State Department	Renumbering section due to moving section 4.100	

		to their attention at the local level. However, all complainants shall be informed they have the right to contact the State Department if they are not satisfied with the action taken at the local level.	if they are not satisfied with the action taken at the local level.		
4.070.1	Renumbering; and non-standardized language	**4.070.1 State and County Department Responsibility** A. The State Department shall maintain records of complaints received. These records will be reviewed on an office-by-office basis at least annually. Any potential or actual patterns of deficiencies identified shall be reported to the State Food Assistance Division coordinator for action or for inclusion, if appropriate, in the state and/or county department's Performance Improvement Plan. The State Food Assistance Division shall be the primary contact through which complaints are filed. State staff shall either handle the complaint when filed, or refer the complaint to appropriate state or county staff for disposition. B. When requested to do so by the State Department, the local office shall provide information sufficient to enable the State Food Assistance Division to provide notification to the complainant in accordance with timeframes specified in item C below. C. The State level complaint system shall include notification to the complainant, either verbally or in writing, of the action taken by the State Department in resolving the complaint. Notification to the complainant by the State Department shall be accomplished within the following time frames: 1. Complaints involving expedited services shall be investigated and a response provided to the complainant no later than three (3) business days following the date the complaint was received by the State Department. 2. All other complaints shall be investigated and a response provided to the complainant no later than thirty (30) calendar days following the date the complaint was received by the State Department. D. If a complaint can be resolved through the fair hearing process, the State Department shall advise	**4.160.1 State Department and Local Office Responsibility** A. The State Department shall maintain records of complaints received. These records will be reviewed on an office-by-office basis at least annually. Any potential or actual patterns of deficiencies identified shall be reported to the State department for action or for inclusion, if appropriate, in the state and/or county's Performance Improvement Plan. The State department shall be the primary contact through which complaints are filed. State staff shall either handle the complaint when filed or refer the complaint to appropriate state or county staff for disposition. B. When requested to do so by the State Department, the local office shall provide information sufficient to enable the State department to provide notification to the complainant in accordance with timeframes specified in item C below. C. The State level complaint system shall include notification to the complainant, either verbally or in writing, of the action taken by the State Department in resolving the complaint. Notification to the complainant by the State Department shall be accomplished within the following time frames: 1. Complaints involving expedited services shall be investigated and a response provided to the complainant no later than three (3) business days following the date the complaint was received by the State Department. 2. All other complaints shall be investigated and a response provided to the complainant no later than thirty (30) calendar days following the date the complaint was received by the State Department. D. If a complaint can be resolved through the fair hearing process, the State Department shall advise the complainant of the process for requesting a fair hearing and offer the complainant assistance to request a fair hearing.	Renumbering section due to moving section 4.100; and standardizing language	

		the complainant of the process for requesting a fair hearing and offer the complainant assistance to request a fair hearing.			
4.070.2	Renumbering	**4.070.2 Non-Discrimination Complaint Requirements** State and local agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, disability, religious creed, national origin, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity funded by the USDA. Discrimination in any aspect of program administration is prohibited. Local offices shall ensure that the nondiscrimination poster provided by FNS is prominently displayed. Posters may be obtained through the State Department. The local office shall explain the complaint procedures, as outlined in 4.070.21 "Discrimination Complaint Procedure," to each person expressing an interest in filing a discrimination complaint and shall advise the individual of the right to file a complaint under this procedure. Such information shall be made available within ten (10) calendar days from the date of request.	**4.160.2 Non-Discrimination Complaint Requirements** State and local agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, disability, religious creed, national origin, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity funded by the USDA. Discrimination in any aspect of program administration is prohibited. Local offices shall ensure that the nondiscrimination poster provided by FNS is prominently displayed. Posters may be obtained through the State Department. The local office shall explain complaint procedures to each person expressing an interest in filing a discrimination complaint and shall advise the individual of the right to file a complaint under this procedure. Such information shall be made available within ten (10) calendar days from the date of request.	Renumbering section due to moving section 4.100	
4.070.21	Renumbering; unclear language; and program name update	**4.070.21 Discrimination Complaint Procedure** A. Individuals who believe they have been subject to discrimination may file a written complaint with the USDA, FNS national office, the local office, and/or the State Department. All complaints of alleged discrimination shall be made in writing and shall be submitted to the FNS national office. If allegations of discrimination are made verbally, and if the complainant is unable or unwilling to put the allegations in writing, the State or county employee to whom the allegation is made shall document the complaint in writing. The person accepting the complaint shall make every effort to secure the information specified in Subsection C, below. B. The complainant shall be advised that a complaint may be submitted to the State Department, FNS or both, and that a complaint shall not be investigated unless information specified in items C, 2, through C,	**4.160.21 Discrimination Complaint Procedure** A. Individuals who believe they have been subject to discrimination may file a written complaint with the USDA, FNS national office, the local office, and/or the State Department. All complaints of alleged discrimination shall be made in writing and shall be submitted to the FNS national office. If allegations of discrimination are made verbally, and if the complainant is unable or unwilling to put the allegations in writing, the State or county employee to whom the allegation is made shall document the complaint in writing. The person accepting the complaint shall make every effort to secure the information specified in Subsection C, below. B. The complainant shall be advised that a complaint may be submitted to the State Department, FNS or both, and that a complaint shall not be investigated unless information specified in items C, 2, through C, 4, below, is provided. In addition, the complainant shall be advised that	Due to moving section 4.100, renumbering section; and addition of clarifying phrase; and updating Food Assistance to SNAP	

		4, below, is provided. In addition, the complainant shall be advised that a complaint must be filed no later than one hundred eighty (180) calendar days from the date of the alleged discrimination. The local office shall date stamp or otherwise note the date the complaint is received by the office. 1. Complaints directed to the FNS national office shall be addressed to: U.S. Department of Agriculture, Director, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410; Fax: (202) 690-7442; Email: program.intake@usda.gov. 2. Complaints directed to the State Department shall be addressed to: Colorado Department of Human Services, Food Assistance Program, 1575 Sherman St., Denver, CO 80203. C. The complaint shall include the following information to facilitate investigations: 1. The name, address and telephone number or other means of contacting the person alleging discrimination; 2. The location and name of the office which is accused of discriminatory practices; 3. The nature of the incident or action, or the aspect of Program administration that led the person to allege discrimination; 4. The reason for the alleged; 5. The name(s) and title(s), if appropriate, of person(s) who may have knowledge of the alleged discriminatory act; and 6. The date(s) on which the alleged discriminatory action(s) occurred.	a complaint must be filed no later than one hundred eighty (180) calendar days from the date of the alleged discrimination. The local office shall date stamp or otherwise note the date the complaint is received by the office. 1. Complaints directed to the FNS national office shall be addressed to: U.S. Department of Agriculture, Director, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410; Fax: (202) 690-7442; Email: program.intake@usda.gov. 2. Complaints directed to the State Department shall be addressed to: Colorado Department of Human Services, SNAP, 1575 Sherman St., Denver, CO 80203. C. The complaint shall include the following information to facilitate investigations to be considered complete: 1. The name, address and telephone number or other means of contacting the person alleging discrimination; 2. The location and name of the office which is accused of discriminatory practices; 3. The nature of the incident or action, or the aspect of Program administration that led the person to allege discrimination; 4. The reason for the alleged; 5. The name(s) and title(s), if appropriate, of person(s) who may have knowledge of the alleged discriminatory act; and 6. The date(s) on which the alleged discriminatory action(s) occurred.		

4.070.22	Renumbering; and extraneous language	**4.070.22 Disposition of Discrimination Complaints** When the local office receives a complaint of alleged discrimination and obtains the information specified in 4.070.21 “Discrimination Complaint Procedure,” it shall transmit a copy of the complaint to the FNS national office and/or the State Department within five (5) working days. The State Department shall file the complaint with the FNS national office on behalf of the complainant if the local office does not file the complaint with the FNS national office.	**4.160.22 Disposition of Discrimination Complaints** When the local office receives a complaint of alleged discrimination and obtains a complete discrimination complaint, it shall transmit a copy of the complaint to the FNS national office and/or the State Department within five (5) working days. The State Department shall file the complaint with the FNS national office on behalf of the complainant if the local office does not file the complaint with the FNS national office.	Renumbering section due to moving section 4.100; and removing extraneous language	
4.201	Program name update; and incorrect grammar	**4.201 APPLICATION PROCESSING** A. County offices shall not apply additional conditions or processing requirements that are beyond those prescribed by State Food Assistance rules. The application process includes the filing and completion of an application form, being interviewed, and verifying certain information. Signs shall be posted in certification offices that explain the application processing standards and the right to file an application on the day of initial contact. Similar information about same-day filing shall be included in outreach materials and on the application form. B. The local office shall act promptly on all applications and provide Food Assistance benefits retroactive to the month of application to those households that have completed the application process and have been determined to be eligible. C. Applications will be screened as they are filed, or as individuals come in to apply, to determine eligibility for expedited service or for normal processing. Applicants entitled to expedited service shall be informed immediately and given a same-day interview, whenever possible. Those eligible for expedited processing shall be served in accordance with Sections 4.205.1 and 4.205.11 while those eligible for normal processing shall be served in accordance with Section 4.205.2. Local offices shall not conduct any pre-eligibility screening process prior to securing the date of application. D. The household may voluntarily withdraw its application at any time prior to a determination of eligibility. Once a determination of eligibility is made,	**4.201 APPLICATION PROCESSING** A. Local offices shall not apply additional conditions or processing requirements that are beyond those prescribed by State SNAP rules. The application process includes the filing and completion of an application form, being interviewed, and verifying certain information. Signs shall be posted in certification offices that explain the application processing standards and the right to file an application on the day of initial contact. Similar information about same-day filing shall be included in outreach materials and on the application form. B. The local office shall act promptly on all applications and provide SNAP benefits retroactive to the month of application to those households that have completed the application process and have been determined to be eligible. C. Applications will be screened as they are filed, or as individuals come in to apply, to determine eligibility for expedited service or for normal processing. Applicants entitled to expedited service shall be informed immediately and given a same-day interview, whenever possible. Those eligible for expedited processing shall be served in accordance with Sections 4.205.1 and 4.205.11 while those eligible for normal processing shall be served in accordance with Section 4.205.2. Local offices shall not conduct any pre-eligibility screening process prior to securing the date of application. D. The household may voluntarily withdraw its application at any time prior to a determination of eligibility. Once a determination of eligibility is made, the household may voluntarily terminate its participation. Any reason given by the household for withdrawal or termination shall be	Updating Food Assistance to SNAP; and correcting grammar	

		the household may voluntarily terminate its participation. Any reason given by the household for withdrawal or termination shall be documented in the case file. A Notice of Action form, indicating voluntary withdrawal of application or voluntary termination of participation, shall be sent to the household within ten (10) calendar days of the decision, to confirm the action taken. The household shall be advised of its right to reapply at any time subsequent to a withdrawal. E. No household shall have its Food Assistance benefits denied solely on the basis of its application to participate in another program being denied or its benefits under another program being terminated, without a separate determination by the local office that a household failed to satisfy a Food Assistance Program eligibility requirement. F. Households denied Food Assistance that have an SSI application pending shall be informed on the notice of denial of the possibility of categorical eligibility if they become SSI recipients. Residents of public institutions who apply jointly for SSI and Food Assistance benefits prior to their release from the institution shall not be eligible for Food Assistance until the individual has been released from the public institution. G. Local offices shall record in the automated system racial and ethnic data provided by an applicant household. The purpose of obtaining this information is not to affect the eligibility or the level of benefits, but rather to ensure that Program benefits are distributed without regard to race, color, or national origin. In those instances when the information is not provided voluntarily by the household on the application form, the local office shall use alternative means of collecting the ethnic and racial data on households, such as by observation during the interview. Under no circumstance should an eligibility worker challenge or change a self-declaration made by a household member.	documented in the case file. A Notice of Action form, indicating voluntary withdrawal of application or voluntary termination of participation, shall be sent to the household within ten (10) calendar days of the decision, to confirm the action taken. The household shall be advised of its right to reapply at any time after a withdrawal. E. No household shall have its SNAP benefits denied solely based on its application to participate in another program being denied or its benefits under another program being terminated, without a separate determination by the local office that a household failed to satisfy a SNAP eligibility requirement. F. Households denied SNAP that have an SSI application pending shall be informed on the notice of denial of the possibility of categorical eligibility if they become SSI recipients. Residents of public institutions who apply jointly for SSI and SNAP benefits prior to their release from the institution shall not be eligible for SNAP until the individual has been released from the public institution. G. Local offices shall record in the automated system racial and ethnic data provided by an applicant household. The purpose of obtaining this information is not to affect the eligibility or the level of benefits, but rather to ensure that SNAP benefits are distributed without regard to race, color, or national origin. In those instances when the information is not provided voluntarily by the household on the application form, the local office shall use alternative means of collecting the ethnic and racial data on households, such as by observation during the interview. Under no circumstance should an eligibility worker challenge or change a self-declaration made by a household member.		

4.202	Program name update; and non-standardized language	**4.202 FILING AN APPLICATION** A. Regardless of what type of application system is used, the local office must provide a means for applicants to immediately begin the application process. The household shall be advised it may file an incomplete application form as long as the form contains a name, address, and is signed by a responsible household member or the household's authorized representative. Signatures include handwritten signatures, electronic signature techniques, recorded telephonic signatures, or documented gestured signatures. A valid handwritten signature includes a designation of an X. Local offices shall accept applications for Food Assistance during normal business hours and shall not be restricted to a certain day or time of day. The household shall be advised that it need not be interviewed before filing an application. The county department shall inform applicants that receiving Food Assistance will have no bearing on any other program's time limits that may apply to the household. B. Persons who request information for Food Assistance must be advised of expedited service provisions and encouraged to submit an application so that eligibility processing can begin. County local offices shall encourage the filing of an application form on the same day the household or its representative contacts the local office in person or by telephone and expresses interest in obtaining Food Assistance, or indicates the household is without food or the means to obtain food. C. Local offices shall make application forms readily accessible to applicant households, as well as to groups and organizations, and shall also provide an application form to anyone who requests the form. If a household contacting the local office by telephone does not wish to come to the appropriate office to file the application that same day and instead prefers receiving an application through the mail, the local office shall mail an application form to the household on the same day the telephone request is received. An application shall also be mailed on the same day a written request for Food Assistance is received. Application forms shall be made available in Spanish, or other appropriate languages for use in those counties where it has been determined in conjunction with the State	**4.202 FILING AN APPLICATION** A. Regardless of what type of application system is used, the local office must provide a means for applicants to immediately begin the application process. The household shall be advised it may file an incomplete application form if the form contains a name, address, and is signed by a responsible household member or the household's authorized representative. Signatures include handwritten signatures, electronic signature techniques, recorded telephonic signatures, or documented gestured signatures. A valid handwritten signature includes a designation of an X. Local offices shall accept applications for SNAP during normal business hours and shall not be restricted to a certain day or time of day. The household shall be advised that it need not be interviewed before filing an application. The local office shall inform applicants that receiving SNAP will have no bearing on any other program's time limits that may apply to the household. B. Persons who request information for SNAP must be advised of expedited service provisions and encouraged to apply so that eligibility processing can begin. County local offices shall encourage the filing of an application form on the same day the household or its representative contacts the local office in person or by telephone and expresses interest in obtaining SNAP, or indicates the household is without food or the means to obtain food. C. Local offices shall make application forms readily accessible to applicant households, as well as to groups and organizations, and shall also provide an application form to anyone who requests the form. If a household contacting the local office by telephone does not wish to come to the appropriate office to file the application that same day and instead prefers receiving an application through the mail, the local office shall mail an application form to the household on the same day the telephone request is received. An application shall also be mailed on the same day a written request for SNAP is received. Application forms shall be made available in Spanish, or other appropriate languages for use in those counties where it has been determined in conjunction with the State local office that there are a significant number of households without an adult member fluent in English. D. The state or local office shall annotate the application form	Updating Food Assistance to SNAP; and standardizing language	

		local office that there are a significant number of households without an adult member fluent in English. D. The state or local office shall annotate the application form by recording the date the form was received. All valid applications which are paper, transmitted by fax or other electronic transmissions, are acceptable. When an application is submitted through such means outside of business hours, the application filing date shall be recorded as the next business day. E. Households must file applications by submitting the forms in person, through an authorized representative, by fax or other electronic transmission, by mail, or by completing an online electronic application. The local office must inform the applicant that they have the opportunity to obtain a copy of their application and provide the household with a copy of their completed application upon the request of the client. A copy of a completed application can be a copy of the information provided by the client that was used or will be used to determine a household's eligibility and benefit allotment. At the option of the household, this may be provided in an electronic format. F. Applications are valid for a period of sixty (60) calendar days. Households reapplying for benefits following a determination of ineligibility more than sixty (60) calendar days from the date of the original application date must submit a new application. G. When households contact the wrong certification office within a county either in person or by telephone, the certification office shall give the household the address and telephone number of the appropriate office. The certification office shall also offer to forward the household's application to the appropriate office that same day. If the household has mailed its application to the wrong office within a county, the receiving office shall mail the application to the appropriate office on the same day or forward it the next day by any means that ensures the application will arrive at the appropriate office the same day it is forwarded. An application shall be considered filed and processing standards shall begin the day it is received by any local office in the correct county. A county that receives an application that belongs to another county may secure the application date, process the application to completion, issue the household an EBT card, and then	by recording the date the form was received. All valid applications which are paper, transmitted by fax or other electronic transmissions, are acceptable. When an application is submitted through such means outside of business hours, the application filing date shall be recorded as the next business day. E. Households must file applications by submitting the forms in person, through an authorized representative, by fax or other electronic transmission, by mail, or by completing an online electronic application. The local office must inform the applicant that they can obtain a copy of their application and provide the household with a copy of their completed application upon the request of the client. A copy of a completed application can be a copy of the information provided by the client that was used or will be used to determine a household's eligibility and benefit allotment. At the option of the household, this may be provided in an electronic format. F. Applications are valid for a period of sixty (60) calendar days or until eligibility has been determined, whichever is sooner. Once eligibility has been determined, households must submit a new application if the household: 1. Failed to attend an interview in the first thirty (30) days of the application, or 2. Was determined ineligible due to household circumstances. G. Local offices shall record in the automated system racial and ethnic data provided by an applicant household. The purpose of obtaining this information is not to affect the eligibility or the level of benefits, but rather to ensure that SNAP benefits are distributed without regard to race, color, or national origin. In those instances when the information is not provided voluntarily by the household on the application form, the local office shall use alternative means of collecting the ethnic and racial data on households, such as by observation during the interview. Under no circumstance should an eligibility technician challenge or change a self-declaration made by a household member.		

		transfer the case to the correct county once the final eligibility decision is made.			
4.202.1	Program name update; and non-standardized acronyms	**4.202.1 Public Assistance Applications and Processing** A. Households applying for public assistance (PA) shall be notified of their right to apply for Food Assistance at the same time, and shall be allowed to apply for Food Assistance at the same time they apply for public assistance benefits. B. The local office shall provide benefits using the original application and any other pertinent information occurring subsequent to that application for any household filing a joint application for Food Assistance and public assistance benefits. The original application and relevant subsequent information shall also be used for households that are categorically eligible when they are determined eligible to receive public assistance after being denied for Food Assistance. The local office shall not re-interview the household, but shall use mail or telephone contact to obtain information about any changes. C. Households whose public assistance (PA) applications are denied shall not be required to file a new Food Assistance application. The household shall have its Food Assistance eligibility determined or continued based on the applications filed jointly for PA and Food Assistance purposes and any other documented information obtained subsequent to the application that may have been used in the PA determination.	**4.202.1 Public Assistance Applications and Processing** A. Households applying for PA shall be notified of their right to apply for SNAP at the same time and shall be allowed to apply for SNAP at the same time they apply for PA benefits. B. The local office shall provide benefits using the original application and any other pertinent information occurring after that application for any household filing a joint application for SNAP and PA benefits. The original application and relevant subsequent information shall also be used for households that are categorically eligible when they are determined eligible to receive PA after being denied for SNAP. The local office shall not re-interview the household but shall use mail or telephone contact to obtain information about any changes. C. Households whose PA applications are denied shall not be required to file a new SNAP application. The household shall have its SNAP eligibility determined or continued based on the applications filed jointly for PA and SNAP purposes and any other documented information obtained after the application that may have been used in the PA determination.	Updating Food Assistance to SNAP; standardizing acronyms	
4.202.2	Program name update; and incorrect grammar	**4.202.2 Application Filing by Ineligible Individuals** The ineligibility of certain individuals for Program benefits will not prohibit the remaining household members from applying for and receiving Food Assistance. Ineligible individuals living in an applicant household shall not be considered eligible household members for Food Assistance purposes; however the ineligible individual's income and resources are considered in the household's eligibility determination and benefit allotment. When the eligible members of a household are all	**4.202.2 Application Filing by Ineligible Individuals** The ineligibility of certain individuals for SNAP benefits will not prohibit the remaining household members from applying for and receiving SNAP. Ineligible individuals living in an applicant household shall not be considered eligible household members for SNAP purposes; however, the ineligible individual's income and resources are considered in the household's eligibility determination and benefit allotment. When the eligible members of a household are all unemancipated minors and the only adult is an ineligible	Updating Food Assistance to SNAP; and grammar correction	

		unemancipated minors and the only adult is an ineligible individual, the ineligible individual may make application on behalf of the eligible minors without being considered as having applied for him/herself. However, if there is any other eligible adult of an unemancipated minor in the household, even though they would not normally be considered the household head, that eligible person should make application as the head of household.	individual, the ineligible individual may apply on behalf of the eligible minors without being considered as having applied for him/herself. However, if there is any other eligible adult of an unemancipated minor in the household, even though they would not normally be considered the household head, that eligible person should make application as the head of household.		
4.202.3	Removing section	**4.202.3 SSI Households Submitting Food Assistance Applications to the SSA** A. Whenever a member of a household consisting only of SSI applicants or recipients transacts business at an SSA office, the member has a right to make a household application for Food Assistance at the SSA office or the local office. The SSA office is not required to accept applications for SSI applicants or recipients who are not members in a household consisting entirely of SSI recipients unless a county has outstationed a worker at the SSA office. The SSA office will refer non-SSI households to the correct local office. An applicant or recipient of SSI shall be informed at the SSA office of the availability of benefits under the Food Assistance Program and the availability of the Food Assistance application at the SSA office. The SSA office shall also complete joint SSI and Food Assistance applications for residents of public institutions who apply for SSI prior to their release from the institutions. The applicants shall be permitted to apply for Food Assistance at the same time that they apply for SSI. B. The SSA office will accept and complete Food Assistance applications from SSI households and forward them, within one working day after receipt of a signed application, to the appropriate county local office. The SSA will use the Food Assistance application. The application will be transmitted to the local office with documentation of verification obtained. When an SSA office sends a Food Assistance application and supporting documentation to an incorrect local office, the application and		Removing section as Colorado does not have a contract with SSA	

		documentation shall be sent to the correct office within one working day. C. The SSA office is required to prescreen all Food Assistance applications for entitlement to expedited service and shall mark “expedited processing” on the first page of all applications of households that appear to be entitled to such processing. The SSA will inform households which appear to meet the criteria for expedited service that benefits may be issued a few days sooner if the household applies directly at the local office. The household may take the application from the SSA office to local office for screening, interviewing, and processing of the application. Each local office shall furnish the SSA office(s) serving its geographical area with a street map and/or map defining its boundaries together with the addresses of the certification offices in the project area. D. The local office shall prescreen all applications received from the SSA office for entitlement to expedited service on the day the application is received at the correct local office. All households entitled to expedited service shall be certified in accordance with Sections 4.205.1 and 4.205.11, except that the expedited processing time standard shall begin on the date the application is received at a local office in the correct county. To prevent duplication, the local office shall develop and implement a method to determine if members of SSI households whose applications are forwarded by the SSA office are currently participating in the Food Assistance Program. E. The SSA office shall refer non-SSI households and those in which not all members have applied for or received SSI to the correct local office. The local offices shall process those applications in accordance with the normal and expedited application processing standards and procedures. Applications from such households shall be considered as filed on the date the signed application is taken at a local office in the correct county.			

4.202.31	Removing section	**4.202.31 SSI Telephone Applications and Recertifications Completed by the SSA** A. If an SSA office takes an SSI application or redetermination on the telephone from a member of a pure SSI household, a Food Assistance application shall also be completed during the telephone interview and shall be mailed by the SSA office to the applicant for signature for return to the SSA office or to the local office. The SSA office shall then forward any Food Assistance applications it receives to the local office. The local office shall not require the household to be interviewed again. The local office may contact the household further to obtain additional information for the eligibility determination. B. The SSA office shall mail information of the client's right to file a Food Assistance application at the SSA office if they are members of a pure SSI household, or at their local office, and their right to an interview to be performed by the county department. C. For households consisting entirely of applicants for, or recipients of, SSI who apply for Food Assistance certification at an SSA office, the application shall be considered filed for normal processing purposes when the application is received by the SSA.		Removing section as Colorado does not have a contract with SSA	
4.202.32	Removing section	**4.202.32 SSI and Food Assistance Joint Processing** A. In those instances where the application has been completed at the SSA office, the local office shall ensure that information required by Section 4.502 is verified prior to certification for households initially applying, and households entitled to expedited certification services shall be processed in accordance with Sections 4.205.1 and 4.205.11. In those cases where the SSI household submits its Food Assistance application to the local office rather than through the SSA office, all verification, including that pertaining to SSA program benefits, shall be provided by the household, by SDX or BENDEX, or obtained by the local office rather than being provided by the SSA. For those cases in which SSI and Food Assistance are		Removing section as Colorado does not have a contract with SSA	

		being processed simultaneously, the local office shall question the household and/or use SDX listings to obtain information on SSI determinations. If the information cannot be obtained through SDX listings and/or questioning the households, a written inquiry may be made to the SSA office to obtain information of the status of SSI determinations. Within ten (10) calendar days of learning of the determination of the SSI application, the local office shall take action in accordance with Section 4.604. B. The expedited processing time standard for applicants who filed prior to the release from a public institution will begin on the date that the individual is released from the public institution. The SSA shall notify the local office of the date of release of the applicant from the institution. Benefits shall be restored back to the date of an applicant's release from a public institution if, while in the institution, the applicant jointly applied for SSI and Food Assistance, but the local office was not notified on a timely basis of the applicant's release.			
4.202.33	Removing section	**4.202.33 Outstationing Eligibility Workers in SSA Offices** If the county, with the approval of the State Department, chooses to outstation eligibility workers at SSA offices, with SSA's concurrence, the following actions shall be completed: A. SSA will provide adequate space for Food Assistance eligibility workers in SSA offices; B. The county shall have at least one outstationed worker on duty at all time periods during which households will be referred for Food Assistance application processing. In most cases, this would require the availability of an outstationed worker throughout normal SSA business hours; C. The following households shall be entitled to file Food Assistance applications with, and be interviewed by, an outstationed eligibility worker:		Removing section as Colorado does not have a contract with SSA	

		1. Households containing an applicant for or recipient of SSI. 2. Households which do not have an applicant for or recipient of SSI but which contain an applicant for or recipient of benefits under Title II of the Social Security Act, if the county and the SSA have an agreement to allow the processing of such households at SSA offices. D. Households shall be interviewed for Food Assistance on the day of application unless there is insufficient time to conduct an interview. The county shall arrange for the outstationed worker to interview applicants as soon as possible; E. The outstationed eligibility worker(s) shall not refuse to provide service to an applicant because they do not reside in the county or project area in which the SSA office is located, provided that they reside within the jurisdiction served by the SSA office and the State. The county is not required to process the applications of persons who are not residing within the SSA office's jurisdiction but who do reside within the county's jurisdiction, other than to forward the forms to the correct local offices; F. The county may permit the eligibility worker outstationed at the SSA office to determine the eligibility of households, or may require that completed applications be forwarded elsewhere for the eligibility determination; G. Applications from households entitled to joint processing through an outstationed eligibility worker shall be considered filed on the date they are submitted to that worker. Both the normal and expedited service time standards shall begin on that date; and, H. Households not entitled to joint processing shall be entitled to obtain and submit applications at the SSA office. The outstationed eligibility worker need not process these applications except to forward them to correct local office where they shall be considered			

		filed upon receipt. Both the normal and expedited service time standards shall begin on that date.			
4.203.1	Program name update; and incorrect grammar	**4.203.1 Designating a Head of Household** A. The local office shall allow a household to select an adult parent of children (of any age) living in the household, or an adult who has parental control over children (under 18 years of age) living in the household, as the head of household provided that all adult members agree to the selection. The household may make this designation each time the household is certified for participation, but may not change the designation during a certification period unless there is a change in the composition of the household. B. The local office shall not use the head of household designation to impose special requirements on the household, such as require that the head of household, rather than another responsible member of the household, appear at the local office to make application for benefits. If the household is not able to select its head of household, or an eligible household does not choose to select its head of household, the local office may make a reasonable determination of the head of household with an understanding that the head of household is usually the household member who has the most knowledge of the household's financial circumstances. Such individual must be a household member, except that, if the only adult in the Food Assistance household is a non-household member, such individual may make application on behalf of the household of minors as the authorized representative.	**4.203.1 Designating a Head of Household** A. The local office shall allow a household to select an adult parent of children (of any age) living in the household, or an adult who has parental control over children (under 18 years of age) living in the household, as the head of household provided that all adult members agree to the selection. The household may make this designation each time the household is certified for participation but may not change the designation during a certification period unless there is a change in the composition of the household. B. The local office shall not use the head of household designation to impose special requirements on the household, such as require that the head of household, rather than another responsible member of the household, appear at the local office to apply for benefits. If the household is not able to select its head of household, or an eligible household does not choose to select its head of household, the local office may make a reasonable determination of the head of household with an understanding that the head of household is usually the household member who has the most knowledge of the household's financial circumstances. Such individuals must be a household member, except that, if the only adult in the SNAP household is a non-household member, such individual may apply on behalf of the household of minors as the authorized representative.	Updating Food Assistance to SNAP; and grammar correction	
4.203.2(A)	Program name update; and incorrect grammar	**4.203.2 Designating Authorized Representatives** A. The head of the household, spouse or any other responsible household member may designate in writing someone to act on behalf of the household to make an application, obtain an EBT card, and/or use the EBT card to purchase food for the household. In instances where a household is in need of an authorized representative but is unable to obtain one, the local office will assist such a household in finding an authorized representative. The certification office	**4.203.2 Designating Authorized Representatives** A. The head of the household, spouse or any other responsible household member may designate in writing someone to act on behalf of the household to apply, obtain an EBT card, and/or use the EBT card to purchase food for the household. In instances where a household needs an authorized representative but is unable to obtain one, the local office will assist such a household in finding one. The local office will assure that authorized representatives are properly designated; that is, the name of the authorized	Updating Food Assistance to SNAP; and correcting grammar	

		will assure that authorized representatives are properly designated; that is, the name of the authorized representative and the justification for appointing a person outside the household shall be maintained as part of the household's permanent case record. 1. Making an Application The authorized representative must be a person who is sufficiently aware of relevant household circumstances. Whenever possible, the head of the household or spouse should prepare or review the application even though another household member or an authorized representative is the person interviewed. The local office shall inform the household that the household will be held liable for any over-issuance which results from erroneous information given by the authorized representative. 2. Obtaining an EBT Card An authorized representative may be designated to obtain an EBT card for the household at the time the household applies for participation. The authorized representative responsible for obtaining an EBT card may be the same individual designated to make application for the household or may be another individual. Even if a household member is able to make an application and obtain an EBT card, the household should be encouraged to name an authorized representative responsible for obtaining an EBT Card in case of illness or other circumstances which might result in an inability to obtain Food Assistance benefits.	representative and the justification for appointing a person outside the household shall be maintained as part of the household's permanent case record. 1. Submitting an Application The authorized representative must be a person who is sufficiently aware of relevant household circumstances. Whenever possible, the head of the household or spouse should prepare or review the application even though another household member or an authorized representative is the person interviewed. The local office shall inform the household that the household will be held liable for any over-issuance which results from erroneous information given by the authorized representative. 2. Obtaining an EBT Card An authorized representative may be designated to obtain an EBT card for the household at the time the household applies for participation. The authorized representative responsible for obtaining an EBT card may be the same individual designated to apply for the household or may be another individual. Even if a household member can apply and obtain an EBT card, the household should be encouraged to name an authorized representative responsible for obtaining an EBT Card in case of illness or other circumstances which might result in an inability to obtain SNAP benefits.		
4.203.21	Program name update; non-standardized acronyms; and non-standardized language	**4.203.21 Individuals Who Cannot Be an Authorized Representative** The following individuals cannot be an authorized representative unless otherwise stated: A. County department employees who are involved in Program eligibility determination and/or issuance processes, or the supervisors of such workers, unless the local office determines that no other representative is available.	**4.203.21 Individuals Who Cannot Be an Authorized Representative** The following individuals cannot be an authorized representative unless otherwise stated: A. Local office employees who are involved in Program eligibility determination and/or issuance processes, or the supervisors of such workers, unless the local office determines that no other representative is available.	Updating Food Assistance to SNAP; standardizing acronyms; and	

		B. Employees of FNS-authorized retailers and meal services that are authorized to accept Food Assistance benefits, unless the local office determines that no other representative is available. C. An individual disqualified for Intentional Program Violation (IPV)/fraud shall not be an authorized representative during the period of disqualification unless the individual is the only adult in the household and the office is unable to arrange for another authorized representative. Local offices shall determine whether these disqualified individuals are needed to apply on behalf of the household, to obtain Food Assistance benefits for the household, and to use the household's Food Assistance benefits to purchase food. D. In no event may an authorized meal provider for homeless persons act as an authorized representative.	B. Employees of FNS-authorized retailers and meal services that are authorized to accept SNAP benefits, unless the local office determines that no other representative is available. C. An individual disqualified for IPV/fraud shall not be an authorized representative during the period of disqualification unless the individual is the only adult in the household and the office is unable to arrange for another authorized representative. Local offices shall determine whether these disqualified individuals are needed to apply on behalf of the household, to obtain SNAP benefits for the household, and to use the household's SNAP benefits to purchase food. D. In no event may an authorized meal provider for homeless persons act as an authorized representative.	standardizing language	
4.203.22	Program name update	**4.203.22 Disqualification of an Authorized Representative** An authorized or emergency representative may be disqualified from representing a household in the Food Assistance Program for up to one (1) year if the local office has obtained evidence that the representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has made improper use of Food Assistance benefits. The local office shall send written notification to the affected household(s) and to the representative thirty (30) calendar days prior to the date of disqualification. The notification shall include the proposed action, the reason for the proposed action, the household's right to request a fair hearing, the telephone number of the office, and, if possible, the name of the person to contact for additional information. This provision is not applicable in the case of drug and alcohol treatment centers or to the heads of group living arrangements that act as authorized representatives for their residents. However, drug and alcohol treatment centers and the heads of group living arrangements that act as authorized representatives for their residents, and that intentionally misrepresent households' circumstances, may be prosecuted under applicable state fraud statutes for their acts.	**4.203.22 Disqualification of an Authorized Representative** An authorized or emergency representative may be disqualified from representing a household in SNAP for up to one (1) year if the local office has obtained evidence that the representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household or has made improper use of SNAP benefits. The local office shall send written notification to the affected household(s) and to the representative thirty (30) calendar days prior to the date of disqualification. The notification shall include the proposed action, the reason for the proposed action, the household's right to request a fair hearing, the telephone number of the office, and, if possible, the name of the person to contact for additional information. This provision is not applicable in the case of drug and alcohol treatment centers or to the heads of group living arrangements that act as authorized representatives for their residents. However, drug and alcohol treatment centers and the heads of group living arrangements that act as authorized representatives for their residents, and that intentionally misrepresent households' circumstances, may be prosecuted under applicable state fraud statutes for their acts.	Updating Food Assistance to SNAP	

4.204	Program name updates, non-standardized acronyms and language, and removal of non-applicable regulations	**4.204 Interviews** A. Interview Requirements All applicant households shall undergo a phone or face-to-face interview with a qualified eligibility worker prior to initial certification and at least once every twelve (12) months. A household certified for twenty-four (24) months is not required to complete an interview at the 12 month PRF or at twenty-four (24) month recertification, unless the household either requests an interview, is potentially going to be denied for food assistance, or has any outstanding issues or questions about the recertification process. The applicant may include any person(s) he or she chooses for the interview. The individual interviewed may be the head of the household, spouse, or any other responsible member of the household, or an authorized representative. A face-to-face interview may be conducted at the county local office or a mutually acceptable location, including the household's residence upon household request. If the interview is to be conducted at the residence, it must be scheduled in advance. The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview. The eligibility worker shall not simply review the information entered on the application, but shall explore and resolve with the household unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including the appropriate application processing standard and the household's responsibility to report changes. The interviewer must advise households which are applying for other public assistance programs that any time limits and other requirements for the receipt of other public assistance do not apply to the receipt of Food Assistance. Households may still qualify for Food Assistance if they have reached a time limit, begun working, or lost benefits from another program for another reason. Upon determination that a person should be referred	**4.204 Interviews** A. Interview Requirements All applicant households shall undergo a phone or face-to-face interview with a qualified eligibility technician prior to initial certification and at least once every twelve (12) months. The State Department recommends phone interviews as the default option with face-to-face interviews only scheduled upon client request. If an individual does not list a working phone number on the application, then a number for the client to call the county office should be provided. A household certified for twenty-four (24) months is not required to complete an interview at the 12-month PRF or at twenty-four (24) month recertification, unless the household either requests an interview, is potentially going to be denied for SNAP (24-month households only) or has any outstanding issues or questions about the recertification process. The applicant may include any person(s) he or she chooses for the interview. The individual interviewed may be the head of the household, spouse, or any other responsible member of the household, or an authorized representative. A face-to-face interview may be conducted at the local office or a mutually acceptable location, including the household's residence upon household request. If the interview is to be conducted at the residence, it must be scheduled in advance. The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview. The eligibility technician shall not simply review the information entered on the application but shall explore and resolve with the household unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including the appropriate application processing standard and the household's responsibility to report changes. The interviewer must advise households which are applying for other PA programs that any time limits and other	Updating Food Assistance to SNAP; standardizing acronyms and language; and removal of section that does not pertain to Colorado regulation	

		to an Employment First Unit, the county department shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work registered household members, and the consequences of failure to comply. The local office shall provide a written statement of these requirements to each work registrant in the household and to each previously exempt or new household member when that person becomes subject to the work registration and at recertification. B. Scheduling Interviews The local office must schedule an interview for all applicant households who are not interviewed on the same day they submit an application to the county department. Interviews shall be scheduled for a specific date and time and an appointment letter shall be given to the client. All interviews, including the date and time of the interview, shall be documented in the case record. When scheduling interviews, the interview shall be scheduled as promptly as possible to ensure that eligible applicant households receive an opportunity to participate within the Program's processing guidelines, as outlined in Section 4.205. When the interview is scheduled, the applicant shall be notified that if it a responsible member of the household or its authorized representative fails to attend the interview, the household will be responsible for rescheduling and attending an interview within thirty (30) days from the date of application and that failure to do so shall result in the denial of the application. C. Missed Interviews If the household fails to attend its scheduled interview, the local office shall mail the household a notice of missed interview, informing the household that it missed the scheduled interview and that the household is responsible for rescheduling the interview. If the household does not schedule a subsequent interview for a date within thirty (30) calendar days after the application is filed, the application shall be denied by the local office on the thirtieth (30th) day following the date of application. The application shall not be denied before the thirtieth (30th) day. If the household fails to appear for a	requirements for the receipt of other PA do not apply to the receipt of SNAP. Households may still qualify for SNAP if they have reached a time limit, begun working, or lost benefits from another program for another reason. Upon determination that a person should be referred to an Employment First Unit, the local office shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work registered household members, and the consequences of failure to comply. The local office shall provide a written statement of these requirements to each work registrant in the household and to each previously exempt or new household member when that person becomes subject to the work registration and at recertification. B. Scheduling Interviews The local office must schedule an interview for all applicant households who are not interviewed on the same day they apply to the local office. Interviews shall be scheduled for a specific date and time and an appointment letter must be provided to the client at the address on file. All interviews, including the date and time of the interview, shall be documented in the case record. If the local office fails to schedule an interview with the household before the 30th day and no later than the 60th day, the original application can be used, and benefits are issued from the original date of application. If the household requests an interview date after the 30th day, the local office will deny the application on the 30th day and the household must file a new application. C. Missed Interviews If the household fails to attend its scheduled interview, the local office shall mail the household a notice of missed interview, informing the household that it missed the scheduled interview and that the household is responsible for rescheduling the interview. If the household does not schedule a subsequent interview for a date within 30 calendar days after the application is filed, the application shall be denied by the local office on the 30th day following the date of application. The application shall not be denied before the 30th day. If a household misses its first interview, the household forfeits its right to expedited		

		rescheduled interview, no further action need be taken by the local office, unless requested by the household. If a household misses its first interview, the household forfeits its right to expedited service, unless the second interview is rescheduled for a date within seven (7) days following the date of application. If a household completes an interview any time after the thirtieth (30th) day but no later than the sixtieth (60th) day from the date of application, then the original application shall be used to determine eligibility, and the household shall not be required to complete a new application. However, the household's benefits will be prorated from the date the required action was taken within the second thirty (30) day period. If the household makes contact with the agency after the sixtieth (60th) day following the date of application, the household shall be required to complete a new application. D. Interviews for Public Assistance Households If a household is applying for both public assistance and Food Assistance, the county department shall conduct a single interview at initial application for both public assistance and Food Assistance purposes. The applicant household shall complete the combined application for public assistance and Food Assistance. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for Food Assistance and public assistance. A household's eligibility for an out-of-office interview for Food Assistance purposes does not relieve the household of any responsibility for a face-to-face interview for public assistance purposes. Except for households which may be eligible under basic categorical eligibility, the household's Food Assistance eligibility and benefit level shall be based solely on Food Assistance eligibility criteria, and all households shall be certified in accordance with the noticing, procedural, and timeliness requirements of the Food Assistance regulations. The PA applicant household shall indicate on the single purpose application if it does not wish to apply for Food Assistance.	service, unless the second interview is rescheduled for a date within seven (7) days following the date of application. D. Interviews for PA Households If a household is applying for both PA and SNAP, the local office shall conduct a single interview at initial application for both PA and SNAP purposes. The applicant household shall complete the combined application for PA and SNAP. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for SNAP and PA. A household's eligibility for an out-of-office interview for SNAP purposes does not relieve the household of any responsibility for a face-to-face interview for PA purposes. Except for households which may be eligible under basic categorical eligibility, the household's SNAP eligibility and benefit level shall be based solely on SNAP eligibility criteria, and all households shall be certified in accordance with the noticing, procedural, and timeliness requirements of the SNAP regulations. The PA applicant household shall indicate on the single purpose application if it does not wish to apply for SNAP.		

		E. Interviews for SSI Households Households in which all members are applying for SSI or receiving SSI and are applying and being interviewed for Food Assistance by SSA, will not be required to see a Food Assistance eligibility worker or otherwise be subjected to an additional certification interview. The local office shall accept SSA documentation and shall not contact the household to obtain additional information for the eligibility determination unless the application is improperly completed, mandatory verification required by Section 4.502 is missing, or the local office determines that certain information on the application is questionable. In no event shall the applicant be required to appear at the local office to finalize the eligibility determination. Further contact made in accordance with this paragraph shall not constitute a second Food Assistance certification interview.			
4.205.2(A)	Program name updates; non-standardized language; incorrect regulatory language	**4.205.2 Normal Processing Standards** A. The county local office shall process applications as expeditiously as possible and provide eligible households a written notification of their eligibility. The applicant household must receive a Notice of Action form, which will indicate the household's period of eligibility and Food Assistance allotment. Eligible households shall be provided an opportunity to obtain benefits as soon as possible, but no later than thirty (30) calendar days following the date the application was filed. Except for applications filed at an SSA office, an application shall be considered filed the day a local office in the correct county receives a valid application containing the applicant's name, address, and signature. Households found to be ineligible shall be sent a Notice of Action form denying the household as soon as possible, but no later than thirty (30) calendar days following the date the application was filed. Applicant households that refuse to cooperate in completing the application process shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly refuse to take actions that are required to complete the application process. B. In cases where verification is incomplete, the local office	**4.205.2 Normal Processing Standards** A. The local office shall process applications as expeditiously as possible and provide eligible households a written notification of their eligibility. The applicant household must receive a Notice of Action form, which will indicate the household's period of eligibility and SNAP allotment. Eligible households shall be provided an opportunity to obtain benefits as soon as possible, but no later than thirty (30) calendar days following the date the application was filed. An application shall be considered filed the day a local office in the correct county receives a valid application containing the applicant's name, address, and signature. Households found to be ineligible shall be sent a Notice of Action form denying the household as soon as possible, but no later than thirty (30) calendar days following the date the application was filed. Applicant households that refuse to cooperate in completing the application process shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly refuse to take actions that are required to complete the application process. B. In cases where verification is incomplete, the local office shall provide the household with a statement of required verification on the state-prescribed notice form and offer to	Updating Food Assistance to SNAP; standardization of language; and removal of incorrect regulatory language	

		shall provide the household with a statement of required verification on the state-prescribed notice form and offer to assist the household in obtaining the required verification. The office shall allow the household ten (10) calendar days to provide the missing verifications, unless the household missed the first appointment. If the household misses the first appointment and the interview cannot otherwise be rescheduled until after the twentieth (20th) day but before the thirtieth (30th) day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the thirtieth (30th) day. A household can be found ineligible or eligible for the month of application and for the following month based on one (1) application, if sufficient information for such determination is available. The state-prescribed notice form shall reflect specific months of eligibility and ineligibility. C. Applications are valid for a period of sixty (60) calendar days. Households reapplying for benefits following a determination of ineligibility more than sixty (60) calendar days from the date of the original application must submit a new application.	assist the household in obtaining the required verification. The office shall allow the household ten (10) calendar days to provide the missing verifications unless the household missed the first appointment. If the household misses the first appointment and the interview cannot otherwise be rescheduled until after the twentieth (20th) day but before the thirtieth (30th) day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the thirtieth (30th) day. A household can be found ineligible or eligible for the month of application and for the following month based on one application if sufficient information for such determination is available. The state-prescribed notice form shall reflect specific months of eligibility and ineligibility.		
4.205.3	Program name update; inconsistent language	**4.205.3 Delays in Processing Beyond Thirty (30) Days** If the local office does not determine a household's eligibility and provide an opportunity to participate within thirty (30) calendar days following the date the application was filed, the office shall determine whether the delay was caused by failure to act on the part of the household or on the part of the local office. The following shall be used to determine causes of delay beyond thirty (30) calendar days in the application process: A. If a household has failed to complete a Food Assistance application form even though the local office offered to assist the client in its completion, the household shall be at fault. If the local office failed to offer assistance to the household, the local office is at fault. If the local office offered the household assistance in completing the application but the household failed to cooperate or failed to complete the application process, the local office shall document in the case record its attempt to assist the household. B. If a nonexempt household member failed to register for work even though the local office informed the household	**4.205.3 Delays in Processing Beyond Thirty (30) Days** If the local office does not determine a household's eligibility and provide an opportunity to participate within thirty (30) calendar days following the date the application was filed, the office shall determine whether the delay was caused by failure to act on the part of the household or on the part of the local office. The following shall be used to determine causes of delay beyond thirty (30) calendar days in the application process: A. If a household has failed to complete a SNAP application form even though the local office offered to assist the client in its completion, the household shall be at fault. If the local office failed to assist the household, the local office is at fault. If the local office offered the household assistance in completing the application but the household failed to cooperate or failed to complete the application process, the local office shall document in the case record its attempt to assist the household. B. If a nonexempt household member failed to register for work even though the local office informed the household of the work requirements, the household shall be at fault unless paragraph D of this section applies. If the local office did not give the client	Updating Food Assistance to SNAP; and removal of inconsistent language	

		of the work requirements, the household shall be at fault unless paragraph D of this section applies. If the local office did not give the client at least ten (10) calendar days to supply information, the local office is at fault. C. If requested verification is missing even though the local office offered to provide assistance and a written notice of needed verification was provided and the household was allowed ten (10) calendar days to supply necessary verification, the household shall be considered at fault unless paragraph D of this section applies. If the local office did not request necessary verification through a written notice, or assist the client as required by these regulations, or give the client time to provide information, then the local office is at fault. D. If the household failed to appear for the first (1st) interview, failed to schedule a second (2nd) interview and/or requested to postpone the interview until after the 30th day following the date of application, the delay shall be the household's fault.	at least ten (10) calendar days to supply information, the local office is at fault. C. If requested verification is missing even though the local office offered assistance and a written notice of needed verification was provided and the household was allowed ten (10) calendar days to supply necessary verification, the household shall be considered at fault unless paragraph D of this section applies. If the local office did not request necessary verification through a written notice, or assist the client as required by these regulations, or give the client time to provide information, then the local office is at fault. D. If the household failed to appear for the first (1st) interview, failed to schedule a second (2nd) interview and/or requested to postpone the interview until after the 30th day following the date of application, the delay shall be the household's fault.		
4.205.32	Program name update	**4.205.32 Delays Caused by the Food Assistance Office**	**4.205.32 Delays Caused by the Local Office**	Updating Food Assistance to SNAP in section title	
4.206	Program name update; non-standardized language; and non-standardized acronyms	**4.206 CATEGORIES OF ELIGIBILITY** A. Households applying for Food Assistance must be determined eligible using one of the following categories of eligibility: Basic Categorical Eligibility (BCE), Expanded Categorical Eligibility (ECE) or Standard Eligibility. B. Food Assistance households that are applying for or receiving benefits from other assistance programs in addition to Food Assistance are still required to meet the resource limits and follow the reporting and verification requirements of the other program. Requests for information and verification to determine eligibility for other programs shall not affect or delay the determination of Food Assistance eligibility.	**4.206 CATEGORIES OF ELIGIBILITY** A. Households applying for SNAP must be determined eligible using one of the following categories of eligibility: Basic Categorical Eligibility (BCE), Expanded Categorical Eligibility (ECE) or Standard Eligibility. B. SNAP households that are applying for or receiving benefits from other assistance programs in addition to SNAP are still required to meet the resource limits and follow the reporting and verification requirements of the other program. Requests for information and verification to determine eligibility for other programs shall not affect or delay the determination of SNAP eligibility. C. Eligibility	Updating Food Assistance to SNAP; standardizing language; and standardizing acronyms	

		C. Eligibility 1. Basic Categorical Eligibility (BCE) a. Basic categorically eligible households are: 1) Households in which all members receive, or are authorized to receive, Supplemental Security Income (SSI) or benefits from the Colorado Works Program, Old Age Pension (OAP), Aid to the Needy Disabled (AND), Aid to the Blind (AB) or a combination of these benefits. The Colorado Works, SSI, OAP, and/or AB program(s) need only to authorize benefits for participants in order for the household to be considered for basic categorical eligibility. Individuals who are authorized to receive a benefit from one or more of these programs, but who are not paid such benefits because the grant is less than a minimum benefit or the benefits are suspended or are being recouped, are still considered eligible under basic categorical eligibility rules. Households not receiving, or authorized to receive, Temporary Assistance for Needy Families (TANF) Title IV-A or SSI benefits, who are entitled to Medicaid only, shall not be considered SSI or Title IV-A participants. 2) A household in which at least one (1) member receives services from the Family Preservation Program. This determination must be documented in the case record. b. Households eligible under basic categorical eligibility have been deemed to have met the income and resource requirements of the program that confers eligibility; therefore, no further verification is required beyond that gathered by the	1. Basic Categorical Eligibility (BCE) a. Basic categorically eligible households are: 1) Households in which all members receive, or are authorized to receive, SSI, CW, Old Age Pension (OAP), Aid to the Needy Disabled (AND), Aid to the Blind (AB) or a combination of these benefits. The CW, SSI, OAP, and/or AB program(s) need only to authorize benefits for participants in the household to be considered for BCE. Individuals who are authorized to receive a benefit from one or more of these programs, but who are not paid such benefits because the grant is less than a minimum benefit or the benefits are suspended or are being recouped, are still considered eligible under BCE rules. Households not receiving, or authorized to receive, TANF, Title IV-A or SSI benefits, who are entitled to Medicaid only, shall not be considered SSI or Title IV-A participants. 2) A household in which at least one (1) member receives services from the Family Preservation Program. This determination must be documented in the case record. b. Households eligible under BCE have been deemed to have met the income and resource requirements of the program that confers eligibility; therefore, no further verification is required beyond that gathered by the program that confers eligibility. However, the agency must collect and verify eligibility factors, if these factors are not already collected and verified by the other program, are considered questionable, or are unavailable to SNAP. This includes: 1) Net income; 2) Gross income; 3) Resources;		

		program that confers eligibility. However, the agency must collect and verify eligibility factors. If these factors are not already collected and verified by the other program, are considered questionable, or are unavailable to the Food Assistance Program. This includes: 1) Net income; 2) Gross income; 3) Resources; 4) Residency; 5) Social Security Number; 6) Sponsored non-citizen information. c. A household cannot be considered under basic categorical eligibility rules if, at the time of application: 1) Any member is disqualified for an Intentional Program Violation of the Food Assistance Program. 2) Any member has been convicted of a drug-related felony where Food Assistance benefits were used to purchase drugs. d. Households that are ineligible for Food Assistance benefits under basic categorical eligibility rules shall have their eligibility determined under expanded or standard eligibility rules. 2. Expanded Categorical Eligibility (ECE) a. Expanded categorical eligibility households are: 1) Households with a combined gross income at or below two hundred percent (200%) of the federal poverty level; and	4) Residency; 5) Social Security Number; 6) Sponsored non-citizen information. c. A household cannot be considered under BCE rules if, at the time of application: 1) Any member is disqualified for a SNAP IPV. 2) Any member has been convicted of a drug-related felony where SNAP benefits were used to purchase drugs. d. Households that are ineligible for SNAP benefits under BCE rules shall have their eligibility determined under ECE or SE rules. 2. Expanded Categorical Eligibility (ECE) a. ECE households are: 1) Households with a combined gross income at or below two hundred percent (200%) of the federal poverty level; and 2) Households who have been authorized to receive a non-cash Temporary Assistance to Needy Families/Maintenance of Effort (TANF/MOE) funded service designed to further TANF Purpose Four (4) by “encouraging the formation and maintenance of two- parent families.” Language regarding the non-cash TANF/MOE funded program shall be provided on the application, recertification application, periodic report form, and/or the statement of facts. b. Households eligible under ECE have been deemed to have met the income and resource requirements of the program that confers eligibility; therefore, no further verification is required beyond that gathered by the program that confers eligibility. However, the agency must collect and verify eligibility factors, if these factors are not already collected and verified by the other		

		2) Households who have been authorized to receive a non-cash Temporary Assistance to Needy Families/Maintenance of Effort (TANF/MOE) funded service designed to further TANF Purpose Four (4) by "encouraging the formation and maintenance of two- parent families." Language regarding the non-cash TANF/MOE funded program shall be provided on the application, recertification application, periodic report form, and/or the statement of facts. b. Households eligible under expanded categorical eligibility have been deemed to have met the income and resource requirements of the program that confers eligibility; therefore, no further verification is required beyond that gathered by the program that confers eligibility. However, the agency must collect and verify eligibility factors. If these factors are not already collected and verified by the other program, are considered questionable, or are unavailable to the Food Assistance Program. This includes: 1) Net income; 2) Gross income; 3) Resources; 4) Residency; 5) Social Security Number; 6) Sponsored non-citizen information c. A household's eligibility cannot be determined using expanded categorical eligibility rules if, at the time of application: 1) Any member is disqualified for an Intentional Program Violation of the food	program, are considered questionable, or are unavailable to SNAP. This includes: 1) Net income; 2) Gross income; 3) Resources; 4) Residency; 5) Social Security Number; 6) Sponsored non-citizen information c. A household's eligibility cannot be determined using ECE rules if, at the time of application: 1) Any member is disqualified for a SNAP IPV. 2) Any member has been convicted of a drug-related felony where SNAP benefits were used to purchase drugs. d. Households that are ineligible for SNAP benefits under ECE rules shall have their eligibility determined under SE rules. 3. Standard Eligibility (SE) a. SE rules shall only be applied to the following households: 1) Households that include a member who is serving a disqualification for an IPV or a fraud conviction. 2) Households that include a member who has been convicted of a drug related felony where SNAP benefits were used to purchase drugs. 3) Households that do not meet the criteria to be considered under BCE or ECE rules. b. Households having their eligibility reviewed under SE rules must meet the following criteria:		

		assistance program. 2) Any member has been convicted of a drug-related felony where Food Assistance benefits were used to purchase drugs. d. Households that are ineligible for Food Assistance benefits under expanded categorical eligibility rules shall have their eligibility determined under standard eligibility rules. 3. Standard Eligibility (SE) a. Standard eligibility rules shall only be applied to the following households: 1) Households that include a member who is serving a disqualification for an IPV or a fraud conviction. 2) Households that include a member who has been convicted of a drug-related felony where Food Assistance benefits were used to purchase drugs. 3) Households that do not meet the criteria to be considered under basic or expanded categorical eligibility rules. b. Households having their eligibility reviewed under standard eligibility rules must meet the following criteria: 1) Households that include a member who is elderly or a person with a disability must have a combined net income, after all applicable deductions, at or below one hundred percent (100%) of the federal poverty level. The household must have resources below the limit prescribed in Section 4.408. 2) Households that do not include a member who is elderly or a person with a disability must have a combined gross	1) Households that include a member who is aged 60 and older or a person with a disability must have a combined net income, after all applicable deductions, at or below one hundred percent (100%) of the federal poverty level. The household must have resources below the limit prescribed in Section 4.408. 2) Households that do not include a member who is aged 60 and older or a person with a disability must have a combined gross income at or below one hundred thirty percent (130%) of the federal poverty level. After all applicable deductions, the household's net income must be at or below one hundred percent (100%) of the federal poverty level. The household must have resources below the limit prescribed in Section 4.408. 3) Households must also meet nonfinancial eligibility criteria set out in Section 4.300. c. Households, as defined in Section 4.304, that are found ineligible under SE rules shall be considered ineligible for participation in SNAP. D. If the circumstances which allowed the household to meet the criteria to be considered under BCE or ECE rules change during the certification period or at the time of recertification or periodic report, the household's eligibility must be re-evaluated according to the appropriate category. If there is insufficient documentation to make an eligibility determination based on the new category of eligibility, the agency shall send the household a request for verification in accordance with Sections 4.604, Action on Reported Changes, and 4.604.1, Verification of Reported Changes. E. Substantial lottery or gambling winnings from an individual will disqualify the entire SNAP household from eligibility in the month the winnings are received. The next time such a household reapplies and is certified for SNAP after losing eligibility, the household would not be considered categorically eligible for the next eligible		

		income at or below one hundred thirty percent (130%) of the federal poverty level. After all applicable deductions, the household's net income must be at or below one hundred percent (100%) of the federal poverty level. The household must have resources below the limit prescribed in Section 4.408. 3) Households must also meet nonfinancial eligibility criteria set out in Section 4.300. c. Households, as defined in Section 4.304, that are found ineligible under standard eligibility rules shall be considered ineligible for participation in the Food Assistance Program. D. If the circumstances which allowed the household to meet the criteria to be considered under basic or expanded categorical rules change during the certification period or at the time of recertification or periodic report, the household's eligibility must be re-evaluated according to the appropriate category. If there is insufficient documentation to make an eligibility determination based on the new category of eligibility, the agency shall send the household a request for verification in accordance with Sections 4.604, Action on Reported Changes, and 4.604.1, Verification of Reported Changes. E. Substantial lottery or gambling winnings from an individual will disqualify the entire Food Assistance household from eligibility in the month the winnings are received. The next time such a household reapplies and is certified for snap after losing eligibility, the household would not be considered categorically eligible for the next eligible certification period. After receiving snap as a standard eligibility household, the snap household will be reevaluated for categorical eligibility at the next eligible certification period.	certification period. After receiving SNAP as a SE household, the SNAP household will be re-evaluated for categorical eligibility at the next eligible certification period.		

4.207.2(A)	Program name update	**4.207.2 Initial Month Allotment Prorating** A. A household's benefit level for the initial month of application shall be based on the day of the month it applies for benefits. Benefits for the initial month shall be prorated from the date of application to the end of the month. Applicant households consisting of residents of a public institution who apply jointly for SSI and Food Assistance prior to release from an institution will have their eligibility determined for the month in which the applicant household was released from the institution. The benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution and the household shall receive benefits from the date of the household's release through the end of the month. Eligible households are entitled to a full month allotment for all months except an initial month of application.	**4.207.2 Initial Month Allotment Prorating** A. The household benefit level for the initial month of application shall be based on the day of the month it applies for benefits. Benefits for the initial month shall be prorated from the date of application to the end of the month. Applicant households consisting of residents of a public institution who apply jointly for SSI and SNAP prior to release from an institution will have their eligibility determined for the month in which the applicant household was released from the institution. The benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution and the household shall receive benefits from the date of the household's release through the end of the month. Eligible households are entitled to a full month allotment for all months except an initial month of application.	Updating Food Assistance to SNAP	
4.207.3	Program name update; non-standardize acronyms; and non-standardized language	**4.207.3 Benefit Allotment** A. After eligibility has been established, the monthly Food Assistance benefit allotment will be determined. The state automated system will compute the household’s allotment. The following formula shall be used to determine a household’s benefit allotment. 1. Multiply the net monthly income by thirty percent (30%). 2. Round the product down to the next whole dollar if it ends in one (1) through ninety-nine (99) cents. 3. Subtract the result from the maximum benefit allowed for the appropriate household size, as shown in D below. B. If the calculation of benefits for an initial month yields an allotment of less than the federal minimum allotment referenced in 4.207.3, D, no benefits shall be issued to the household for the initial month. For eligible households that are entitled to no benefits in their initial month of application, but are entitled to benefits in subsequent months, the county department shall certify the household for a certification period	**4.207.3 Benefit Allotment** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section C here and including A and B.] A. After eligibility has been established, the monthly SNAP benefit allotment will be determined. The state automated system will compute the household’s allotment. The following formula shall be used to determine a household’s benefit allotment. 1. Multiply the net monthly income by thirty percent (30%). 2. Round the product down to the next whole dollar if it ends in one (1) through ninety-nine (99) cents. 3. Subtract the result from the maximum benefit allowed for the appropriate household size, as shown in D below. B. If the calculation of benefits for an initial month yields an allotment of less than the federal minimum allotment referenced in 4.207.3(D), no benefits shall be issued to the household for the initial month. For eligible households that are entitled to no benefits in their initial month of application, but are entitled to benefits	Updating Food Assistance to SNAP; and standardization of acronyms and language	

		beginning with the month of application. Except for households that are eligible under basic or expanded categorical eligibility, households with three or more members who are entitled to zero benefits shall have their Food Assistance application denied. This provision does not apply if zero benefits are due to the pro-ration requirements or due to the initial month's allotment being less than the federal minimum allotment referenced in 4.207.3,D. *** D. The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS)).	in subsequent months, the local office shall certify the household for a certification period beginning with the month of application. Except for households that are eligible under BCE or ECE, households with three or more members who are entitled to zero benefits shall have their SNAP application denied. This provision does not apply if zero benefits are due to the pro-ration requirements or due to the initial month's allotment being less than the federal minimum allotment referenced in 4.207.3(D). *** D. The SNAP maximum and minimum monthly benefit allotment tables will be adjusted as announced by the USDA, FNS.		
4.208	Program name update; and non-standardized language	**4.208 CERTIFICATION PERIODS** A. Certification periods shall conform to calendar months. Households shall be assigned the longest certification period possible based on the predictability of the household's anticipated income and other circumstances. At the expiration of each certification period, entitlement to Food Assistance benefits ends. Further eligibility shall only be established on a newly completed application for redetermination. Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility. The State-prescribed Notice of Action form provided to the applicant household shall indicate the period of certification if the household is determined to be eligible for benefits. *** C. A delinquent PA redetermination shall not delay the Food Assistance recertification beyond the date of the household's Food Assistance certification period ending date.	**4.208 CERTIFICATION PERIODS** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section B here and including A and C.] A. Certification periods shall conform to calendar months. Households shall be assigned the longest certification period possible based on the predictability of the household's anticipated income and other circumstances. At the expiration of each certification period, entitlement to SNAP benefits ends. Further eligibility shall only be established on a newly completed application for recertification. Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility. The State-prescribed Notice of Action form provided to the applicant household shall indicate the period of certification if the household is determined to be eligible for benefits. *** C. A delinquent PA recertification shall not delay the SNAP recertification beyond the date of the household's SNAP certification period ending date.	Updating Food Assistance to SNAP; and standardizing of language	

4.208.1(A)(1)	Non-standardized language	**4.208.1 Certification Period Guidelines [Rev. eff. 4/1/16]** Households will be assigned a six (6) month or twenty-four (24) month certification period as follows: A. Twenty-Four (24) Month Certification Period 1. A twenty-four month certification period shall be assigned to households that contain only members who are elderly and/or have a disability and have no earned income, as defined in Section 4.403 at the time of certification. ***	**4.208.1 Certification Period Guidelines [Rev. eff. 4/1/16]** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section B here and including A.] Households will be assigned a six (6) month, or twenty-four (24) month certification period as follows: A. Twenty-Four (24) Month Certification Period 1. A twenty-four (24) month certification period shall be assigned to households that contain only members who are aged 60 and older and/or have a disability and have no earned income, as defined in Section 4.403 at the time of certification. ***	Standardizing language	
4.208.2	Program name update; repetitive language; and non-standardized acronyms	**4.208.2 Classification of Households as Public Assistance (PA) or Non-Public Assistance (Non-PA)** A. Public Assistance (PA) Households Public Assistance households are those Food Assistance households that contain only persons who receive the following: 1. Colorado Works Basic Cash Assistance grant or any type of TANF payment or services under the Colorado Works Program. The household will be considered a PA household if one (1) member received cash assistance or services, but the entire household benefits from the receipt of this cash or services, such as when one (1) individual in a household is authorized for family preservation; or, 2. A State Grant (OAP-A, OAP-B, AND/AB); or, 3. Colorado Supplement to the SSI Grant B. Non-public assistance (Non-PA) Households All other households are classified as non-public assistance households. Any household that contains at least one member who does not receive a Public Assistance benefit, as listed in Subsection A, above, will be classified as Non-PA.	**4.208.2 Classification of Households as PA or Non-PA Households** A. PA Households PA households are those SNAP households that contain only persons who receive the following: 1. CW Basic Cash Assistance grant or any type of TANF payment or services under the CW Program. The household will be considered a PA household if one (1) member received cash assistance or services, but the entire household benefits from the receipt of this cash or services, such as when one (1) individual in a household is authorized for family preservation; or, 2. A State Grant (OAP-A, OAP-B, AND/AB); or, 3. Colorado Supplement to the SSI Grant B. Non-PA Households All other households are classified as Non-PA households. County General Assistance (GA), SSI with no Colorado Supplemental payment, and medical-only programs are not considered PA benefits.	Updating Food Assistance to SNAP; removing repetitive language; and standardization of acronyms	

		County General Assistance (GA), SSI with no Colorado Supplemental payment, and medical-only programs are not considered Public Assistance benefits.			
4.209(B)	Program name update	**4.209 RECERTIFICATION PROCESS REQUIREMENTS** *** B. A household shall receive the notice of expiration not less than thirty (30) calendar days and not more than sixty (60) calendar days prior to expiration of its current certification period. If mailed, the notice shall be sent for the same timely receipt, allowing two (2) extra days for delivery delay. All households that file on or before the fifteenth (15th) of the last month of their certification period will have timely reapplied. Notices which are mailed must specify a date that allows at least two (2) days mail time and still gives the household fifteen (15) calendar days to respond. Households that submit an application for recertification by the date specified on their notice of expiration shall be considered to have timely reapplied to prevent an interruption in Food Assistance benefits. ***	**4.209 RECERTIFICATION PROCESS REQUIREMENTS** [PUBLISHER NOTE NOT FOR PUBLICATION: We omitted sections A, C, and D here, including section B.] *** B. A household shall receive the notice of expiration not less than thirty (30) calendar days and not more than sixty (60) calendar days prior to expiration of its current certification period. If mailed, the notice shall be sent for the same timely receipt, allowing two (2) extra days for delivery delay. All households that file on or before the fifteenth (15th) of the last month of their certification period will have timely reapplied. Notices which are mailed must specify a date that allows at least two (2) days mail time and still gives the household fifteen (15) calendar days to respond. Households that submit an application for recertification by the date specified on their notice of expiration shall be considered to have timely reapplied to prevent an interruption in SNAP benefits. ***	Updating Food Assistance to SNAP	
4.209.1	Renumbering due to reorganization	**4.209.1 Recertification Processing Standards and Timeframes** A. Timely Applications for Recertifications 1. Households that file an application for recertification on or before the fifteenth (15th) of the last month of their certification period will have timely reapplied. A timely application for recertification shall be approved or denied prior to the end of the household's current certification period and shall provide eligible households with an opportunity to obtain their benefits by their normal issuance day of the month following the expiration of their certification period. 2. Households which have timely reapplied, but because of local office error are not determined eligible in sufficient time to permit normal issuance to the household in the following month,	**4.209.1 Recertification Processing Standards and Timeframes** A. Timely Applications for Recertification 1.Households that file an application for recertification on or before the fifteenth (15th) of the last month of their certification period will have timely reapplied. A timely application for recertification shall be approved or denied prior to the end of the household's current certification period and shall provide eligible households with an opportunity to obtain their benefits by their normal issuance day of the month following the expiration of their certification period. 2. Households which have reapplied timely, but because of local office error are not determined eligible in sufficient time to permit normal issuance to the household in the following month, shall receive an immediate opportunity to participate upon being	Renumbering section due to separation of sections for clarity	

		shall receive an immediate opportunity to participate upon being determined eligible. Such households shall be entitled to participate and receive a full month's allotment for the month following the expiration of the certification period. B. Applications for Recertification That are not Timely 1. Households which file an application for recertification anytime between the sixteenth (16th) and the last day of the last month of the certification period shall not be considered as having timely reapplied. For households that have not timely reapplied, but have been found eligible, benefits may be delayed past the household's normal issuance day. The household shall be notified of approval or denial on a notice of action form within thirty (30) calendar days of when the application for recertification was submitted to the local office. 2. If a household files an application form within thirty (30) calendar days after the end of the certification period, the application shall be considered as an application for recertification; however, the application shall be processed as an initial application in accordance with Section 4.201, C, and shall have the allotment for the initial month of application prorated from the day of application to the end of the month, unless the local office was at fault for the delay. For applications received within thirty (30) calendar days after the expiration of the certification period, verification requirements shall remain consistent with the verification requirements for applications which were filed prior to the expiration of the certification period as outlined at Section 4.502, B. C. If an application for recertification is denied for a failure of the household to take a required action, the local office shall reopen the case if the required action is taken by the end of the certification period and provide benefits for the first month of the new certification period. If the household takes the required action after the	determined eligible. Such households shall be entitled to participate and receive a full month's allotment for the month following the expiration of the certification period. B. Untimely Applications for Recertification 1. Households which file an application for recertification anytime between the sixteenth (16th) and the last day of the last month of the certification period shall not be considered as having timely reapplied. For households that have not timely reapplied, but have been found eligible, benefits may be delayed past the household's normal issuance day. The household shall be notified of approval or denial on a notice of action form within thirty (30) calendar days of when the application for recertification was submitted to the local office. 2. If a household files an application form within thirty (30) calendar days after the end of the certification period, the application shall be considered as an application for recertification; however, the application shall be processed as an initial application in accordance with Section 4.201, C, and shall have the allotment for the initial month of application prorated from the day of application to the end of the month, unless the local office was at fault for the delay. For applications received within thirty (30) calendar days after the expiration of the certification period, verification requirements shall remain consistent with the verification requirements for applications which were filed prior to the expiration of the certification period as outlined at Section 4.502, B. C. Late Applications for Recertification 1. If a household files an application form within thirty (30) calendar days after the end of the certification period, the application shall be considered as an application for recertification; however, the application shall be processed as an initial application in accordance with Section 4.201, C, and shall have the allotment for the initial month of application prorated from the day of application to the end of the month, unless the local office was at fault for the delay. For applications received within thirty (30) calendar days		

		end of the certification period, but within the next thirty (30) calendar days, the local office shall reopen the case and provide benefits retroactive to the date that the action was taken by the household. D. A household shall lose its right to uninterrupted benefits if one of the following occurs after the fifteenth (15th) day of the last month of the household's certification period: 1. A household fails to timely submit an application for recertification in accordance with Section 4.209.1, A; or, 2. A household timely files an application for recertification but fails to appear for a scheduled interview; or, 3. A household fails to submit all necessary verification by the date specified on the request for such verification. The request for verification shall allow the household no less than ten (10) days to provide the verification to prevent an interruption in benefits. If the household is eligible after providing such verification(s), the county/district shall provide benefits within thirty (30) calendar days after the application was filed. If the local office is unable to provide benefits within thirty (30) calendar days due to the time allowed for providing verification, the office shall provide benefits within five (5) calendar days after the household supplies the missing verification. Households that refuse to cooperate in providing required information or taking the required actions to determine eligibility shall be denied.	after the expiration of the certification period, verification requirements shall remain consistent with the verification requirements for applications which were filed prior to the expiration of the certification period as outlined at Section 4.502, B. D. If an application for recertification is denied for a failure of the household to take a required action, the local office shall reopen the case if the required action is taken by the end of the certification period and provide benefits for the first month of the new certification period. If the household takes the required action after the end of the certification period, but within the next thirty (30) calendar days, the local office shall reopen the case and provide benefits retroactive to the date that the action was taken by the household. E. A household shall lose its right to uninterrupted benefits if one of the following occurs after the fifteenth (15th) day of the last month of the household's certification period: 1. A household fails to timely apply for recertification in accordance with Section 4.209.1, A; or, 2. A household timely files an application for recertification but fails to appear for a scheduled interview; or, 3. A household fails to submit all necessary verification by the date specified on the request for such verification. The request for verification shall allow the household no less than ten (10) days to provide the verification to prevent an interruption in benefits. If the household is eligible after providing such verification(s), the county/district shall provide benefits within thirty (30) calendar days after the application was filed. If the local office is unable to provide benefits within thirty (30) calendar days due to the time allowed for providing verification, the office shall provide benefits within five (5) calendar days after the household supplies the missing verification. Households that refuse to cooperate in providing required information or taking the required actions to determine eligibility shall be denied.		

4.210	Non-standardized language and acronyms; and language not in alignment with federal regulation	**4.210 PERIODIC REPORTING REQUIREMENTS** A. A household consisting solely of members who are persons with a disability and/or members who are elderly with no earned income can be certified for twenty-four (24) months. For households certified for twenty-four months, no interview during the certification period shall be required. Households with a twenty-four month certification period are considered simplified reporting households and are required to report changes at the twelve (12) month interim reporting period and at redetermination. B. A periodic report form shall be mailed to the household during the eleventh (11th) month of the certification period for the household to report all changes. If the change report form is not submitted to the local office by the fifth (5TH) day of the twelfth (12th) month of the certification period, a reminder notice shall be sent advising the household that it has ten (10) calendar days plus one (1) calendar day for mailing to return the completed report. Households participating in the Address Confidentiality Program shall be afforded five (5) days mailing time. If the household has not submitted the completed report by extended due date on the reminder notice, the Food Assistance case shall be terminated effective the first day of the thirteenth (13th) month and a termination letter shall be mailed to the household. If the household submits a periodic report form or a change report from for any other public assistance program within thirty (30) calendar days following the effective date of the termination notice and provides all required verification, benefits shall be reinstated without proration. C. The local office must act on all changes reported by those households filing a periodic report. If the household files a complete report that results in reduction or termination of benefits, the agency shall send an adequate notice. The adequate notice must be mailed at least two (2) business days prior to the date that benefits are normally received by the household. If the household fails to provide sufficient information or verification regarding a deductible expense, the county local office shall not terminate the	**4.210 PERIODIC REPORTING REQUIREMENTS** A. A household consisting solely of members who are persons with a disability and/or members who are aged 60 years and older with no earned income can be certified for twenty-four (24) months. For households certified for twenty-four months, no interview during the certification period shall be required. Households with a twenty-four (24) month certification period are required to report changes at the twelve (12) month interim reporting period. B. A PRF shall be mailed to the household during the eleventh (11th) month of the certification period for the household to report all changes. If the PRF is not submitted to the local office by the fifth (5th) day of the twelfth (12th) month of the certification period, a reminder notice shall be sent advising the household that it has ten (10) calendar days plus one calendar day for mailing to return the completed report. Households participating in ACP shall be afforded five (5) days mailing time. If the household has not submitted the completed form by the extended due date on the reminder notice, the SNAP case shall be terminated effective the first day of the thirteenth (13th) month and a termination letter shall be mailed to the household. If the household submits a PRF or reports changes for any other PA program within thirty (30) calendar days following the effective date of the termination notice and provides all required verification, benefits shall be issued without proration from the beginning of the thirteenth (13th) month. C. The local office must act on all changes reported by those households filing a PRF. If the household files a complete PRF that results in a reduction or termination of benefits, the agency shall send an adequate notice. The adequate notice must be mailed at least two business days prior to the date that benefits are normally received by the household. If the household fails to provide sufficient information or verification regarding a deductible expense, the county local office shall not terminate the household but shall instead determine the household's benefits without allowing the deduction. D. The household shall report changes in circumstances to the following items on the periodic report:	Standardization of language and acronyms; removal of incorrect information; and addition of language to align with Federal regulation	

		household but shall instead determine the household's benefits without allowing the deduction.	1. A change of more than $100 in the amount of unearned income. 2. A change in the source of income, including starting a job. 3. All changes in household composition, such as the addition or loss of a household member. 4. Changes in home address and any resulting changes in shelter costs. 5. Acquisition of a licensed vehicle that is not fully excludable. 6. A change in liquid resources, such as cash, stocks, bonds, and bank accounts that reach or exceed the resource limits for elderly or disabled households and for all other households, unless these assets are excluded. 7.Changes in the legal obligation to pay child support. 8. Whenever a member of the household wins substantial lottery or gambling winnings. E. If allowable medical expenses are reported and verified, the change should be acted upon for the remainder of the certification period but only if the change results in an increase in benefits.		
4.300	Non-standard language and acronyms	**4.300 NON-FINANCIAL ELIGIBILITY CRITERIA** Non-financial criteria for eligibility shall apply to all households (including those receiving public assistance) and shall be considered prospectively for the issuance month based on the eligibility worker's anticipation of circumstances at the time of application and when changes are made known to the local office. Non-financial criteria shall consist of: ***	**4.300 NON-FINANCIAL ELIGIBILITY CRITERIA** Non-financial criteria for eligibility shall apply to all households (including those receiving PA) and shall be considered prospectively for the issuance month based on the eligibility technician's anticipation of circumstances at the time of application and when changes are made known to the local office. Non-financial criteria shall consist of: ***	Standardization of language and acronyms	

4.302	Program name update and non-standard terminology	**4.302 SOCIAL SECURITY NUMBER REQUIREMENT** A. General Requirements 1. As a condition of Food Assistance eligibility, each member of a household participating in or applying for participation in the Food Assistance Program shall provide a Social Security Number (SSN), or proof that an application for a Social Security Number has been submitted to the Social Security Administration. The local office shall not require any household member to submit a Social Security card or other official documents as a means of verifying a Social Security Number. Household members who provide a SSN shall not be denied benefits for failure or inability to present a Social Security card or other official documentation. If individuals have more than one Social Security Number, all numbers shall be required. 2. The local office shall explain that a member is not required to provide a Social Security Number (SSN), but the failure to provide one shall result in disqualification of the individual(s) for whom the number is not provided. The member who does not provide a SSN shall still be required to provide other eligibility information such as income and resources that will affect eligibility of other members. The local office shall advise individuals that any SSN that is provided voluntarily will be used in the same manner as SSNs of eligible household members. The SSNs will be matched against federal and state databases to verify information. SSNs will be used for the initial application matching for duplicate participation. 3. If the household member required to provide a SSN either refuses to supply his/her SSN at the time of application or fails to provide the local office with a form or letter as proof of application for a SSN without good cause, he or she shall be ineligible to participate in the Food Assistance Program. The disqualification applies to the individual(s) who refused to cooperate with the	**4.302 SOCIAL SECURITY NUMBER REQUIREMENT** A. General Requirements 1. As a condition of SNAP eligibility, each member of a household participating in or applying for participation in SNAP shall provide a Social Security Number (SSN), or proof that an application for an SSN has been submitted to the SSA. The local office shall not require any household member to submit a Social Security card or other official documents as a means of verifying an SSN. Household members who provide an SSN shall not be denied benefits for failure or inability to present a Social Security card or other official documentation. If individuals have more than one SSN, all numbers shall be required. 2. The local office shall explain that a member is not required to provide an SSN, but the failure to provide one shall result in disqualification of the individual(s) for whom the number is not provided. The member who does not provide an SSN shall still be required to provide other eligibility information such as income and resources that will affect eligibility of other members. The local office shall advise individuals that any SSN that is provided voluntarily will be used in the same manner as SSNs of eligible household members. The SSNs will be matched against federal and state databases to verify information. SSNs will be used for the initial application matching for duplicate participation. 3. If the household member required to provide an SSN either refuses to supply his/her SSN at the time of application or fails to provide the local office with a form or letter as proof of application for an SSN without good cause, he or she shall be ineligible to participate in SNAP. The disqualification applies to the individual(s) who refused to cooperate with the application process to obtain the SSN and not the entire household. The household member(s) disqualified may become eligible by providing the local office with an SSN, or by providing verification that an application for an SSN has been submitted to the SSA.	Updating Food Assistance to SNAP; standardizing language and acronyms	

		application process to obtain the SSN and not the entire household. The household member(s) disqualified may become eligible by providing the local office with a Social Security Number, or by providing verification that an application for a SSN has been submitted to the SSA. B. Individuals and Newborns Without a Social Security Number 1. Those household members who do not have the required Social Security Number(s) shall obtain proof of application for a SSN prior to being certified as a member of the household, unless the member is a newborn child. The applicant/recipient shall be instructed to obtain from the SSA proof that he or she has completed an application for a Social Security Number and that the SSA has received that application. A specifically addressed letter from the SSA verifying that application for a SSN has been made is also acceptable proof of application for a Social Security Number. The applicant/recipient shall be instructed to return the completed form as soon as possible to the eligibility worker. A copy of the form shall be maintained in the case record. a. If the household is unable to provide proof of application for an SSN for a newborn, the household shall provide the SSN or proof of application at its next recertification within six (6) months following the baby's birth. The local office shall determine if the good cause provisions are applicable at the recertification. b. If a participating household's benefits are reduced or terminated within the certification period because one or more of its members are required to provide a SSN is disqualified for failure to meet the SSN requirement, the local office shall issue a Notice of Adverse Action form. The notice shall inform the household that the non-cooperating individual(s) without a SSN is being disqualified, and show the current eligibility	B. Individuals and Newborns Without an SSN 1. Those household members who do not have the required SSN shall obtain proof of application for a SSN prior to being certified as a member of the household, unless the member is a newborn child. The applicant/recipient shall be instructed to obtain from the SSA proof that he or she has completed an application for an SSN and that the SSA has received that application. A specifically addressed letter from the SSA verifying that application for an SSN has been made is also acceptable proof of application for an SSN. The applicant/recipient shall be instructed to return the completed form as soon as possible to the eligibility technician. A copy of the form shall be maintained in the case record. a. If the household is unable to provide proof of application for an SSN for a newborn, the household shall provide the SSN or proof of application at its next recertification within six (6) months following the baby's birth. The local office shall determine if the good cause provisions are applicable at the recertification. b. If a participating household's benefits are reduced or terminated within the certification period because one or more of its members are required to provide an SSN is disqualified for failure to meet the SSN requirement, the local office shall issue a Notice of Adverse Action form. The notice shall inform the household that the non-cooperating individual(s) without an SSN is being disqualified and show the current eligibility and benefit level of the remaining members, as well as a statement that the disqualified member(s) may end disqualification by providing an SSN. 2. Household members who provide the eligibility technician with a copy of a form or a letter from SSA, or who demonstrate good cause for not providing the proof from SSA (e.g., difficulty in obtaining birth certificates) shall be allowed to continue to participate in SNAP as follows:		

		and benefit level of the remaining members, as well as a statement that the disqualified member(s) may end disqualification by providing a Social Security number. 2. Household members who provide the eligibility worker with a copy of a form or a letter from SSA, or who demonstrate good cause for not providing the proof from SSA (e.g., difficulty in obtaining birth certificates) shall be allowed to continue to participate in the Food Assistance Program as follows: a. When an SSA form or letter is received by the local office or good cause for not providing proof is demonstrated, the household member in need of a SSN shall be allowed to participate so long as the household is not at fault for not providing proof of application with the SSA. b. If the required SSNs are provided by the household, or it is demonstrated that good cause exists for not having applied for a SSN, the household member(s) without a SSN(s) shall remain eligible to participate. If the local office determines that the household is at fault for not having proof of application for the SSN(s), the member(s) without proof of application shall be disqualified and income shall be handled in accordance with Section 4.411.1. C. Determining Good Cause for Not Providing a Social Security Number 1. In determining good cause, the local office shall consider information received from the household member and/or the Social Security Administration. Documentary evidence or collateral information that the household has applied for the number or made every effort to supply the Social Security Administration with the necessary information shall be considered good cause. If the household member can show good cause why an application has not been completed in a timely manner, that person shall be allowed to participate until good	a. When an SSA form or letter is received by the local office or good cause for not providing proof is demonstrated, the household member in need of an SSN shall be allowed to participate so long as the household is not at fault for not providing proof of application with the SSA. b. If the required SSNs are provided by the household, or it is demonstrated that good cause exists for not having applied for an SSN, the household member(s) without an SSN(s) shall remain eligible to participate. If the local office determines that the household is at fault for not having proof of application for the SSN(s), the member(s) without proof of application shall be disqualified and income shall be handled in accordance with Section 4.411.1. C. Determining Good Cause for Not Providing an SSN 1. In determining good cause, the local office shall consider information received from the household member and/or the SSA. Documentary evidence or collateral information that the household has applied for the number or made every effort to supply the SSA with the necessary information shall be considered good cause. If the household member can show good cause why an application has not been completed in a timely manner, that person shall be allowed to participate until good cause is no longer applicable or until the household's next recertification. If the household member(s) applying for a SSN has been unable to obtain the documents required by the SSA, the eligibility worker should assist the individual(s) in obtaining these documents. 2. If an individual refuses to provide an SSN based on a sincere religious objection, all members of the household may participate in SNAP, if otherwise eligible. In these situations, the local office may check with the SSA to see if the household members already have SSNs and may use any existing SSNs for verification and matching purposes without further notice to the household.		

		cause is no longer applicable or until the household's next recertification. If the household member(s) applying for a Social Security Number has been unable to obtain the documents required by Social Security Administration, the eligibility worker should assist the individual(s) in obtaining these documents. 2. If an individual refuses to provide a Social Security Number based on a sincere religious objection, all members of the household may participate in the Program, if otherwise eligible. In these situations, the local office may check with the Social Security Administration to see if the household members already have SSNs, and may use any existing SSNs for verification and matching purposes without further notice to the household.			
4.303(B)	Program name update; and incorrect grammar	**4.303 RESIDENCY REQUIREMENT** *** B. Individuals may not participate in more than one household in any one (1) month unless they are a resident of a shelter for battered women and children, nor may a household participate in more than one (1) county or district in any month unless all household members are residents of a shelter for battered women and children. Households on Indian reservations participating in the Commodity Food Distribution Program for a particular period shall not be allowed to participate in the Food Assistance Program during the same period. Participation shall be limited to participation in the Commodity Program or the Food Assistance Program. ***	**4.303 RESIDENCY REQUIREMENTS** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, C, D, E, and F here; including section B.] *** B. Individuals may not participate in more than one household in the same month unless they are a resident of a shelter for battered women and children, nor may a household participate in more than one (1) county or district in any month unless all household members are residents of a shelter for battered women and children. Households on Indian reservations participating in the Commodity Food Distribution Program for a particular period shall not be allowed to participate in SNAP during the same period. Participation shall be limited to participation in the Commodity Food Distribution Program or SNAP. ***	Updating Food Assistance to SNAP; and correcting grammar	
4.304(A)	Program name update	**4.304 DETERMINING HOUSEHOLD COMPOSITION** A. All applications shall be submitted on behalf of a household. Some groups of individuals living together are required to be included in the same Food Assistance household in accordance with Section 4.304.1.	**4.304 DETERMINING HOUSEHOLD COMPOSITION** A. All applications shall be submitted on behalf of a household. Some groups of individuals living together are required to be included in the same SNAP household in accordance with Section 4.304.1. ***	Updating Food	

		***		Assistance to SNAP	
4.304.1(C)	Program name update; and incorrect grammar	**4.304.1 Persons Ineligible for Separate Household Status** *** C. A spouse of a member of a household shall not be a separate household. 1. Spouses refer to: a. Persons who are defined as married to each other under state law. Same-sex spouses must be considered married if the marriage is recognized by the state in which the marriage was celebrated; or, b. Persons who are living together, are free to marry, and are representing themselves as husband and wife to relatives, friends, neighbors and trades people. 2. Spouses who are legally separated are eligible for separate household status, unless paragraph A of this section applies. 3. For purposes of the Food Assistance Program, partners in a same-sex marriage are not considered spouses, unless married in a state that recognizes the marriage. If, in a same-sex relationship the spouses are not considered married as specified in C, 1, of this section, and there is a child living in the home but only one (1) of the parents is the biological parent to the child, the non-biological parent does not have to be considered part of the household if the non-biological parent is not the natural parent or adoptive parent to the child and purchases and prepares meals separately from the rest of the household.	**4.304.1 Persons Ineligible for Separate Household Status** *** C. A spouse of a member of a household shall not be a separate household. 1. Spouses refer to: a. Persons who are defined as married to each other under state law. Same-sex spouses must be considered married if the marriage is recognized by the state in which the marriage was celebrated; or, b. Persons who are living together, are free to marry, and are representing themselves as husband and wife to relatives, friends, neighbors, and trades people. 2. Spouses who are legally separated are eligible for separate household status unless paragraph A of this section applies. 3. For purposes of SNAP, partners in a same-sex marriage are not considered spouses, unless married in a state that recognizes the marriage. If, in a same-sex relationship the spouses are not considered married as specified in C, 1, of this section, and there is a child living in the home but only one (1) of the parents is the biological parent to the child, the non-biological parent does not have to be considered part of the household if the non-biological parent is not the natural parent or adoptive parent to the child and purchases and prepares meals separately from the rest of the household.	Updating Food Assistance to SNAP; and correcting grammar	

4.304.2	Program name update	**4.304.2 Shared Living Arrangements** A. In instances when two (2) households request Food Assistance for the same child, the child shall be considered a member of the household that provides the majority of the child's monthly meals. If only one (1) household is applying for or requesting Food Assistance benefits for a child, then determining a majority of meals shall not be a factor when determining household composition. B. If two (2) households request assistance for the same child and both households provide an equal number of meals to the child, and the households cannot agree on who should receive Food Assistance benefits for the child for the duration of the certification period, then the household that applies for Food Assistance benefits for the child first shall be able to receive benefits for the child. C. In instances when an applicant or ongoing household requests benefits for a child who is already receiving Food Assistance in another household, the household who provides the child with the majority of meals shall be eligible to receive benefits for the child.	**4.304.2 Shared Living Arrangements** A. In instances when two (2) households request SNAP for the same child, the child shall be considered a member of the household that provides the majority of the child's monthly meals. If only one (1) household is applying for or requesting SNAP benefits for a child, then determining a majority of meals shall not be a factor when determining household composition. B. If two (2) households request assistance for the same child and both households provide an equal number of meals to the child, and the households cannot agree on who should receive SNAP benefits for the child for the duration of the certification period, then the household that applies for SNAP benefits for the child first shall be able to receive benefits for the child. C. In instances when an applicant or ongoing household requests benefits for a child who is already receiving SNAP in another household, the household who provides the child with the majority of meals shall be eligible to receive benefits for the child.	Updating Food Assistance to SNAP	
4.304.3(D)	Program name update	**4.304.3 Non-Household Members** *** D. Boarders Individuals residing with others and paying reasonable compensation to others for lodging and meals. Boarders are not eligible to participate in the Food Assistance Program as a separate household. 1. Boarders shall not be considered members of a participant or applicant household, unless the household requests that they be considered as members. If the boarder is not considered a household member, the income and resources of the boarder shall not be considered available to the household. However, the amount of payment that a boarder gives to a household for lodging and meals shall be treated as self-employment income to the household. If the household requests that the boarder be considered a	**4.304.3 Non-Household Members** *** D. Boarders Individuals residing with others and paying reasonable compensation to others for lodging and meals. Boarders are not eligible to participate in SNAP as a separate household. 1. Boarders shall not be considered members of a participant or applicant household, unless the household requests that they be considered as members. If the boarder is not considered a household member, the income and resources of the boarder shall not be considered available to the household. However, the amount of payment that a boarder gives to a household for lodging and meals shall be treated as self-employment income to the household. If the household requests that the boarder be considered a household member, the boarder's	Updating Food Assistance to SNAP	

		household member, the boarder's income and resources shall be considered available to the household. 2. Individuals for whom foster care payments are intended are to be treated as boarders. If the household requests to include those individuals as household members, the foster care payments received by the household will be included as unearned income. 3. Boarder status shall not be granted to the following persons: a. Children under eighteen (18) years of age under the parental control of a member of the household. The parental control provision does not apply to foster care children under eighteen (18) years of age. b. Children twenty-one (21) years of age and younger living with their natural, adoptive, or stepparent. c. The spouse of a member of the household. d. A person paying less than a reasonable monthly payment for meals. Such a person will be considered a member of the household which provides the meals and lodging. When the boarder's payments for room are distinguishable from his/her payments for meals, only the amount paid for meals will be considered in determining if reasonable compensation is being paid for meals. Persons who only work in exchange for meals or make payments to a third party on the household's behalf in exchange for meals would not be classified as boarders. A reasonable monthly payment shall be either of the following: 1. Boarders, whose board arrangement is for more than two (2) meals per day, shall pay an amount which equals or exceeds the maximum Food Assistance allotment	income and resources shall be considered available to the household. 2. Individuals for whom foster care payments are intended are to be treated as boarders. If the household requests to include those individuals as household members, the foster care payments received by the household will be included as unearned income. 3.Boarder status shall not be granted to the following persons: a. Children under eighteen (18) years of age under the parental control of a member of the household. The parental control provision does not apply to foster care children under eighteen (18) years of age. b. Children twenty-one (21) years of age and younger living with their natural, adoptive, or stepparent. c. The spouse of a member of the household. d. A person paying less than a reasonable monthly payment for meals. Such a person will be considered a member of the household which provides the meals and lodging. When the boarder's payments for room are distinguishable from his/her payments for meals, only the amount paid for meals will be considered in determining if reasonable compensation is being paid for meals. Persons who only work in exchange for meals or make payments to a third party on the household's behalf in exchange for meals would not be classified as boarders. A reasonable monthly payment shall be either of the following: 1. Boarders, whose board arrangement is for more than two (2) meals per day, shall pay an amount which equals or exceeds the maximum SNAP allotment for the number of persons in the boarder household.		

		for the number of persons in the boarder household. 2. Boarders, whose board arrangement is for two (2) meals or fewer per day, shall pay an amount which equals or exceeds two-thirds of the maximum allotment for the number of persons in the boarder household.	2. Boarders, whose board arrangement is for two (2) meals or fewer per day, shall pay an amount which equals or exceeds two-thirds of the maximum allotment for the number of persons in the boarder household.		
4.304.4	Program name update, incorrect numbering; and non-standardized acronyms and language	**4.304.4 Persons Disqualified or Ineligible to Participate in the Food Assistance Program** A. Disqualified individuals shall not be allowed to participate in the Program as separate households. "Disqualified individuals" are individuals disqualified for: 1. Intentional Program violation/fraud; 2. Failure to either provide or obtain a Social Security Number; 3. Being an ineligible non-citizen as defined in Section 4.305.12; 4. Failure to comply with work requirements; 5. Being an able-bodied adult without dependents (ABAWD) who has been disqualified after receiving three (3) months of Food Assistance benefits within a period of thirty-six (36) months; or, 6. Being a person with a felony conviction who is not in compliance with the terms of their sentence and was convicted as an adult for conduct that occurred after February 7, 2014 for any of the following crimes: a. Aggravated sexual abuse under Section 2241 of Title 18, United States Code; b. Murder under Section 1111 of Title 18, United States Code; c. An offense under Chapter 110 of Title 18, United States Code;	**4.304.4 Persons Disqualified or Ineligible to Participate in SNAP** A. Disqualified individuals shall not be allowed to participate in SNAP as separate households. "Disqualified individuals" are individuals disqualified for: 1. IPV/fraud; 2. Failure to either provide or obtain an SSN; 3. Being an ineligible non-citizen; 4. Failure to comply with work requirements; 5. Being an ABAWD who has been disqualified after receiving three (3) months of SNAP benefits within a period of thirty-six (36) months; or, 6. Being a person with a felony conviction who is not in compliance with the terms of their sentence and was convicted as an adult for conduct that occurred after February 7, 2014 for any of the following crimes: a. Aggravated sexual abuse under Section 2241 of Title 18, United States Code; b. Murder under Section 1111 of Title 18, United States Code; c. An offense under Chapter 110 of Title 18, United States Code; d. A federal or state offense involving sexual assault, as defined in Section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or	Updating Food Assistance to SNAP; correcting numbering; and standardizing acronyms and language	

		d. A federal or state offense involving sexual assault, as defined in Section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or e. An offense under state law determined by the attorney general to be substantially similar to an offense described in clause (a), (b), or (c). B. Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony shall not be considered eligible household members. If an individual is suspected of being a fleeing felon, either by their own admission or based on a report from law enforcement, the fleeing status must be verified in order to determine if the client is eligible for Food Assistance benefits. The following four part test must be used to determine if the individual would be considered a fleeing felon for Food Assistance purposes: 1. There is an outstanding felony warrant for the individual by a Federal, State, or local law enforcement agency and the underlying cause for the warrant is for committing, or attempting to commit, a crime that is a felony under the law of the place from which the individual is fleeing or is a high misdemeanor under the law of New Jersey; and 2. The individual is aware of, or should reasonably have been able to expect that, the felony warrant has already or would have been issued; and 3. The individual has taken some action to avoid being arrested or jailed; and 4. The Federal, State, or local law enforcement agency is actively seeking the individual as provided in 4.304.4(C)(1).	e. An offense under state law determined by the attorney general to be substantially similar to an offense described in clause (a), (b), or (c). B. Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony shall not be considered eligible household members. If an individual is suspected of being a fleeing felon, either by their own admission or based on a report from law enforcement, the fleeing status must be verified to determine if the client is eligible for SNAP. The following four-part test must be used to determine if the individual would be considered a fleeing felon for SNAP: 1. There is an outstanding felony warrant for the individual by a Federal, State, or local law enforcement agency and the underlying cause for the warrant is for committing, or attempting to commit, a crime that is a felony under the law of the place from which the individual is fleeing or is a high misdemeanor under the law of New Jersey; and 2. The individual is aware of, or should reasonably have been able to expect that, the felony warrant has already or would have been issued; and 3. The individual has taken some action to avoid being arrested or jailed; and 4. The Federal, State, or local law enforcement agency is actively seeking the individual as provided in 4.304.4(C)(1). C. Individuals who are determined to be a parole or probation violator shall not be an eligible household member. To be considered a probation or parole violator, an impartial party, as designated by the agency, must determine that the individual violated a condition of his or her probation or parole imposed under Federal or State law, and that Federal, State, or local law enforcement authorities are actively seeking the individual to enforce the conditions of the probation or parole as outlined below. 1. For the purposes of this provision, actively seeking		

		C. Individuals who are determined to be a parole or probation violator shall not be considered to be an eligible household member. To be considered a probation or parole violator, an impartial party, as designated by the agency, must determine that the individual violated a condition of his or her probation or parole imposed under Federal or State law, and that Federal, State, or local law enforcement authorities are actively seeking the individual to enforce the conditions of the probation or parole as outlined below. 1. For the purposes of this provision, actively seeking is defined as follows: a. A Federal, State, or local law enforcement agency informs the local Food Assistance office that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within twenty (20) days of submitting a request for information about the individual to the local office; b. A Federal, State, or local law enforcement agency presents a felony arrest warrant as provided in 4.304.4(B)(1); or c. A Federal, State, or local law enforcement agency states that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within thirty (30) days of the date of a request from a local Food Assistance office about a specific outstanding felony warrant or probation or parole violation. E. Residents of commercial and noncommercial boarding houses and institutions are not eligible to participate in the Program unless exempt in Section 4.304.41. 1. The household of the proprietor of a boarding house may participate in the Program separate and apart from the residents of the boarding house if that household meets all of the eligibility requirements for Program participation.	is defined as follows: a. A Federal, State, or local law enforcement agency informs the local office that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within twenty (20) days of submitting a request for information about the individual to the local office; b. A Federal, State, or local law enforcement agency presents a felony arrest warrant as provided in 4.304.4(B)(1); or C. A Federal, State, or local law enforcement agency states that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within thirty (30) days of the date of a request from a local office about a specific outstanding felony warrant or probation or parole violation. D. Residents of commercial and noncommercial boarding houses and institutions are not eligible to participate in the Program unless exempt in Section 4.304.41. 1. The household of the proprietor of a boarding house may participate in the Program separate and apart from the residents of the boarding house if that household meets all eligibility requirements for Program participation. 2. An institution is a place which has not been authorized by FNS to accept SNAP benefits, but which provides its residents with more than fifty percent (50%) of their daily meals as a part of its normal services. Residents of a halfway house for persons with a disability are residents of an institution if they are provided meals as part of their regular service. 3. Students who purchase meal plans through an institution of higher education shall be considered residents of an institution if the meal plan provides the student more than fifty percent (50%) of his/her meals, unless the individual is otherwise exempt from the institution provisions as provided in Section 4.304.41.		

		2. An institution is a place which has not been authorized by FNS to accept Food Assistance benefits but which provides its residents with the majority of their daily meals as a part of its normal services. Residents of a halfway house for persons with a disability are considered to be residents of an institution if they are provided meals as part of their regular service. 3. Students who purchase meal plans through an institution of higher education shall be considered residents of an institution if the meal plan provides the student more than fifty percent (50%) of his/her meals, unless the individual is otherwise exempt from the institution provisions as provided in Section 4.304.41.			
4.304.41 (A)	Non-standardized language	**4.304.41 EXEMPTIONS FROM THE BOARDING HOUSE AND INSTITUTION PROHIBITIONS** A. An individual who is a resident of federally subsidized housing for elderly persons under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act. A person who is elderly is defined as a member of a household who is sixty (60) years of age or older.	**4.304.41 EXEMPTIONS FROM THE BOARDING HOUSE AND INSTITUTION PROHIBITIONS** A. An individual who is a resident of federally subsidized housing for persons aged 60 and older under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act.	Standardizing language	
4.305	Program name update; non-standardized language and acronyms;	**4.305 CITIZENSHIP AND NON-CITIZENSHIP STATUS** Citizens of the United States are potentially eligible for participation in the Food Assistance Program, provided they meet other eligibility requirements. Most non-citizens must be in a qualified alien status and meet one (1) additional condition to be eligible for participation in the Program. Some classes of non-citizens are eligible for participation without having to meet an additional condition. A. Citizens and Non-Citizen Nationals 1. The following individuals are considered United States citizens: a. A person born in the United States or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands or the Mariana Islands, b. A person who has become a citizen through the naturalization process,	**4.305 CITIZENSHIP AND NON-CITIZENSHIP STATUS** Citizens of the United States are potentially eligible for participation in SNAP, provided they meet other eligibility requirements. Most non-citizens must be in a qualified non-citizen status and meet one (1) additional condition to be eligible for participation in the Program. Some classes of non-citizens are eligible for participation without having to meet an additional condition. A. Citizens and Non-Citizen Nationals 1. The following individuals are considered United States citizens: a. A person born in the United States or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands or the Mariana Islands, b. A person who has become a citizen through the naturalization process,	Updating Food Assistance to SNAP; standardization of terminology and acronyms	

		c. A person born outside of the United States to at least one (1) U.S. citizen parent, d. A child under eighteen (18) years of age adopted or born outside the U.S. with a parent who is a U. S. citizen, who has been admitted as a lawful permanent resident, and is in the legal and physical custody of a parent who is a U.S. citizen. 2. Although not considered U.S. citizens, non-citizen nationals enjoy the same potential eligibility for Food Assistance benefits as U.S. citizens. Non-citizen nationals are those individuals born in an outlying possession of the United States (either American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. B. Non- Citizens Non-citizens in a qualified alien status and certain groups of non-citizens who are not in a qualified alien status are eligible for participation under certain conditions. Some non-citizens in a qualified alien status must also meet an additional condition, as outlined in Section 4.305, B, 3, to be eligible for participation. Each of the following categories of eligible non-citizen status stands alone for the purposes of determining eligibility. If eligibility expires under one (1) eligible status, the local office shall determine if eligibility exists under another status. 1. Non-Citizens in a Qualified Alien Status The following classes of non-citizens, based on the immigration status of an individual, are defined as a qualified status. The non-citizen shall be qualified as listed below at the time the non-citizen applies for, receives, or attempts to receive Food Assistance benefits. A non-citizen under the age of eighteen (18) that	c. A person born outside of the United States to at least one (1) U.S. citizen parent, d. A child under eighteen (18) years of age adopted or born outside the U.S. with a parent who is a U. S. citizen, who has been admitted as a lawful permanent resident, and is in the legal and physical custody of a parent who is a U.S. citizen. 2. Although not considered U.S. citizens, non-citizen nationals have the same potential eligibility for SNAP as U.S. citizens. Non-citizen nationals are those individuals born in an outlying possession of the United States (either American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. B. Non-Citizens Non-citizens in a qualified status and certain groups of non-citizens who are not in a qualified alien status are eligible for participation under certain conditions. Some non-citizens in a qualified alien status must also meet an additional condition, as outlined in Section 4.305, B, 3, to be eligible for participation. Each of the following categories of eligible non-citizen status stands alone for the purposes of determining eligibility. If eligibility expires under one (1) eligible status, the local office shall determine if eligibility exists under another status. 1. Non-Citizens in a Qualified Status The following classes of non-citizens, based on the immigration status of an individual, are defined as a qualified status. The non-citizen shall be qualified as listed below at the time the non-citizen applies for, receives, or attempts to receive SNAP benefits. A non-citizen under the age of eighteen (18) that is in a qualified alien status, as outlined in paragraphs A and B of this subsection, shall be eligible for participation in the program without having to meet an additional requirement. Once the non-citizen turns eighteen (18), the eligibility of the non-citizen shall be		

		is in a qualified alien status, as outlined in paragraphs A and B of this subsection, shall be eligible for participation in the program without having to meet an additional requirement. Once the non-citizen turns eighteen (18), the eligibility of the non-citizen shall be reviewed. a. A non-citizen in one (1) of the following qualified alien statuses is not required to meet an additional condition to be eligible for participation in the Program and is eligible for participation indefinitely from the date the non-citizen obtains status as a qualified alien or enters the U.S. in a qualifying status. 1) A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act (INA), which is codified throughout Title 8 of the United States Code. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203. 2) Victims of trafficking, under the Trafficking Victims Protection Act of 2000, as amended, certified by the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR). This person shall have a certification letter. a) ORR issues a letter of eligibility for adults and children under the age of eighteen (18). A trafficked minor shall have either an interim assistance letter or an eligibility letter from ORR to be eligible for Food Assistance. The local office shall accept these letters in place of Department of Homeland Security documentation. b) Certification letters and eligibility	reviewed. A non-citizen in one (1) of the following qualified alien statuses is not required to meet an additional condition to be eligible for participation in the Program and is eligible for participation indefinitely from the date the non-citizen obtains status as a qualified alien or enters the U.S. in a qualifying status. 1) A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act (INA), which is codified throughout Title 8 of the United States Code. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection. 2) Victims of trafficking, under the Trafficking Victims Protection Act of 2000, as amended, certified by the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR). This person shall have a certification letter. a) ORR issues a letter of eligibility for adults and children under the age of eighteen (18). A trafficked minor shall have either an interim assistance letter or an eligibility letter from ORR to be eligible for SNAP. The local office shall accept these letters in place of Department of Homeland Security documentation. b) Certification letters and eligibility letters do not expire; however, interim assistance letters that are provided to children are valid for ninety (90) calendar days from the effective date of the letter. ORR may extend the interim eligibility an additional thirty (30) calendar days. Children with an interim assistance letter can only receive SNAP benefits until the expiration of the period established in the interim letter. c) The local office can verify the status of these individuals through SAVE.		

		letters do not expire; however, interim assistance letters that are provided to children are valid for ninety (90) calendar days from the effective date of the letter. ORR may extend the interim eligibility an additional thirty (30) calendar days. Children with an interim assistance letter can only receive Food Assistance benefits until the expiration of the time period established in the interim letter. c) The local office can verify the status of these individuals through SAVE. 3) Asylees granted asylum under Section 208 of the INA, which is codified throughout Title 8 of the United States Code. The U.S. Code does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository. 4) A non-citizen whose deportation is being withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under Section 241(b)(3) of the INA. 5) Cuban or Haitian entrants under Section 501(e) of the Refugee Education Assistance Act of 1980 (retroactive to August 22, 1996). 6) Retroactive to August 22, 1996, Amerasians under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988. 7) Iraqi and Afghan Special Immigrants (SIV) Special immigrant status under Section 101(A)(27) of the INA may be granted to Iraqi and Afghan nationals who have worked on	3) Asylees granted asylum under Section 208 of the INA, which is codified throughout Title 8 of the United States Code. The U.S. Code does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection. 4) A non-citizen whose deportation is being withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under Section 241(b)(3) of the INA. 5) Cuban or Haitian entrants under Section 501(e) of the Refugee Education Assistance Act of 1980 (retroactive to August 22, 1996). 6) Retroactive to August 22, 1996, Amerasians under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988. 7) Iraqi and Afghan Special Immigrants (SIV) Special immigrant status under Section 101(A)(27) of the INA may be granted to Iraqi and Afghan nationals who have worked on behalf of the U.S. Government in Iraq or Afghanistan. The Department of Defense Appropriations Act of 2010 (DODAA), P.L. 111-118, Section 8120 enacted on December 19, 2009, provides that SIVs are eligible for all benefits to the same extent and the same period as refugees. b. Non-citizens in one (1) of the following qualified alien statuses are required to meet an additional condition (see Section 4.305, B, 3) to be eligible for participation in the Program. 1) Lawfully Admitted for Permanent Residence (LPRs) under the Immigration and Nationality Act (INA). LPRs are holders of Green Cards. If a non-citizen is in a qualified alien status as outlined in paragraph a. of this section and later adjusts to LPR status, the non-citizen does not have to meet an additional condition to be eligible for participation and shall remain eligible based on		

		behalf of the U.S. Government in Iraq or Afghanistan. The Department Of Defense Appropriations Act of 2010 (DODAA), P.L. 111-118, Section 8120 enacted on December 19, 2009, provides that SIVs are eligible for all benefits to the same extent and the same period of time as refugees. b. Non-citizens in one (1) of the following qualified alien statuses are required to meet an additional condition (see Section 4.305, B, 3) to be eligible for participation in the Program. 1) Lawfully Admitted for Permanent Residence (LPRs) under the Immigration and Nationality Act (INA). LPRs are holders of Green Cards. If a non-citizen is in a qualified alien status as outlined in paragraph a. of this section and later adjusts to LPR status, the non-citizen does not have to meet an additional condition to be eligible for participation and shall remain eligible based on the previous qualified alien status. 2) Paroled into the United States under Section 212(d)(5) of the INA for at least one (1) year. 3) Granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980. 4) A non-citizen who has been battered or subjected to extreme cruelty in the U.S. by a family member with whom the non-citizen resides, such as by a spouse, a parent, or a member of the spouse or parent's family. This qualified alien status also extends to a non-citizen whose child has been battered or subjected to battery or cruelty or to a non-citizen child whose parent has been battered. To establish eligibility, the local office shall determine that the non-citizen has satisfied three (3) requirements. Spouses and children	the previous qualified alien status. 2) Paroled into the United States under Section 212(d)(5) of the INA for at least one (1) year. 3) Granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980. 4) A non-citizen who has been battered or subjected to extreme cruelty in the U.S. by a family member with whom the non-citizen resides, such as by a spouse, a parent, or a member of the spouse or parent's family. This qualified alien status also extends to a non-citizen whose child has been battered or subjected to battery or cruelty or to a non-citizen child whose parent has been battered. To establish eligibility, the local office shall determine that the non-citizen has satisfied three (3) requirements. Spouses and children who have applied for or have been granted protection under the Violence Against Women Act will meet these requirements. a) The battered non-citizen(s) shall show that he/he has an approved or pending petition which makes a prima facie case for immigration status in one (1) of the following categories: i) Form I-130, petition for alien relative, filed by their spouse or the child’s parent; ii) Form I-130 petition as a widow(er) of a U.S. citizen; iii) Self-petition under the Violence Against Women Act (including those filed by a parent on behalf of an abused child); or, iv) An application for cancellation of removal or suspension of deportation filed as a victim of domestic violence.		

		who have applied for or have been granted protection under the Violence Against Women Act will meet these requirements. a) The battered non-citizen(s) shall show that he/he has an approved or pending petition which makes a prima facie case for immigration status in one (1) of the following categories: i) Form I-130, petition for alien relative, filed by their spouse or the child's parent; ii) Form I-130 petition as a widow(er) of a U.S. citizen; iii) Self-petition under the Violence Against Women Act (including those filed by a parent on behalf of an abused child); or, iv) An application for cancellation of removal or suspension of deportation filed as a victim of domestic violence. b) There is substantial connection between the battery or extreme cruelty and the need for Food Assistance benefits; and c) The battered non-citizen, child, or parent no longer resides in the same home as the abuser. 2. Eligible Non-Citizens Not in a Qualified Alien Status: The following classes of non-citizens are not defined as having a qualified alien status, but are potentially eligible for participation in the Food Assistance Program without having to meet an additional condition (see Section 4.305, B, 3). All other classes of non-citizens that are not in a qualified alien status are not eligible for participation in the Program.	b) There is substantial connection between the battery or extreme cruelty and the need for SNAP benefits; and c) The battered non-citizen, child, or parent no longer resides in the same home as the abuser. 2. Eligible Non-Citizens Not in a Qualified Status: The following classes of non-citizens are not defined as having a qualified status but are potentially eligible for participation in SNAP without having to meet an additional condition (see Section 4.305, B, 3). All other classes of non-citizens that are not in a qualified status are not eligible for participation SNAP. a. Certain American Indians Born Abroad American Indians born abroad in Canada living in the U.S. under Section 289 of the INA or non-citizen members of a federally recognized Indian tribe under Section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(B)(E) who are recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians. This provision was intended to cover Native Americans who are entitled to cross the U.S. border between Canada and/or Mexico. It was intended to include but is not limited to the St. Regis Band of the Mohawk in New York State, the Micmac (also known as Mi'kmaq) in Maine, the Abenaki in Vermont, and the Kickapoo in Texas. b. Hmong or Highland Laotian Tribal Members An individual lawfully residing in the U.S. who was a member of a Hmong or Highland Laotian tribe that rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era (August 5, 1964 – May 7, 1975). This category includes A: 1) Spouse or surviving spouse of a deceased		

		a. Certain American Indians Born Abroad American Indians born abroad in Canada living in the U.S. under Section 289 of the INA or non-citizen members of a federally-recognized Indian tribe under Section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(B)(E) who are recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians. This provision was intended to cover Native Americans who are entitled to cross the U.S. border between Canada and/or Mexico. It was intended to include, among others, the St. Regis Band of the Mohawk in New York State, the MicMac in Maine, the Abanaki in Vermont, and the Kickapoo in Texas. b. Hmong or Highland Laotian Tribal Members An individual lawfully residing in the U.S. who was a member of a Hmong or Highland Laotian tribe that rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era (August 5, 1964 – May 7, 1975). This category includes A: 1) Spouse or surviving spouse of a deceased Hmong or Highland Laotian Tribal Member who is not remarried; and/or, 2) Unmarried dependent child of Hmong or Highland Laotian Tribal Member who is: under the age of eighteen (18) or a full-time student under the age of twenty-two (22); 3) Unmarried child under the age of eighteen (18) or a full-time student under the age of twenty-two (22) of a deceased Hmong or Highland Laotian Tribal	Hmong or Highland Laotian Tribal Member who is not remarried; and/or, 2) Unmarried dependent child of Hmong or Highland Laotian Tribal Member who is: under the age of eighteen (18) or a full-time student under the age of twenty-two (22); 3) Unmarried child under the age of eighteen (18) or a full-time student under the age of twenty-two (22) of a deceased Hmong or Highland Laotian Tribal Member, provided the child was dependent upon him or her at the time of his or her death; or, 4) Unmarried child with disabilities age eighteen (18) or older if the child with disabilities had a disability and was dependent on the person prior to the child's eighteenth (18th) birthday. A) For purposes of this paragraph, “child” means the legally adopted or biological child of the person described in this section as a Hmong or Highland Laotian Tribal Member. 3. Additional Conditions Non-citizens in a qualified status as outlined in subsection 4.305, B, 1, are required to meet one additional condition to be eligible for participation in the Program. At the time the non-citizen applies for SNAP, he or she need only satisfy one of the following conditions to be eligible: a. Five (5) Years of Residence The non-citizen has lived in the U.S. in a qualified alien status for five (5) years. The five (5) year waiting period begins on the date the non-citizen obtains status as a qualified alien or enters the U.S. in a qualifying status. b. Forty (40) Qualifying Work Quarters A person shall have satisfied this additional		

		Member, provided the child was dependent upon him or her at the time of his or her death; or, 4) Unmarried child with disabilities age eighteen (18) or older if the child with disabilities had a disability and was dependent on the person prior to the child's eighteenth (18th) birthday.A) For purposes of this paragraph, “child” means the legally adopted or biological child of the person described in this section as a Hmong or Highland Laotian Tribal Member. 3. Additional Conditions Non-citizens in a qualified alien status as outlined in subsection 4.305, B, 1, are required to meet one additional condition in order to be eligible for participation in the Program. At the time the non-citizen applies for Food Assistance, he or she need only satisfy one of the following conditions to be eligible for Food Assistance: a. Five (5) Years of Residence The non-citizen has lived in the U.S. in a qualified alien status for five (5) years. The five (5) year waiting period begins on the date the non-citizen obtains status as a qualified alien or enters the U.S. in a qualifying status. b. Forty (40) Qualifying Work Quarters A person shall have satisfied this additional condition if he or she is lawfully admitted for permanent residence while already possessing credit for forty (40) qualifying work quarters as defined under Title II of the Social Security Act. In some cases, an applicant may have work from employment that is not covered by Title II of the Social Security Act, but which is countable toward the forty (40) quarters test, and there are also cases in which SSA records do not show	condition if he or she is lawfully admitted for permanent residence while already possessing credit for forty (40) qualifying work quarters as defined under Title II of the Social Security Act. In some cases, an applicant may have work from employment that is not covered by Title II of the Social Security Act, but which is countable toward the forty (40) quarters test, and there are also cases in which SSA records do not show current year’s earnings. Such quarters are still countable for the forty (40) quarter test, but the individual non-citizen shall be responsible for providing evidence needed to verify the quarters. 1) The sum of work quarters can include: a) Quarters the non-citizen worked; b) Quarters credited from the work of a parent of such a non-citizen while the non-citizen was under eighteen (18), which includes quarters worked before the non-citizen was born or adopted; or c) Quarters credited from the work of the non-citizen’s spouse. Quarters are only creditable to the non-citizen for work performed by his or her spouse if the couple is still legally married, or if the spouse becomes deceased while married to the non-citizen, and the work being credited to the non-citizen was performed after the marriage began. If a couple divorces prior to determination of SNAP eligibility, a spouse may not get credit for quarters of their spouse. However, if the local office determines eligibility of a non-citizen based on the quarters of the spouse, and then the couple divorces, the non-citizen's eligibility continues until the next re-certification. At that time, the local office shall determine the non-citizen's eligibility without crediting the non-citizen with the former spouse's quarters of coverage.		

		current year's earnings. Such quarters are still countable for the forty (40) quarter test, but the individual non-citizen shall be responsible for providing evidence needed to verify the quarters. 1) The sum of work quarters can include: a) Quarters the non-citizen worked; b) Quarters credited from the work of a parent of such a non-citizen while the non-citizen was under eighteen (18), which includes quarters worked before the non-citizen was born or adopted; or c) Quarters credited from the work of the non-citizen's spouse. Quarters are only creditable to the non-citizen for work performed by his or her spouse if the couple is still legally married, or if the spouse becomes deceased while married to the non-citizen, and the work being credited to the non-citizen was performed after the marriage began. If a couple divorces prior to determination of Food Assistance eligibility, a spouse may not get credit for quarters of their spouse. However, if the local office determines eligibility of a non-citizen based on the quarters of the spouse, and then the couple divorces, the non-citizen's eligibility continues until the next re-certification. At that time, the local office shall determine the non-citizen's eligibility without crediting the non-citizen with the former spouse's quarters of coverage. 2) The sum of work quarters cannot include: a) Quarters in which not enough	2) The sum of work quarters cannot include: a) Quarters in which not enough income was earned to qualify, or, b) Quarters earned after December 31, 1996, cannot be counted if the non-citizen, during the quarter, received SNAP or any other federal means-tested public benefits, such as Medicaid, SSI, TANF, or state Children's Health Insurance Program. c. Children Under Eighteen (18) A non-citizen under eighteen (18) years of age in a qualified alien status who lawfully resides in the U.S. When the non-citizen turns eighteen (18), non-citizen eligibility shall be reviewed. d. Blind or Person with Disabilities A non-citizen who is blind or a person with a disability if the non-citizen is receiving benefits or assistance for their condition regardless of entry date. e. Born on or before August 22, 1931 who lawfully resided in the U.S. on August 22, 1996. f. Military Connection 1) Qualified aliens with a military connection, including an individual who is lawfully residing in a state and is on active duty, other than training, in the military, excluding national guard; or, 2) An honorably discharged veteran, as defined in Section 101 of Title 38, U.S.C, whose discharge is not because of immigration status, who fulfills the minimum active-duty service requirements. This includes an individual who died in active military duty, naval or air service. This provision extends to the spouse, un-remarried surviving spouse, and unmarried dependent children. A discharge "under		

		income was earned to qualify, or, b) Quarters earned after December 31, 1996, cannot be counted if the non-citizen , during the quarter, received Food Assistance or any other federal means-tested public benefits, such as Medicaid, SSI, TANF, or state Children's Health Insurance Program. c. Children Under Eighteen (18) A non-citizen under eighteen (18) years of age in a qualified alien status who lawfully resides in the U.S. When the non-citizen turns eighteen (18), non-citizen eligibility shall be reviewed. d. Blind or Person with Disabilities A non-citizen who is blind or a person with a disability if the non-citizen is receiving benefits or assistance for their condition regardless of entry date. e. Elderly born on or before August 22, 1931 who lawfully resided in the U.S. on August 22, 1996. f. Military Connection 1) Qualified aliens with a military connection, including an individual who is lawfully residing in a state and is on active duty, other than training, in the military, excluding national guard; or, 2) An honorably discharged veteran, as defined in Section 101 of Title 38, U.S.C, whose discharge is not because of immigration status, who fulfills the minimum active-duty service requirements. This includes an individual who died in active military duty, naval or air service. This provision extends to the spouse, un-remarried surviving spouse, and unmarried dependent children. A	honorable conditions," which is not the same as an honorable discharge, does not meet this requirement. 3) The definition of "veteran" shall also include: a. An individual who served before July 1, 1946, in the organized military forces of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the U.S. or in the Philippine Scouts; or, b. An individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, or the spouse of such a person; or, c. The spouse of a veteran who served at least twenty-four (24) months in the Armed Forces. This includes the spouse of a deceased veteran, provided the marriage fulfilled the requirements of 38 U.S.C. 1304, and the spouse has not remarried. Copies of the federal laws are available for inspection; or d. An unmarried dependent child of a veteran who is under the age of eighteen (18) or, if a full-time student, under the age of twenty- two (22); or, e. Unmarried dependent child of a deceased veteran provided such child was dependent upon the veteran at the time of the veteran's death; or an unmarried child with disabilities age eighteen (18) or older if the child with disabilities was disabled and dependent upon the deceased veteran prior to the child's eighteenth (18th) birthday. 1. For purposes of this provision, "child" means the legally adopted or biological child of the veteran.		

		discharge “under honorable conditions,” which is not the same as an honorable discharge, does not meet this requirement. 3) The definition of “veteran” shall also include: a. An individual who served before July 1, 1946, in the organized military forces of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the U.S. or in the Philippine Scouts; or, b. An individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, or the spouse of such a person; or, c. The spouse of a veteran who served at least twenty-four (24) months in the Armed Forces. This includes the spouse of a deceased veteran, provided the marriage fulfilled the requirements of 38 U.S.C. 1304, and the spouse has not remarried. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203, or state publications depository; or, d. An unmarried dependent child of a veteran who is under the age of eighteen (18) or, if a full-time student, under the age of twenty-two (22); or, e. Unmarried dependent child of a deceased veteran provided such child was dependent upon the		

		veteran at the time of the veteran's death; or an unmarried child with disabilities age eighteen (18) or older if the child with disabilities was disabled and dependent upon the deceased veteran prior to the child's eighteenth (18th) birthday. 1. For purposes of this provision, “child” means the legally adopted or biological child of the veteran.			
4.305.1	Program name update; and redundant language	**4.305.1 Non-Citizens Ineligible for Participation in the Program** The following non-citizens are not eligible to participate in the Food Assistance Program as a member of any household. A. Non-citizens who are lawfully present in the U.S. but not in a qualified status, such as students and H-1B Visa workers; B. Undocumented non-citizens (e.g., individuals who entered the country as temporary residents and overstayed their visas or who entered without a visa) are not eligible for Food Assistance benefits; C. Non-citizen visitors; D. Tourists; E. Diplomats; F. Students who enter the U.S. temporarily with no intention of abandoning their residence in a foreign country; G. Individuals granted temporary protection status (TPS), unless in some other qualifying alien status; H. Citizens of nations under Compact of Free Association agreements (Palau, Micronesia, and the Marshall Islands) who have been admitted under those agreements are not qualified aliens. These individuals may otherwise reside, work, and study in	**4.305.1 Non-Citizens Ineligible for Participation in the Program** The following non-citizens are not eligible to participate in SNAP as a member of any household. A. Non-citizens who are lawfully present in the U.S. but not in a qualified status, such as students and H-1B Visa workers; B. Undocumented non-citizens (e.g., individuals who entered the country as temporary residents and overstayed their visas or who entered without a visa); C. Non-citizen visitors; D. Tourists; E. Diplomats; F. Students who enter the U.S. temporarily with no intention of abandoning their residence in a foreign country; G. Individuals granted temporary protection status (TPS), unless in some other qualifying alien status; H. Citizens of nations under Compact of Free Association agreements (Palau, Micronesia, and the Marshall Islands) who have been admitted under those agreements are not qualified aliens. These individuals may otherwise reside, work, and study in the U.S.; and, I. Individuals with U Visas, including minor children under	Updating Food Assistance to SNAP; and removal of redundant language	

		the U.S.; and, I. Individuals with U Visas, including minor children under the age of eighteen (18), are ineligible for Food Assistance as they have temporary status and are not considered qualified aliens. However, if the individual adjusts to qualified alien status, such as LPR or battered immigrant status, then the individual's non-citizen eligibility shall be reviewed under the new status.	the age of eighteen (18), are ineligible as they have temporary status and are not considered qualified non-citizens. However, if the individual adjusts to qualified alien status, such as LPR or battered immigrant status, then the individual's non-citizen eligibility shall be reviewed under the new status.		
4.305.2	Program name update	**4.305.2 Households Containing a Sponsored Non-Citizen Member** *** D. Calculating Sponsor Income 1. The total gross income and resources of a sponsor and sponsor's spouse shall be considered as unearned income and resources of a sponsored non-citizen for a period until the person's citizenship is obtained; or until the non-citizen has worked or can receive credit for forty (40) work quarters under Title II of the Social Security Act; or the sponsor dies. The spouse's income and resources shall be counted even if the sponsor and spouse were married after the signing of the agreement. 2. The monthly income of the sponsor and the sponsor's spouse to be considered toward the non-citizen shall be the total monthly earned and unearned income of the sponsor and spouse at the time the household containing the sponsored non-citizen member applies for or is recertified for Program participation and shall be calculated as follows: a. Reduced by an amount equal to twenty percent (20%) of the earned income of the sponsor and the sponsor's spouse; and, b. An amount equal to the Food Assistance Program's monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by	**4.305.2 Households Containing a Sponsored Non-Citizen Member** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, C, F, G, and H here; including D and E.] *** D. Calculating Sponsor Income 1. The total gross income and resources of a sponsor and sponsor's spouse shall be considered as unearned income and resources of a sponsored non-citizen for a period until the person's citizenship is obtained; or until the non-citizen has worked or can receive credit for forty (40) work quarters under Title II of the Social Security Act; or the sponsor dies. The spouse's income and resources shall be counted even if the sponsor and spouse were married after the signing of the agreement. 2. The monthly income of the sponsor and the sponsor's spouse to be considered toward the non-citizen shall be the total monthly earned and unearned income of the sponsor and spouse at the time the household containing the sponsored non-citizen member applies for or is recertified for Program participation and shall be calculated as follows: a. Reduced by an amount equal to twenty percent (20%) of the earned income of the sponsor and the sponsor's spouse; and, b. An amount equal to the SNAP monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be	Updating Food Assistance to SNAP	

		the sponsor or the sponsor's spouse as a dependent for federal income tax purposes; and, c. If a sponsored non-citizen can demonstrate to the local office's satisfaction that his or her sponsor is the sponsor of other non-citizens, the local office shall divide the deemed income and resources of the sponsor and the sponsor's spouse by the number of such sponsored non-citizens. 3. If the sponsored non-citizen has already reported gross income information on his/her sponsor in compliance with the sponsored non-citizen rules of another state assistance program, and the local office is aware of the amounts that income amount shall be used for Food Assistance deeming purposes. However, the local office shall limit allowable reductions to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the non-citizen. The only reduction will be twenty percent (20%) earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse and an amount equal to the Food Assistance Program's monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes. 4. Actual money paid to the non-citizen by the sponsor or the sponsor's spouse shall not be considered as income to the non-citizen unless the amount paid exceeds the amount already considered as income as above. Only the portion that actually exceeds the income already considered shall be added to that income. 5. If the non-citizen changes sponsors during the certification period, a change shall be processed to consider the new sponsor's income and resources toward the non-citizen as soon as possible after the information is verified. The previous sponsor's income and resources shall be	claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes; and, c. If a sponsored non-citizen can demonstrate to the local office's satisfaction that his or her sponsor is the sponsor of other non-citizens, the local office shall divide the deemed income and resources of the sponsor and the sponsor's spouse by the number of such sponsored non-citizens. 3. If the sponsored non-citizen has already reported gross income information on his/her sponsor in compliance with the sponsored non-citizen rules of another state assistance program, and the local office is aware of the amounts that income amount shall be used for SNAP deeming purposes. However, the local office shall limit allowable reductions to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the non-citizen. The only reduction will be twenty percent (20%) earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse and an amount equal to the SNAP monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes. 4. Actual money paid to the non-citizen by the sponsor or the sponsor's spouse shall not be considered as income to the non-citizen unless the amount paid exceeds the amount already considered as income as above. Only the portion that exceeds the income already considered shall be added to that income. 5. If the non-citizen changes sponsors during the certification period, a change shall be processed to consider the new sponsor's income and resources toward the non-citizen as soon as possible after the information is verified. The previous sponsor's income and resources shall be used until such determination; however, should any present sponsor become deceased, that sponsor's income and resources shall not be attributed to the non-citizen.		

		used until such determination; however, should any present sponsor become deceased, that sponsor's income and resources shall not be attributed to the non-citizen. 6. Total resources of the sponsor and the sponsor's spouse shall be considered as resources to the non-citizen reduced by one thousand five hundred dollars ($1,500). E. The counting of a sponsor’s income and resource provisions do not apply to a non-citizen who is: 1. A member of his or her sponsor's Food Assistance household; 2. Sponsored by an organization or group as opposed to an individual; 3. Not required to have a sponsor under the Immigration and Nationality Act (INA), such as a refugee, a parolee, an asylee, or a Cuban or Haitian entrant; 4. A non-citizen who is considered as an “indigent” non-citizen; An indigent non-citizen is a non-citizen who has been determined to be unable to obtain food and shelter which totals to an amount exceeding one hundred thirty percent (130%) of the federal poverty level. A non-citizen who is receiving in-kind benefits that exceed the gross income level for the household size shall not be considered indigent. The non- citizen's own income plus any cash, food, housing, or other assistance provided by other individual's, including the sponsor will be counted in making this determination. For purposes of this provision, the sum of the eligible sponsored non-citizen's household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance from the sponsor and others, shall not exceed one hundred thirty percent (130%) of the poverty income guideline for the household's size. The local office shall determine the amount of income	6. Total resources of the sponsor and the sponsor's spouse shall be considered as resources to the non-citizen reduced by one thousand five hundred dollars ($1,500). E. The counting of a sponsor’s income and resource provisions do not apply to a non-citizen who is: 1. A member of his or her sponsor's SNAP household; 2. Sponsored by an organization or group as opposed to an individual; 3. Not required to have a sponsor under the Immigration and Nationality Act (INA), such as a refugee, a parolee, an asylee, or a Cuban or Haitian entrant; 4. A non-citizen who is considered as an “indigent” non-citizen; An indigent non-citizen is a non-citizen who has been determined to be unable to obtain food and shelter which totals to an amount exceeding one hundred thirty percent (130%) of the federal poverty level. A non-citizen who is receiving in-kind benefits that exceed the gross income level for the household size shall not be considered indigent. The non- citizen's own income plus any cash, food, housing, or other assistance provided by other individual's, including the sponsor will be counted in making this determination. For purposes of this provision, the sum of the eligible sponsored non-citizen's household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance from the sponsor and others, shall not exceed one hundred thirty percent (130%) of the poverty income guideline for the household's size. The local office shall determine the amount of income and other assistance provided in the month of application. If the non-citizen is below one hundred thirty percent (130%) of the federal poverty level, the only amount that the local office shall consider to such a non-citizen will be the amount provided by the sponsor for a period beginning on the date of such determination and ending twelve (12)		

		and other assistance provided in the month of application. If the non-citizen is below one hundred thirty percent (130%) of the federal poverty level, the only amount that the local office shall consider to such a non-citizen will be the amount actually provided by the sponsor for a period beginning on the date of such determination and ending twelve (12) months after such date. Each determination is renewable for additional twelve (12) month periods. The local office shall notify the U.S. attorney general of each such determination, including the names of the sponsor and the sponsored non-citizen involved. 5. A child of a battered parent is exempt from the provision of sponsorship. A battered non- citizen spouse, non-citizen parent of a battered child, or child of a battered non-citizen will not have sponsor's income and resources counted during a twelve (12) month period after the local office determines that the battering is substantially connected to the need for benefits, and the battered individual does not live with the batterer. After twelve (12) months, the local office shall not deem the batterer's income and resources if the battery is recognized by a court or the INS and has a substantial connection to the need for benefits, and the non-citizen does not live with the batterer; 6. Had been sponsored but has since obtained citizenship; 7. A person whose sponsor has died; or, 8. Who has worked or can receive credit for a total of forty (40) work quarters under Title II of the Social Security Act. F. Verification Requirements The local office shall verify the following information at the time of initial application and recertification: 1. The income and resources of the non-citizen's sponsor and the sponsor's spouse (if the spouse	months after such date. Each determination is renewable for additional twelve (12) month periods. The local office shall notify the U.S. attorney general of each such determination, including the names of the sponsor and the sponsored non-citizen involved. 5. A child of a battered parent is exempt from the provision of sponsorship. A battered non- citizen spouse, non-citizen parent of a battered child, or child of a battered non-citizen will not have sponsor's income and resources counted during a twelve (12) month period after the local office determines that the battering is substantially connected to the need for benefits, and the battered individual does not live with the batterer. After twelve (12) months, the local office shall not deem the batterer's income and resources if the battery is recognized by a court or the INS and has a substantial connection to the need for benefits, and the non-citizen does not live with the batterer; 6. Had been sponsored but has since obtained citizenship; 7. A person whose sponsor has died; or, 8. Who has worked or can receive credit for a total of forty (40) work quarters under Title II of the Social Security Act. F. Verification Requirements The local office shall verify the following information at the time of initial application and recertification: 1. The income and resources of the non-citizen's sponsor and the sponsor's spouse (if the spouse is living with the sponsor) at the time of the non-citizen's application for SNAP. 2. The names (and alien registration numbers) of other non-citizens for whom the sponsor has signed an affidavit of support or similar agreement. 3. The number of dependents who are eligible to be claimed for federal income tax purposes by the sponsor and the sponsor's spouse.		

		is living with the sponsor) at the time of the non-citizen's application for Food Assistance. 2. The names (and alien registration numbers) of other non-citizens for whom the sponsor has signed an affidavit of support or similar agreement. 3. The number of dependents who are eligible to be claimed for federal income tax purposes by the sponsor and the sponsor's spouse. 4. The name, address, and phone number of the non-citizen's sponsor. G. Awaiting Verification 1. Until the non-citizen provides information or verification necessary to determine eligibility, the sponsored non-citizen shall be ineligible. When such verification is provided, the local office shall act on the information as a reported change in household circumstances. The eligibility of any remaining household members shall be determined. The income and resources of the ineligible non-citizen (excluding the attributed income and resources of the non-citizen's sponsor and sponsor's spouse) shall be treated in the same manner as a disqualified member as set forth in Section 4.411.1 and considered available in determining the eligibility and benefit level of the remaining household members. 2. If the sponsored non-citizen refuses to cooperate in providing and/or verifying needed information, other adult members of the non-citizen's household shall be responsible for providing and/or verifying the information. If the information or verification is subsequently received, the local office shall act on the information as a reported change. If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as the needed information is provided and/or verified. The local office shall assist the non-citizen in obtaining verification provided the household is cooperating with the local office.	4. The name, address, and phone number of the non-citizen's sponsor. G. Awaiting Verification 1. Until the non-citizen provides information or verification necessary to determine eligibility, the sponsored non-citizen shall be ineligible. When such verification is provided, the local office shall act on the information as a reported change in household circumstances. The eligibility of any remaining household members shall be determined. The income and resources of the ineligible non-citizen (excluding the attributed income and resources of the non-citizen's sponsor and sponsor's spouse) shall be treated in the same manner as a disqualified member as set forth in Section 4.411.1 and considered available in determining the eligibility and benefit level of the remaining household members. 2. If the sponsored non-citizen refuses to cooperate in providing and/or verifying needed information, other adult members of the non-citizen's household shall be responsible for providing and/or verifying the information. If the information or verification is subsequently received, the local office shall act on the information as a reported change. If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as the needed information is provided and/or verified. The local office shall assist the non-citizen in obtaining verification provided the household is cooperating with the local office. H. Sponsored Non-Citizen’s Responsibility 1. During the period the sponsored non-citizen is subject to deeming, the eligible sponsored non-citizen shall be responsible for obtaining the cooperation of his/her sponsor, for providing the local office, at the time of application and/or recertification, the information and/or documentation necessary to calculate income and resources attributable to the non-citizen's household. The eligible sponsored non-citizen shall be responsible for providing the names (or other identifying factors) of other non-citizens for whom the non- citizen's sponsor has signed an		

		H. Sponsored Non-Citizen's Responsibility 1. During the period the sponsored non-citizen is subject to deeming, the eligible sponsored non-citizen shall be responsible for obtaining the cooperation of his/her sponsor, for providing the local office, at the time of application and/or recertification, the information and/or documentation necessary to calculate income and resources attributable to the non-citizen's household. The eligible sponsored non-citizen shall be responsible for providing the names (or other identifying factors) of other non-citizens for whom the non- citizen's sponsor has signed an agreement to support. The local office shall attribute the entire amount of income and resources to the applicant eligible sponsored non-citizen until he or she provides the information required. 2. The local office will determine how many of such non-citizens are Food Assistance Program applicants or participants and initiate appropriate proration. The eligible sponsored non-citizen shall also be responsible for reporting the required information about the sponsor and sponsor's spouse should the non-citizen obtain a different sponsor during the certification period. The eligible sponsored non-citizen shall report changes in income should the sponsor or sponsor's spouse change or lose employment or become deceased during the certification period. The local office shall act on the information as a reported change in household circumstances as set forth in Section 4.604. ***	agreement to support. The local office shall attribute the entire amount of income and resources to the applicant eligible sponsored non-citizen until he or she provides the information required. 2. The local office will determine how many of such non-citizens are SNAP applicants or participants and initiate appropriate proration. The eligible sponsored non-citizen shall also be responsible for reporting the required information about the sponsor and sponsor's spouse should the non-citizen obtain a different sponsor during the certification period. The eligible sponsored non-citizen shall report changes in income should the sponsor or sponsor's spouse change or lose employment or become deceased during the certification period. The local office shall act on the information as a reported change in household circumstances as set forth in Section 4.604. ***		
4.305.3	Program name update; and non-standardized language	**4.305.3 Reporting Undocumented Non-Citizens** A. The local office shall immediately inform the local INS office whenever personnel responsible for the certification or recertification of households determine that any member of a household is ineligible to receive Food Assistance because the member is present in the United States in violation of the Immigration and	**4.305.3 Reporting Undocumented Non-Citizens** A. The local office shall immediately inform the local INS office whenever personnel responsible for the certification or recertification of households determine that any member of a household is ineligible to receive SNAP because the member is present in the United States in violation of the Immigration and Nationality Act.	Updating Food Assistance to	

		Nationality Act. B. In determining whether the member is present in the United States in violation of the Immigration and Nationality Act, caution shall be exercised to insure that the determination is not made merely on the non-citizen's inability or unwillingness to provide documentation of non-citizen status. When a person indicates inability or unwillingness to provide documentation of non-citizen status, the local office shall not continue efforts to obtain documentation other than that necessary to obtain information on the income and resources to be made available to remaining members of the household. C. Because many non-citizens who are legally present in the United States are not eligible for Food Assistance, eligibility workers are cautioned that a determination that a person is an ineligible non-citizen is not equivalent to a determination that a person is an illegal non-citizen. D. When and if a Food Assistance eligibility worker is able, on the basis of information that becomes available to him/her in the process of reviewing a household's eligibility for Food Assistance, to determine that a member or members of that household are in fact illegal non-citizens present in the United States in violation of the immigration laws, the eligibility worker will report the determination to his or her supervisor. The report to INS, if made, shall be in writing. This rule does not permit the reporting to INS on mere suspicion or prejudice. Firm evidence that a household is illegally in the U.S. would be required. A person known to be a non-citizen in the United States in violation of the Immigration and Nationality Act is only known to have such status when he or she is found in this country and is known to have a final order of deportation outstanding against him or her. An outstanding order of deportation is final when it is not subject to appeal because the relevant statutory appeal period of ten (10) days has expired or because there are no lawful grounds upon which an appeal may be based or because the available administrative and/or judicial appeals have been exhausted, and the	B. In determining whether the member is present in the United States in violation of the Immigration and Nationality Act, caution shall be exercised to ensure that the determination is not made merely on the non-citizen's inability or unwillingness to provide documentation of non-citizen status. When a person indicates inability or unwillingness to provide documentation of non-citizen status, the local office shall not continue efforts to obtain documentation other than that necessary to obtain information on the income and resources to be made available to remaining members of the household. C. Because many non-citizens who are legally present in the United States are not eligible for SNAP, eligibility technicians are cautioned that a determination that a person is an ineligible non-citizen is not equivalent to a determination that a person is a non-citizen present in the United States in violation of immigration laws. D. When and if a SNAP eligibility technician is able, based on information that becomes available to him/her in the process of reviewing a household's eligibility for SNAP, to determine that a member or members of that household are in fact non-citizens present in the United States in violation of the immigration laws, the eligibility technician will report the determination to his or her supervisor. The report to INS, if made, shall be in writing. This rule does not permit the reporting to INS on mere suspicion or prejudice. Firm evidence that a household is illegally in the U.S. would be required. A person known to be a non-citizen in the United States in violation of the Immigration and Nationality Act is only known to have such status when he or she is found in this country and is known to have a final order of deportation outstanding against him or her. An outstanding order of deportation is final when it is not subject to appeal because the relevant statutory appeal period of ten (10) days has expired or because there are no lawful grounds upon which an appeal may be based or because the available administrative and/or judicial appeals have been exhausted, and the order is not subject to review under the limited standards of reopening for consideration. E. The failure to report a non-citizen illegally present in the United States to INS will not be considered a quality	SNAP; and standardizing language	

		order is not subject to review under the limited standards of reopening for consideration. E. The failure to report an illegal non-citizen to INS will not be considered a quality assurance error or assessed as an administrative deficiency.	assurance error or assessed as an administrative deficiency.		
4.306(A)	Program name update	**4.306 STUDENT ELIGIBILITY** A. Any person who is age eighteen (18) through forty-nine (49), physically and mentally fit, and enrolled at least half time in an institution of higher education shall not be eligible to participate in the Food Assistance Program unless the person meets at least one of the criteria listed below.	**4.306 STUDENT ELIGIBILITY** A. Any person who is age eighteen (18) through forty-nine (49), physically and mentally fit, and enrolled at least half time in an institution of higher education shall not be eligible to participate in the SNAP unless the person meets at least one of the criteria listed below.	Updating Food Assistance to SNAP	
4.306.1	Program name update and grammar corrections	**4.306.1 Student Eligibility Criteria** To be eligible to participate in the Food Assistance Program, a student shall meet at least one (1) of the following criteria: *** B. The student is participating in a state or federally financed work-study program. The student shall be approved for a work-study program at the time of application for Food Assistance. The work- study shall be approved for the school term and student shall anticipate actually working during that time. The student qualifies for this exemption the month the school term in which the work- study will occur begins or the month work-study is approved, whichever is later. The exemption will continue until the end of the school term or until it becomes known that the student has refused an assignment. The exemption shall not continue between terms when there is a break of one (1) full month or longer unless the student is participating in work-study during the break. C. The student is responsible for the more than half of the physical care of a dependent household member under the age of six (6), or a full-time student who is a single parent with responsibility for the care of a dependent child under age twelve (12). The single parent provision applies in those situations where only one natural, adoptive, or stepparent regardless of marital status is in the same Food	**4.306.1 Student Eligibility Criteria** [PUBLISHER NOTE NOT TO BE PUBLISHED: We are omitting sections A, D, E, and G here; including B, C, and F.] To be eligible to participate in SNAP, a student shall meet at least one (1) of the following criteria: *** B. The student is participating in a state or federally financed work-study program. The student shall be approved for a work-study program at the time of application for SNAP. The work-study shall be approved for the school term and the student shall anticipate actually working during that time. The student qualifies for this exemption the month the school term in which the work-study will occur begins or the month work-study is approved, whichever is later. The exemption will continue until the end of the school term or until it becomes known that the student has refused an assignment. The exemption shall not continue between terms when there is a break of one (1) full month or longer unless the student is participating in work-study during the break. C. The student is responsible for more than half of the physical care of a dependent household member under the age of six (6), or a full-time student who is a single parent with responsibility for the care of a dependent child under age twelve (12). The single parent provision applies in those situations where only one natural, adoptive, or stepparent regardless of marital status is in the same SNAP household as the child. A full-time student in the same SNAP household with a child who is under his/her	Updating Food Assistance to SNAP; and grammar corrections for clarity	

		Assistance household as the child. A full-time student in the same Food Assistance household with a child who is under his/her parental control may qualify if he/she does not reside with his/her spouse. *** F. The student is assigned to or placed in an institution of higher education through a program under the Workforce Innovation and Opportunity Act (WIOA), Employment First Program, a program under Section 236 of the Trade Act of 1974 (19 USC 2296), another program for the purpose of employment and training operated by the state or local government (program shall have at least one (1) component equivalent to the Food Assistance Employment First Program), or as a result of participating in the JOBS program under Title IV of the Social Security Act. Self-initiated placement during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled. This placement is considered in compliance provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption. ***	parental control may qualify if he/she does not reside with his/her spouse. *** F. The student is assigned to or placed in an institution of higher education through a program under the Workforce Innovation and Opportunity Act (WIOA), EF, a program under Section 236 of the Trade Act of 1974 (19 USC 2296), another program for the purpose of employment and training operated by the state or local government (program shall have at least one (1) component equivalent to the SNAP EF Program), or as a result of participating in the JOBS program under Title IV of the Social Security Act. ***		
4.307	Program name update	**4.307 STRIKER ELIGIBILITY** A. Households containing a striking member shall not be eligible for Food Assistance unless the household was eligible for the Program the day before the strike and are otherwise eligible at time of the strike. Households where the striking member was exempt from work registration the day before the strike shall not be subject to these provisions and shall be certified if otherwise eligible, unless the exemption was based on the employment.	**4.307 STRIKER ELIGIBILITY** A. Households containing a striking member shall not be eligible for SNAP unless the household was eligible for the Program the day before the strike and are otherwise eligible at time of the strike. Households where the striking member was exempt from work registration the day before the strike shall not be subject to these provisions and shall be certified if otherwise eligible unless the exemption was based on the employment.	Updating Food Assistance to SNAP	

		B. Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike was not occurring. Eligibility at the time of application shall be determined by comparing the striking member's income as of the day before the strike to the striking member's current income and adding the higher of the two (2) to the current income of the non-striking household members during the month of application. The higher income will be used in determining benefits. C. For Food Assistance purposes, a striker is anyone involved in a strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Individuals will be deemed participants in a strike whether or not they personally voted for the strike.	B. Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike was not occurring. Eligibility at the time of application shall be determined by comparing the striking member's income as of the day before the strike to the striking member's current income and adding the higher of the two (2) to the current income of the non-striking household members during the month of application. The higher income will be used in determining benefits. C. For SNAP purposes, a striker is anyone involved in a strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Individuals will be deemed participants in a strike whether or not they personally voted for the strike.		
4.308	Program name update	**4.308 VOLUNTARY QUIT** A. No individual who quit his or her most recent job without good cause or reduces work effort and, after the reduction, is working less than thirty (30) hours each week, without good cause, or earning less than the federal minimum wage multiplied by thirty (30) hours, shall be eligible for participation in the Food Assistance Program. At the time of application, the eligibility technician shall explain to the applicant the potential penalties if a household member quits his or her job or reduced hours or wages without good cause or if another member joins the household if that individual has voluntarily quit employment. B. When a household files an application, or when a participating household reports the loss of a source of income or reduction in hours, the local office shall determine whether any household member voluntarily quit or reduced his or her hours or income. Benefits shall not be delayed pending the outcome of this determination. A sanction shall be imposed if the quit or reduction in hours or wages occurred within sixty (60) calendar days prior to the date of application or anytime thereafter, and the quit or reduction was without good cause. An employee of the federal government, or of a state or local government who	**4.308 VOLUNTARY QUIT** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections D, E, and G here; including A, B, C, and F.] A. No individual who quit his or her most recent job without good cause or reduces work effort and, after the reduction, is working less than thirty (30) hours each week, without good cause, or earning less than the federal minimum wage multiplied by thirty (30) hours, shall be eligible for participation in SNAP. At the time of application, the eligibility technician shall explain to the applicant the potential penalties if a household member quits his or her job or reduced hours or wages without good cause or if another member joins the household if that individual has voluntarily quit employment. B. When a household files an application, or when a participating household reports the loss of a source of income or reduction in hours, the local office shall determine whether any household member voluntarily quit or reduced his or her hours or income. Benefits shall not be delayed pending the outcome of this determination. A sanction shall be imposed if the quit or reduction in hours or wages occurred within sixty (60) calendar days prior to the date of application or anytime thereafter, and the quit or reduction was without good cause. An employee of the	Updating Food Assistance to SNAP	

		participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have voluntarily quit his or her job without good cause. If an individual quits a job, secures new employment at comparable wages or hours, and, through no fault of his or her own loses the new job, the earlier quit shall not be a basis for disqualification. C. In the case of an applicant household, the local office shall determine whether any currently unemployed household member who is required to register for work or was exempt from registration for being employed has voluntarily quit his or her most recent job within the last sixty (60) days. If the local office learns that a household has lost a source of income after the date of application but before the household is certified, the local office shall determine whether a voluntary quit occurred. The nonexempt individual who quit or reduced work hours will be ineligible to participate for the sanction period if the household is determined eligible for the Food Assistance Program. The individual will be required to comply with Employment First following the sanction period unless the individual becomes exempt from work requirements. *** F. If the local office determines that the individual voluntarily quit his or her job or reduced his or her work hours without good cause while participating in the Food Assistance Program, the local office shall provide the household with a Notice of Adverse Action within ten (10) calendar days after the determination of a voluntary quit is made. The notice shall contain the particular act of noncompliance, the proposed period of disqualification, the action to be taken at the end of the disqualification and shall specify that the individual may be included in the household after the disqualification period if the individual meets other work requirements.	federal government, or of a state or local government who participates in a strike against such government and is dismissed from his or her job because of participation in the strike, shall be considered to have voluntarily quit his or her job without good cause. If an individual quits a job, secures new employment at comparable wages or hours, and, through no fault of his or her own loses the new job, the earlier quit shall not be a basis for disqualification. C. In the case of an applicant household, the local office shall determine whether any currently unemployed household member who is required to register for work or was exempt from registration for being employed has voluntarily quit his or her most recent job within the last sixty (60) days. If the local office learns that a household has lost a source of income after the date of application but before the household is certified, the local office shall determine whether a voluntary quit occurred. The nonexempt individual who quit or reduced work hours will be ineligible to participate for the sanction period if the household is determined eligible for SNAP. The individual will be required to comply with EF following the sanction period unless the individual becomes exempt from work requirements. *** F. If the local office determines that the individual voluntarily quit his or her job or reduced his or her work hours without good cause while participating in SNAP, the local office shall provide the household with a Notice of Adverse Action within ten (10) calendar days after the determination of a voluntary quit is made. The notice shall contain the particular act of noncompliance, the proposed period of disqualification, the action to be taken at the end of the disqualification and shall specify that the individual may be included in the household after the disqualification period if the individual meets other work requirements.		

4.309	Program name update	**4.309 HOUSEHOLDS WITH SPECIAL CIRCUMSTANCES** The following sections explain the application of Food Assistance criteria and certification procedures to the eligibility determinations for households with special circumstances pertaining to: ***	**4.309 HOUSEHOLDS WITH SPECIAL CIRCUMSTANCES** The following sections explain the application of SNAP criteria and certification procedures to the eligibility determinations for households with special circumstances pertaining to: ***	Updating Food Assistance to SNAP	
4.309.1	Program name update; and non-standardized language	**4.309.1 Dining Facilities and Homeless Meal Providers** Households with special circumstances, such as a person with disabilities, elderly, or center residents, may be authorized to use Food Assistance benefits to buy food from authorized communal dining facilities, meals on wheels, drug or alcohol treatment and rehabilitation centers, and shelters for battered women and children. Homeless households may also use Food Assistance benefits to purchase prepared meals from approved restaurants. Homeless Food Assistance households may use food benefits for meals prepared for and served by an authorized provider (for example, soup kitchen or temporary shelter) that feeds homeless persons.	**4.309.1 Dining Facilities and Homeless Meal Providers** Households with special circumstances, such as a person with disabilities, persons aged 60 and older, or center residents, may be authorized to use SNAP benefits to buy food from authorized communal dining facilities, meals on wheels, drug or alcohol treatment and rehabilitation centers, and shelters for battered women and children. Homeless households may also use SNAP benefits to purchase prepared meals from approved restaurants. SNAP households experiencing homelessness may use food benefits for meals prepared for and served by an authorized provider (for example, soup kitchen or temporary shelter) that feeds persons experiencing homelessness.	Updating Food Assistance to SNAP; and standardization of language	
4.309.3	Program name update; non-standardized language and acronyms	**4.309.3 Drug and Alcohol Treatment and Rehabilitation Centers** A. Residents of publicly operated community mental health centers or private non-profit organizations or institutions, operating a residential drug or alcohol treatment or rehabilitation program, are eligible to participate in the Food Assistance Program. Applications shall be made through an authorized representative who is employed by the drug or alcohol treatment or rehabilitation facility and designated by the facility for that purpose. Individuals residing in a for profit facility are considered residents of an institution per Section 4.304.4(E). B. The drug or alcohol treatment or rehabilitation center shall be approved by the Colorado Department of Human Services (CDHS), Office of Behavioral Health (OBH) before its residents are eligible for Food Assistance participation. The Office of Behavioral Health will ensure that the center is providing treatment that can lead to the rehabilitation of drug or alcohol addiction.	**4.309.3 Drug and Alcohol Treatment and Rehabilitation Centers** A. Residents of publicly operated community mental health centers or private non-profit organizations or institutions, operating a residential drug or alcohol treatment or rehabilitation program, are eligible to participate in SNAP. Applications shall be made through an authorized representative who is employed by the drug or alcohol treatment or rehabilitation facility and designated by the facility for that purpose. Individuals residing in a for profit facility are considered residents of an institution per Section 4.304.4(E). B. The drug or alcohol treatment or rehabilitation center shall be approved by CDHS, Office of Behavioral Health (OBH) before its residents are eligible for SNAP participation. The OBH will ensure that the center is providing treatment that can lead to the rehabilitation of drug or alcohol addiction. Before the certification of residents can be accomplished, the local office shall verify that the center has been	Updating Food Assistance to SNAP; standardizing language and acronyms	

		Before the certification of residents can be accomplished, the local office shall verify that the center has been approved by FNS as a retailer, is certified by the Office of Behavioral Health, and such proof may be provided in the form of a license or an approval letter issued to the center by that agency, or is funded under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x, et seq.). C. Residents and their children residing in an approved drug or alcohol treatment and rehabilitation center shall voluntarily elect to participate in the Food Assistance Program. Residents shall have their eligibility determined as one-person households unless children are residing with them at the center. Children of the residents in a drug and alcohol treatment center who live with their parents in the treatment center will qualify for Food Assistance. Meals served to the children are eligible for purchase with Food Assistance. The local office shall certify residents of drug/alcohol treatment centers by using the same provisions that apply to other applicant households. D. Residents may be receiving public assistance or SSI benefits, or may be destitute of income and resources and eligible for expedited service. Residents who qualify for expedited service shall have benefits available for spending no later than seven calendar days following the date the application was filed. E. Any applicant household containing a member who regularly participates in a drug or alcohol treatment program on a non-resident basis shall include this member when having its eligibility determined, complete the application process through the head of household or through an authorized representative, and shall meet all financial and non-financial criteria unless specifically exempt. Such households may use any part of their Food Assistance benefits to purchase food prepared for or served to the individual during the course of such program provided the program has been authorized by FNS for such purposes.	approved by FNS as a retailer, is certified by the OBH, and such proof may be provided in the form of a license or an approval letter issued to the center by that agency or is funded under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x, et seq.). C. Residents and their children residing in an approved drug or alcohol treatment and rehabilitation center shall voluntarily elect to participate in SNAP. Residents shall have their eligibility determined as one-person households unless children are residing with them at the center. Children of the residents in a drug and alcohol treatment center who live with their parents in the treatment center will qualify for SNAP. Meals served to the children are eligible for purchase with SNAP benefits. The local office shall certify residents of drug/alcohol treatment centers by using the same provisions that apply to other applicant households. D. Residents may be receiving public assistance or SSI benefits, or may be destitute of income and resources and eligible for expedited service. Residents who qualify for expedited service shall have benefits available for spending no later than seven calendar days following the date the application was filed. E. Any applicant household containing a member who regularly participates in a drug or alcohol treatment program on a non-resident basis shall include this member when having its eligibility determined, complete the application process through the head of household or through an authorized representative, and shall meet all financial and non-financial criteria unless specifically exempt. Such households may use any part of their SNAP benefits to purchase food prepared for or served to the individual during the program, provided the program has been authorized by FNS for such purposes.		

4.309.1	Program name update and non-standard terminology	**4.309.31 Responsibilities of the Center** *** C. The treatment center shall also report when the resident leaves the treatment center. The treatment center shall return to the issuing office any benefits received after the household has left the center. The treatment center shall provide the residents with their EBT card when the household leaves the treatment and rehabilitation program. Once the household leaves the treatment center, the center is no longer allowed to act as that household's authorized representative. The departing resident shall receive his/her full allotment if already issued and if no benefits have been spent on his/her behalf. If benefits have been issued and any portion has been spent on his/her behalf and the resident leaves prior to the sixteenth (16th) of the month, the center shall provide the resident with one half of his/her monthly allotment; on or after the sixteenth (16th), and benefits have already been used, the resident shall not receive any benefits. Under no circumstances shall the center pull benefits from an EBT card after the resident has left the facility. The drug or alcohol treatment center shall return the authorized representative EBT card, and the resident's card if it was left behind, to the issuing office within five (5) calendar days of the resident's departure. The center shall provide the household with a change report form as soon as it has knowledge the household plans to leave the facility and advise the household to return the form to the local Food Assistance office within ten (10) days of any change the household is required to report. D. The organization or institution shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the organization or institution shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their	**4.309.31 Responsibilities of the Center** *** C. The treatment center shall also report when the resident leaves the treatment center. The treatment center shall return to the issuing office any benefits received after the household has left the center. The treatment center shall provide the residents with their EBT card when the household leaves the treatment and rehabilitation program. Once the household leaves the treatment center, the center is no longer allowed to act as that household's authorized representative. The departing resident shall receive his/her full allotment if already issued and if no benefits have been spent on his/her behalf. If benefits have been issued and any portion has been spent on his/her behalf and the resident leaves prior to the sixteenth (16th) of the month, the center shall provide the resident with one half of his/her monthly allotment; on or after the sixteenth (16th), and benefits have already been used, the resident shall not receive any benefits. Under no circumstances shall the center pull benefits from an EBT card after the resident has left the facility. The drug or alcohol treatment center shall return the authorized representative EBT card, and the resident's card if it was left behind, to the issuing office within five (5) calendar days of the resident's departure. The center shall provide the household with a change report form as soon as it has knowledge the household plans to leave the facility and advise the household to return the form to the local office within ten (10) days of any change the household is required to report. D. The organization or institution shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. The organization or institution shall be knowledgeable about household circumstances when serving as an AR. The organization or institution should carefully review those circumstances with residents prior to applying on their behalf. E. The organization or institution may be penalized or disqualified if it is determined administratively or judicially	Updating Food Assistance to SNAP; and standardizing terminology	

		behalf. E. The organization or institution may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The certification office shall promptly notify the state office when it has reason to believe that an organization or institution is misusing Food Assistance benefits in its possession. However, no action shall be taken against the organization or institution prior to an FNS investigation. The certification office shall establish a claim for over-issuance of Food Assistance benefits held on behalf of resident clients if any over-issuances are discovered as a result of an FNS investigation or hearing. If FNS disqualifies an organization or institution as an authorized treatment center, the certification office shall suspend its authorized representative status for the same period.	that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The certification office shall promptly notify the state department when it has reason to believe that an organization or institution is misusing SNAP benefits in its possession. However, no action shall be taken against the organization or institution prior to an FNS investigation. The certification office shall establish a claim for over-issuance of SNAP benefits held on behalf of resident clients if any over-issuances are discovered because of an FNS investigation or hearing. If FNS disqualifies an organization or institution as an authorized treatment center, the certification office shall suspend its authorized representative status for the same period.		
4.309.4	Program name update; incorrect numbering due to reformatting	**4.309.4 Residents of Group Living Arrangements** A. Group living arrangements are residential settings that are considered alternatives to institutional living. Institutional settings are not included in this provision. To be eligible as residents of a group living arrangement, the person must be a person with disabilities. In addition, the local office shall verify that the group living arrangement is a public or private nonprofit facility with no more than sixteen (16) residents, and is certified as a group living arrangement by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services under Section 1616(e) of the Social Security Act. FNS may also certify under standards determined by the USDA that are comparable to standards implemented BY the state under 1616(e) of the Social Security Act (codified at 42 USC). Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository. Individuals residing in a for profit facility are considered residents of an institution per Section 4.304.4(E).	**4.309.4 Residents of Group Living Arrangements** A. Group living arrangements are residential settings that are considered alternatives to institutional living. Institutional settings are not included in this provision. To be eligible as residents of a group living arrangement, the person must be a person with disabilities. In addition, the local office shall verify that the group living arrangement is a public or private nonprofit facility with no more than sixteen (16) residents and is certified as a group living arrangement by the Colorado Department of Public Health and Environment and the state department under Section 1616(e) of the Social Security Act. FNS may also certify under standards determined by the USDA that are comparable to standards implemented by the state under 1616(e) of the Social Security Act (codified at 42 USC). Copies of the federal laws are available for inspection. Individuals residing in a for profit facility are considered residents of an institution per Section 4.304.4(E). B. Residents of group living arrangements may elect to participate in SNAP. Residents shall either apply and be certified through an authorized representative, who is employed and designated by the group living arrangement or apply and	Updating Food Assistance to SNAP; and renumbering	

		B. Residents of group living arrangements may elect to participate in the Food Assistance Program. Residents shall either apply and be certified through an authorized representative, who is employed and designated by the group living arrangement, or apply and be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for Food Assistance on his/her own behalf; the determination shall be based on the resident's physical and mental capability to handle his/her own affairs. 1. If residents apply through the use of the facility's authorized representative, their eligibility shall be determined as one-person households. The group living arrangement may either receive and spend the allotment on food prepared by and/or served to the eligible resident, or allow the eligible resident to use all or any portion of the allotment on his/her own behalf. The group living facility employee designated to serve as an authorized representative shall be responsible for obtaining their own Electronic Benefit Transfer (EBT) card and Personal Identification Number (PIN) with which to access benefits from the resident's account while the resident remains a resident of the facility. The resident's EBT card shall be stored in a secure area while the resident resides in the group living facility. The group living facility shall not have access to, or knowledge of, the PIN for the resident's own EBT card. 2. If the residents apply on their own behalf, the applications shall be accepted for any individual applying as one-person household or for any grouping of residents applying as a household. If residents are certified on their own behalf, the allotment may be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents, used by eligible residents to purchase and	be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for SNAP on his/her own behalf; the determination shall be based on the resident's physical and mental capability to handle his/her own affairs. 1. If residents apply using the facility's authorized representative, eligibility shall be determined as a one-person household. The group living arrangement may either: a) Receive and spend the allotment on food prepared by and/or served to the eligible resident, or b) Allow the eligible resident to use all or any portion of the allotment on his/her own behalf. 2. The group living facility employee designated to serve as an authorized representative shall be responsible for obtaining their own Electronic Benefit Transfer (EBT) card and Personal Identification Number (PIN) with which to access benefits from the resident's account while the resident remains a resident of the facility. 3. The resident's EBT card shall be stored in a secure area while the resident resides in the group living facility. The group living facility shall not have access to, or knowledge of, the PIN for the resident's personal EBT card. 4. If the residents apply on their own behalf, the applications shall be accepted for any individual applying as a one-person household or for any grouping of residents applying as a household. If residents are certified on their own behalf, the allotment may be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents, used by eligible residents to purchase and prepare food for their own consumption, and/or to purchase meals prepared and served by the group living arrangement. C. Applications for residents of group living arrangements		

		prepare food for their own consumption, and/or to purchase meals prepared and served by the group living arrangement. C. Applications for residents of group living arrangements shall be processed using the same standards that apply to all other Food Assistance households including that residents entitled to expedited service shall have benefits available for spending no later than seven (7) calendar days following the date the application was filed. Required verification shall be obtained prior to further benefits being issued. D. The local office shall process changes in household circumstances and recertifications by using the same standards that apply to all other Food Assistance households, and resident households shall be afforded the same rights all other Food Assistance households enjoy, including the right to notices of adverse action, fair hearings, and entitlement to lost benefits.	shall be processed using the same standards that apply to all other SNAP households including that residents entitled to expedited service shall have benefits available for spending no later than seven (7) calendar days following the date the application was filed. Required verification shall be obtained prior to further benefits being issued. D. The local office shall process changes in household circumstances and recertifications by using the same standards that apply to all other SNAP households, and resident households shall be afforded the same rights all other SNAP households enjoy, including the right to notices of adverse action, fair hearings, and entitlement to lost benefits.		
4.309.41	Program name update and grammar issues	**4.309.41 Responsibilities of Group Living Arrangements** *** C. When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application), shall provide residents with their EBT card. The household, not the group living arrangement, shall be allowed to receive his/her authorized issuance. Also, the departing household shall receive its full allotment if no benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month. However, if the benefits have already been issued and any portion spent on behalf of the individual and the household leaves the group living arrangement prior to the sixteenth (16th) of the month, the facility shall provide the resident with one half of his/her monthly allotment. If the household leaves on or after the sixteenth (16th) of the month and the benefits have already been issued and used, the household does	**4.309.41 Responsibilities of Group Living Arrangements** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A and B her, including C, D, and E.] *** C. When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application), shall provide residents with their EBT card. The household, not the group living arrangement, shall be allowed to receive his/her authorized issuance. Also, the departing household shall receive its full allotment if no benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month. However, if the benefits have already been issued and any portion spent on behalf of the individual and the household leaves the group living arrangement prior to the sixteenth (16th) of the month, the facility shall provide the resident with one half of his/her monthly allotment. If the household leaves on or after the sixteenth (16th) of the month and the benefits have already been issued and used, the	Updating Food Assistance to SNAP; and grammar edit	

		not receive any benefits. Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative. Under no circumstances shall the group living arrangement pull benefits from an EBT card after the resident or group of residents have left the facility. The facility shall return the authorized representative EBT card, and the resident's card if it was left behind, to the issuing office within five (5) calendar days of the resident's departure. The group living arrangement shall provide the household with a change report form as soon as it has knowledge the household plans to leave the facility and advise the household to return the form to the local Food Assistance office within ten (10) days of any change the household is required to report. D. When acting as the authorized representative, a group living arrangement shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the facility shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The facility shall be strictly liable for all losses or misuse of benefits held on behalf of resident households and for all over-issuances that occur while the households are residents of the treatment center. However, the resident applying on his/her own behalf shall be responsible for over-issuance as would any other household. E. The group living arrangement may purchase and prepare food to be consumed by eligible residents on a group basis if residents normally obtain their meals at a central location as part of the group living arrangement services or if meals are prepared at a central location for delivery to the individual residents. If residents purchase and/or prepare food for individual consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's Food Assistance benefits are used for meals intended for that resident. If the resident retains use of his/her own allotment, he/she may either use	household does not receive any benefits. Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative. Under no circumstances shall the group living arrangement pull benefits from an EBT card after the resident or group of residents have left the facility. The facility shall return the authorized representative EBT card, and the resident's card if it was left behind, to the issuing office within five (5) calendar days of the resident's departure. The group living arrangement shall provide the household with a change report form as soon as it has knowledge of the household plan to leave the facility and advise the household to return the form to the local office within ten (10) days of any change the household is required to report. D. When acting as the authorized representative, a group living arrangement shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. The facility shall be knowledgeable about household circumstances as an authorized representative and should carefully review those circumstances with residents prior to applying on their behalf. The facility shall be strictly liable for all losses or misuse of benefits held on behalf of resident households and for all over-issuances that occur while the households are residents of the treatment center. However, the resident applying on his/her own behalf shall be responsible for over-issuance as would any other household. E. The group living arrangement may purchase and prepare food to be consumed by eligible residents on a group basis if residents normally obtain their meals at a central location as part of the group living arrangement services or if meals are prepared at a central location for delivery to the individual residents. If residents purchase and/or prepare food for individual consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's SNAP benefits are used for meals intended for that resident. If the resident retains use of his/her own allotment, he/she may either use the benefits to purchase meals prepared for them by the facility or to purchase food to prepare meals for their own consumption.		

		the benefits to purchase meals prepared for them by the facility or to purchase food to prepare meals for their own consumption.			
4.309.42	Program name update; and non-standardized language	**4.309.42 Disqualification of the Group Living Arrangements** A group living arrangement facility authorized by FNS may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The local office shall promptly notify the Colorado Department of Human Services, Division of Food and Energy Assistance, when it has reason to believe that a facility is misusing benefits. However, the local office shall take no action prior to FNS action against the facility. The local office shall establish a claim for over-issuances of Food Assistance benefits held on behalf of resident clients if any over-issuances are discovered during an investigation or hearing procedure for redemption violations. If the facility loses its authorization from FNS to accept Food Assistance benefits, or is no longer certified by the Colorado Department of Public Health and Environment as a group living arrangement, residents using the facility as an authorized representative shall no longer be able to participate. The residents are not entitled to a Notice of Adverse Action, but shall receive a written notice explaining the termination and when it shall become effective. Residents applying on their own behalf shall still be able to participate, if otherwise eligible.	**4.309.42 Disqualification of the Group Living Arrangements** A group living arrangement facility authorized by FNS may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The local office shall promptly notify the state department, when it has reason to believe that a facility is misusing benefits. However, the local office shall take no action prior to FNS action against the facility. The local office shall establish a claim for over-issuances of SNAP benefits held on behalf of resident clients if any over-issuances are discovered during an investigation or hearing procedure for redemption violations. If the facility loses its authorization from FNS to accept SNAP benefits or is no longer certified by the Colorado Department of Public Health and Environment as a group living arrangement, residents using the facility as an authorized representative shall no longer be able to participate. The residents are not entitled to a Notice of Adverse Action but shall receive a written notice explaining the termination and when it shall become effective. Residents applying on their own behalf shall still be able to participate, if otherwise eligible.	Updating Food Assistance to SNAP; and standardizing language	
4.310(A)	Program name update and non-standardized language	**4.310 GENERAL WORK REQUIREMENTS** As a condition of eligibility for Food Assistance benefits, each household member not determined exempt must comply with the following work requirements: A. Register for work at the time of initial application and ate every recertification by signing the application for assistance or redetermination. The application must be signed by the member required to register, an authorized representative, or by another adult household member;	**4.310 GENERAL WORK REQUIREMENTS** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B, C, D, and E here, and including A.] As a condition of eligibility for SNAP, each household member not determined exempt must comply with the following work requirements: A. Register for work at the time of initial application and at every recertification by signing the application for assistance or recertification. The application must be	Updating Food Assistance to SNAP; and standardizing language	

		***	signed by the member required to register, an authorized representative, or by another adult household member; ***		
4.310.2	Program name update and non-standardized terminology	**4.310.2 Informing the Household of General Work Requirements** At the point of initial application and redetermination, when an interview is required, Food Assistance households must receive from the eligibility staff written notice and a verbal explanation of: A. The Food Assistance general work requirements;	**4.310.2 Informing the Household of General Work Requirements** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B, C, and D here, and including A] At the point of initial application and recertification, when an interview is required, SNAP households must receive from the eligibility staff written notice and a verbal explanation of: A. The SNAP general work requirements;	Updating Food Assistance to SNAP; and standardizing terminology	
4.310.3	Program name update	**4.310.3 General Work Requirement Exemptions** *** D. A student enrolled at least half-time, as defined by the educational facility, in any recognized school, training program, or institution of higher education; 1. A student who is enrolled in an institute of higher education must meet student eligibility requirements to receive Food Assistance. 2. Students who are eligible for Food Assistance remain exempt from work requirements during normal periods of class attendance and school breaks. 3. Persons who are not enrolled at least half-time or who experience a break in their enrollment status due to graduation, expulsion, suspension, or who drop out or otherwise do not intend to register for the next normal school term (other than summer), shall not be eligible for this exemption.	**4.310.3 General Work Requirement Exemptions** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, C, E, F, G and H here, and including D] *** D. A student enrolled at least half-time, as defined by the educational facility, in any recognized school, training program, or institution of higher education; 1. A student who is enrolled in an institute of higher education must meet student eligibility requirements to receive SNAP. 2. Students who are eligible for SNAP remain exempt from work requirements during normal periods of class attendance and school breaks. 3. Persons who are not enrolled at least half-time or who experience a break in their enrollment status due to graduation, expulsion, suspension, or who drop out or otherwise do not intend to register for the next normal school term (other than summer), shall not be eligible for this exemption.	Updating Food Assistance to SNAP	
4.310.5(B)	Program name update	**4.310.5 Voluntary Quit** *** B. A level sanction will be imposed if voluntary quit occurred within sixty (60) calendar days prior to the date of application or after the date of application but prior to eligibility determination and the voluntary quit	**4.310.5 Voluntary Quit** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A and C here, including B.] *** B. A level sanction will be imposed if voluntary quit occurred within sixty (60) calendar days prior to the date of	Updating Food Assistance to SNAP	

		was without good cause. 1. Individuals who voluntary quit are ineligible to participate in the Food Assistance Program and shall be treated as a disqualified member. If the disqualified member joins another household, the ABAWD disqualification period for that individual shall continue until the ABAWD disqualification period is completed.	application or after the date of application but prior to eligibility determination and the voluntary quit was without good cause. 1. Individuals who voluntary quit are ineligible to participate in SNAP and shall be treated as a disqualified member. If the disqualified member joins another household, the ABAWD disqualification period for that individual shall continue until the ABAWD disqualification period is completed.		
4.310.8	Program name update; non-standardized language; missing lettering	**4.310.8 Level Sanction Periods** A. If the local office determines that an individual has voluntarily quit or failed to accept suitable employment without good cause, that individual shall be ineligible to participate in the Food Assistance Program and shall be treated as a disqualified member. If the disqualified member joins another household, the disqualification period for that individual shall continue until the disqualification period is completed. 1. The first (1st) time, the individual shall be disqualified for a period of one (1) month after the date the individual became ineligible. 2. The second (2nd) time an individual fails without good cause to comply with work requirements, the individual shall be disqualified for a period of three (3) months after the date the individual became ineligible. 3. The third (3rd) or subsequent time an individual fails without good cause to comply with work requirements, the individual shall be disqualified for a period of six (6) months after the date the individual became ineligible. B. The disqualification period shall begin the month following the expiration of the Notice of Adverse Action, unless a fair hearing is requested.	**4.310.8 Level Sanction Periods** A. If the local office determines that an individual has voluntarily quit or failed to accept suitable employment without good cause, that individual shall be ineligible to participate in SNAP and shall be treated as a disqualified member. If the disqualified member joins another household, the disqualification period for that individual shall continue until the disqualification period is completed. 1. The first (1st) time, the individual shall be disqualified for a period of one (1) month after the date the individual became ineligible. 2. The second (2nd) time an individual fails without good cause to comply with work requirements, the individual shall be disqualified for a period of three (3) months after the date the individual became ineligible. 3. The third (3rd) or subsequent time an individual fails without good cause to comply with work requirements, the individual shall be disqualified for a period of six (6) months after the date the individual became ineligible. B. The disqualification period shall begin the month following the expiration of the Notice of Adverse Action unless a fair hearing is requested. C. If the level sanction disqualified individual is the sole	Updating Food Assistance to SNAP; standardizing terminology; and correcting numbering	

		C. If the level sanction disqualified individual is the sole member of the Food Assistance household and then becomes exempt, the newly exempt individual can reapply for benefits. The newly exempt individual will be eligible based on the date of the application or, if in the case of reinstatement, the date exemption information was provided to the county office. If the level sanction disqualified individual is in a Food Assistance household with other eligible members and then becomes exempt, the newly exempt individual will be eligible based on the date exemption information was provided to the county office.	member of the SNAP household and then becomes exempt, the newly exempt individual can reapply for benefits. The newly exempt individual will be eligible based on the date of the application or, if in the case of reinstatement, the date exemption information was provided to the local office. D. If the level sanction disqualified individual is in a SNAP household with other eligible members and then becomes exempt, the newly exempt individual will be eligible based on the date exemption information was provided to the local office.		
4.311.1	Program name update; and non-standardized language	**4.311.1 ABAWD Exemptions** While ABAWDs can be exempt under general work requirement exemptions, these individuals could also meet one of the following ABAWD exemptions: A. Younger than eighteen (18) years of age or older than forty-nine (49) years of age. The month of the household member's birthday is not a countable month; B. Exempt from the general work requirements; C. Is residing in a Food Assistance household where a household member is under age 18; D. Pregnancy; E. Exempt under a waiver approved by the USDA, FNS; F. Exempt using Colorado defined state exemptions as identified in the current Food Assistance Employment and Training State Plan.	**4.311.1 ABAWD Exemptions** While ABAWDs can be exempt under general work requirement exemptions, these individuals could also meet one of the following ABAWD exemptions: A. Age eighteen (18) through the age of forty-nine (49). The month of the household member's birthday is not a countable month; B. Exempt from the general work requirements; C. Is residing in a SNAP household where a household member is under age 18; D. Pregnancy; E. Exempt under a waiver approved by the USDA, FNS; F. Exempt using Colorado defined state exemptions as identified in the current SNAP Employment and Training State Plan.	Updating Food Assistance to SNAP; and standardizing language	
4.311.2	Non-standard terminology	**4.311.2 Changes in ABAWD Exemption Status** ABAWDs are not required to report changes in their exemption status during a certification period. However, if the ABAWD loses their exemption status during a certification period, the months the ABAWD was not exempt will count toward their three countable months in a thirty-six (36) calendar month period. Any remaining	**4.311.2 Changes in ABAWD Exemption Status** ABAWDs are not required to report changes in their exemption status during a certification period. However, if the ABAWD loses their exemption status during a certification period, the months the ABAWD was not exempt will count toward their three countable months in a thirty-six (36) calendar month period. Any remaining months of benefits received during that	Standardizing terminology	

		months of benefits received during that certification period are not considered overpayments and claims will not be established.	certification period are not considered over-issuances and claims will not be established.		
4.311.3	Program name update; and missing numbering	**4.311.3 ABAWD Time Limits** ABAWDs are not eligible to participate in Food Assistance if they have received Food Assistance benefits for more than three countable months during a thirty-six (36) month period. However, ABAWDs may be eligible for up to three additional consecutive months after regaining eligibility In accordance with paragraph (C) of this section. A. Countable months Countable months are accrued when an ABAWD received Food Assistance benefits for the full benefit month but did not: 1. Meet an exemption; or 2. Fulfill their work requirements. B. Good cause for countable months If an ABAWD would have worked an average of 20 hours per week but missed some work for good cause, the ABAWD shall be considered to have me the work requirement if the absence from work is temporary and the individual retains work. Good cause for countable months shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation. C. ABAWD time limit clock The ABAWD time limit clock: 1. Counts accrued countable months for all ABAWDs who are not in compliance with work requirements and do not have an exemption; and	**4.311.3 ABAWD Time Limits** ABAWDs are not eligible to participate in SNAP if they have received SNAP benefits for more than three countable months during a thirty-six (36) month period. However, ABAWDs may be eligible for up to three additional consecutive months after regaining eligibility in accordance with paragraph (C) of this section. A. Countable months Countable months are accrued when an ABAWD received SNAP benefits for the full benefit month but did not: 1. Meet an exemption; or 2. Fulfill their work requirements. B. Good cause for countable months If an ABAWD would have worked an average of 20 hours per week but missed some work for good cause, the ABAWD shall be considered to have me the work requirement if the absence from work is temporary and the individual retains work. Good cause for countable months shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation. C. ABAWD time limit clock The ABAWD time limit clock: 1. Counts accrued countable months for all ABAWDs who are not in compliance with work requirements and do not have an exemption; and 2. Resets accrued countable months and ABAWD disqualifications, regardless of start date, for all	Updating Food Assistance to SNAP; and correcting numbering	

		2. Resets accrued countable months and ABAWD disqualifications, regardless of start date, for all ABAWDs every 36 calendar months starting October 1st, 2019. D. Regaining eligibility 1. An individual who is denied eligibility under this provision can regain eligibility if in a thirty (30) calendar day period, the individual: a. Worked eighty (80) or more hours; b. Participates in and complies with the requirements of a work program for eighty (80) or more hours; c. Participates and complies with Workfare; or d. Becomes exempt 2. The individual will be reinstated if otherwise eligible and will continue to be eligible as long as the individual continues to meet the work requirement or is exempt. 3. Three additional consecutive months. If an individual regains eligibility but then fails to continue meeting these requirements, the individual shall remain eligible for a consecutive three-month period after the individual notifies the county department. The individual can only have this provision applied for a single three-month period in the thirty-six (36) calendar month period.	ABAWDs every 36 calendar months starting October 1st, 2019. D. Regaining eligibility 1. An individual who is denied eligibility under this provision can regain eligibility if in a thirty (30) calendar day period, the individual: a. Worked eighty (80) or more hours; b. Participates in and complies with the requirements of a work program for eighty (80) or more hours; c. Participates and complies with Workfare; or d. Becomes exempt 2. The individual will be reinstated if otherwise eligible and will continue to be eligible if the individual continues to meet the work requirement or is exempt. 3. Three additional consecutive months. 4. If an individual regains eligibility but then fails to continue meeting these requirements, the individual shall remain eligible for a consecutive three-month period after the individual notifies the local office. The individual can only have this provision applied for a single three-month period in the thirty-six (36) calendar month period.		
4.312	Program name updates and non-standardized language/definitions	**4.312 EMPLOYMENT FIRST (EF)** In Colorado, the Employment and Training program is called EF. The purpose of the program is to assist members of households participating in the Food Assistance Program in gaining skills, training, work, or experience that will increase their ability to obtain employment. CDHS must submit an annual Employment and Training	**4.312 EMPLOYMENT FIRST (EF)** In Colorado, the Employment and Training program is called EF. The purpose of the program is to assist members of households participating in SNAP in gaining skills, training, work, or experience that will increase their ability to obtain employment. CDHS must submit an annual Employment and Training State	Updating Food Assistance to SNAP; and standardizing	

		State Plan for approval by the USDA, Food and Nutrition Service. A copy of the CDHS Employment and Training plan is available for inspection during normal working hours by contacting the SNAP Director, Food and Energy Assistance Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203. The EF program is a voluntary work program for Food Assistance applicants and recipients. Failure to participate with the EF program will not result in a work requirement disqualification.	Plan for approval by the USDA, Food and Nutrition Service. A copy of the CDHS Employment and Training plan is available for inspection. The EF program is a voluntary work program for SNAP applicants and recipients. Failure to participate with the EF program will not result in a work requirement disqualification.	language/definitions	
4.312.1	Non-standardized language	**4.312.1 County Administration Requirements for EF** A county department choosing to administer an EF program shall submit a county plan as prescribed by CDHS and shall operate their EF program in alignment with the CDHS Employment and Training plan. Failure to adhere to the requirements as described in the CDHS Employment and Training plan will result in a Corrective Action Plan (CAP). A county department may enter into a contractual agreement for all or any part of the EF program service delivery. These contractual agreements shall be reviewed by CDHS for adherence to the program requirements before implementation. ***	**4.312.1 County Administration Requirements for EF** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section A and B here] Local offices choosing to administer an EF program shall submit a county plan as prescribed by CDHS and shall operate their EF program in alignment with the CDHS Employment and Training plan. Failure to adhere to the requirements as described in the CDHS Employment and Training plan will result in a Corrective Action Plan (CAP). Local offices may enter into a contractual agreement for all or any part of the EF program service delivery. These contractual agreements shall be reviewed by CDHS for adherence to the program requirements before implementation. ***	Standardizing language	
4.313	Non-standardized language	**4.313 COLORADO WORKFARE PROGRAM** In Colorado, the Section 20 Workfare Program of the Food and Nutrition Act of 20018 (codified at 7 USC Sec. 2011 et seq) is called the Colorado Workfare Program. CDHS must submit an annual Section 20 Workfare State Plan for approval by the USDA, Food and Nutrition Service. A copy of the CDHS Section 20 Workfare plan is available for inspection during normal working hours by contacting the SNAP Director, Food and Energy Assistance Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203.	**4.313 COLORADO WORKFARE PROGRAM** In Colorado, the Section 20 Workfare Program of the Food and Nutrition Act of 20018 (codified at 7 USC Sec. 2011 et seq) is called the Colorado Workfare Program. CDHS must submit an annual Section 20 Workfare State Plan for approval by the USDA, Food and Nutrition Service. A copy of the CDHS Section 20 Workfare plan is available for inspection.	Standardized language	

4.313.1	Non-standardized language	**4.313.1 County Administration Requirements for Workfare** A county department choosing to administer a Colorado Workfare program shall submit a county plan as prescribed by CDHS and shall operate their Workfare program in alignment with the CDHS Section 20 Workfare plan. Failure to adhere to the requirements as described in the CDHS Section 20 Workfare plan will result in a Correct Action Plan (CAP).	**4.313.1 County Administration Requirements for Workfare** Local offices choosing to administer a Colorado Workfare program shall submit a county plan as prescribed by CDHS and shall operate their Workfare program in alignment with the CDHS Section 20 Workfare plan. Failure to adhere to the requirements as described in the CDHS Section 20 Workfare plan will result in a Correct Action Plan (CAP).	Standardizing language	
4.400	Non-standardized language	**4.400 FINANCIAL ELIGIBILITY CRITERIA** Income shall be considered prospectively for the issuance month based on the eligibility worker's determination of the household's reasonably anticipated monthly income, and for households eligible under standard eligibility as outlined in Section 4.206, the value of its resources is considered.	**4.400 FINANCIAL ELIGIBILITY CRITERIA** Income shall be considered prospectively for the issuance month based on the eligibility technician's determination of the household's reasonably anticipated monthly income, and for households eligible under Standard Eligibility as outlined in Section 4.206, the value of its resources is considered.	Standardizing language	
4.401	Non-standardized language and grammar errors	**4.401 INCOME ELIGIBILITY STANDARDS** A. Income eligibility is determined based on the composition of the household. A household shall meet the gross and net MONTHLY income eligibility standards as outlined IN THIS SECTION. SEE SECTION 4.401.1 AND 4.401.2 FOR THE GROSS AND NET PERCENTAGES OF THE FEDERAL POVERTY LEVELS. 1. Expanded categorically eligible households must have gross income below two hundred percent (200%) of the federal poverty level. 2. Basic categorically eligible households shall be deemed as having met gross and net income limits. 3. Households which are not considered expanded or basic categorically eligible and instead subject to standard eligibility rules shall meet income eligibility standards as follows: a. Households that do not include a member who is elderly or a person with a disability shall have gross income at or below one hundred thirty percent (130%) of the federal poverty level and have a net income at or	**4.401 INCOME ELIGIBILITY STANDARDS** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section B here, and including A.] A. Income eligibility is determined based on the composition of the household. A household shall meet the gross and net monthly income eligibility standards as outlined in this section. See section 4.401.1 and 4.401.2 for the gross and net percentages of the Federal Poverty Levels. 1. ECE households must have gross income below two hundred percent (200%) of the federal poverty level. 2. BCE households shall be deemed as having met gross and net income limits. 3. Households which are not considered ECE or BCE and instead subject to SE rules shall meet income eligibility standards as follows: a. Households that do not include a member who is aged 60 and older or a person with a disability shall have gross income at or below one hundred thirty percent (130%) of the federal poverty level and have a net income at or below one hundred	Standardizing language; and correcting incorrect capitalizations	

		below one hundred percent (100%) of the federal poverty level. b. Households that include a member who is elderly or a person with a disability shall have a net income at or below one hundred percent (100%) of the federal poverty level. 4. For household members who are persons that are elderly and/or have a disability, who are unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act, or a non-disease related, severe, permanent disability, may be considered, together with his or her spouse if the spouse is living in the same home, a separate household from the others with whom the individual lives. The combined income of the others with whom the individual who is elderly and a person with disabilities resides (excluding the income of the individual who is elderly and a person with disabilities and his or her spouse) must not exceed one hundred sixty five percent (165%) of the poverty level. See Sections 4.401.1 and 4.401.2 for the gross and net income levels for 165% of the federal poverty level. ***	percent (100%) of the federal poverty level. b. Households that include a member who is aged 60 and older or a person with a disability shall have a net income at or below one hundred percent (100%) of the federal poverty level. 4. For household members who are persons that are aged 60 and older and/or have a disability, who are unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act, or a non-disease related, severe, permanent disability, may be considered, together with his or her spouse if the spouse is living in the same home, a separate household from the others with whom the individual lives. The combined income of the others with whom the individual who is aged 60 and older and a person with disabilities resides (excluding the income of the individual who is aged 60 and older and a person with disabilities and his or her spouse) must not exceed one hundred sixty five percent (165%) of the poverty level. See Sections 4.401.1 and 4.401.2 for the gross and net income levels for 165% of the federal poverty level. ***		
4.402	Program name update, spelling error, and non-standardized language	**4.402 HOUSEHOLD INCOME ELIGIBILITY** A. Determining Income 1. Income eligibility shall be determined prospectively based on the eligibility worker's anticipation of income at the time of application and when changes are made known to the local office. *** B. Variations in Date of Pay 1. Regular ongoing earned income that is received early or late by a household due to a holiday, a weekend, or pay dates being changed will have income courted based on the regular	**4.402 HOUSEHOLD INCOME ELIGIBILITY** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A.2, A.3, C] A. Determining Income 1. Income eligibility shall be determined prospectively based on the eligibility technician’s anticipation of income at the time of application and when changes are made known to the local office. *** B. Variations in Date of Pay 1. Regular ongoing earned income that is received early or late by a household due to a holiday, a	Updating Food Assistance to SNAP; correcting spelling error; and standardizing language	

		pay schedule instead of the actual date of pay. 2. Households receiving monthly benefits such as public assistance or social security payments shall not have their monthly income varied merely because mailing cycles resulted in two (2) payments in one month and none in the next month. 3. Households containing a member of the Armed Services of the United States shall not have their monthly income varied merely because the first day of the month falls on a holiday or weekend which resulted in two (2) payments in the month and none in the subsequent month. ***	weekend, or pay dates being changed will have income counted based on the regular pay schedule instead of the actual date of pay. 2. Households receiving monthly benefits such as public assistance or social security payments shall not have their monthly income varied merely because mailing cycles resulted in two (2) payments in one month and none in the next month. 3. Households containing a member of the Armed Services of the United States shall not have their monthly income varied merely because the first day of the month falls on a holiday or weekend which resulted in two (2) payments in the month and none in the subsequent month. ***		
4.402.1(A)	Program name update and non-standardized acronym	**4.402.1 Prospective Budgeting** A. Prospective budgeting is the process of computing a household's allotment based on anticipated income and circumstances during the issuance month. All Food Assistance households and all situations require prospective budgeting determinations, including public assistance households under the Title IVA (Temporary Assistance to Needy Families/Colorado Works) Program. ***	**4.402.1 Prospective Budgeting** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B and C here, including A.] A. Prospective budgeting is the process of computing a household's allotment based on anticipated income and circumstances during the issuance month. All SNAP households and all situations require prospective budgeting determinations, including public assistance households under the Title IVA (TANF /Colorado Works) Program. ***	Updating Food Assistance to SNAP; and standardizing acronym use	
4.402.2	Program name update and non-standardized language	**4.202.2 Averaging Income** *** B. The types of households listed above shall have their self-employment income, contract income, or educational monies annualized or prorated, and added to other household income to determine monthly Food Assistance income. C. To average income prospectively, the eligibility worker shall use the household's anticipation of income, considering fluctuations, to obtain a monthly average amount for the period of certification. The number of months used to arrive at the average income need not be the same as the number of	**4.402.2 Averaging Income** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A here, including B and C.] *** B. The types of households listed above shall have their self-employment income, contract income, or educational monies annualized or prorated, and added to other household income to determine monthly income for SNAP. C. To average income prospectively, the eligibility technician shall use the household's anticipation of income, considering fluctuations, to obtain a monthly	Updating Food Assistance to SNAP; and standardizing language	

		months in the certification period, such as the known income from two (2) previous months may be averaged and projected for each month of a certification period that is longer than two (2) months. Refer to Section 4.403.11 for more information on computing self-employment income. Fluctuating income that has been averaged may be adjusted if verification of a change in circumstances is received.	average amount for the period of certification. The number of months used to arrive at the average income need not be the same as the number of months in the certification period, such as the known income from two (2) previous months may be averaged and projected for each month of a certification period that is longer than two (2) months. Refer to Section 4.403.11 for more information on computing self-employment income. Fluctuating income that has been averaged may be adjusted if verification of a change in circumstances is received.		
4.403	Program name update and non-standardized language	**4.403 COUNTABLE EARNED INCOME** The following shall be considered as earned income. A. Wages and Salaries 1. All payments for services as an employee, including garnishments, or money payments legally obligated to the employee and diverted to a third party for the employee's household expenses. Countable income from employment received by students in institutions of higher education while participating in state work-study programs or a fellowship with a work requirement shall not be considered as earned income. 2. Earned income includes government payments from Agricultural Stabilization and Conservation Service and wages of AmeriCorps Volunteers in Service to America (VISTA) workers. VISTA payments are excluded if the client was receiving Food Assistance when he or she joined VISTA. If the client was not receiving Food Assistance when he or she joined VISTA, the VISTA payments shall count as earned income. Temporary interruptions in Food Assistance participation shall not alter the exclusion once an initial determination has been made (see Section 4.405.2, A, 3). Temporary interruptions shall be defined as a period of time where a household or individual missed a full month of benefits, excluding instances where the lapse in benefits is	**4.403 COUNTABLE EARNED INCOME** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B, C, D, and G here, and including A, E, and F.] The following shall be considered as earned income: A. Wages and Salaries 1. All payments for services as an employee, including garnishments, or money payments legally obligated to the employee and diverted to a third party for the employee's household expenses. Countable income from employment received by students in institutions of higher education while participating in state work-study programs or a fellowship with a work requirement shall not be considered as earned income. 2. Earned income includes government payments from Agricultural Stabilization and Conservation Service and wages of AmeriCorps Volunteers in Service to America (VISTA) workers. VISTA payments are excluded if the client was receiving SNAP benefits when he or she joined VISTA. If the client was not receiving SNAP benefits when he or she joined VISTA, the VISTA payments shall count as earned income. Temporary interruptions in SNAP participation shall not alter the exclusion once an initial determination has been made (see Section 4.405.2, A, 3). Temporary interruptions shall be defined as a period of time where a household or individual missed a full month of benefits, excluding instances where the	Updating Food Assistance to SNAP; standardizing language	

		due to the local office not taking timely action in accordance with the processing standards outlined in Sections 4.604, 4.205, or 4.209.1. 3. Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received, if reasonably anticipated. However, wages held by the employer as a general practice shall not be counted as income unless the household anticipates that it will receive income from such wages previously withheld by the employer. When an advance on wages is subsequently repaid from current wages, only the amount of wages received is considered as income. The amount of repayment is disregarded, even if the wage earner was not a Food Assistance participant at the time of the advance. 4. Payment for sick leave, vacation pay, and bonus pay shall be considered as earned income, if the person was still employed while receiving the pay. *** E. Self-Employment The method of ascertaining the self-employment income to be considered for Food Assistance purposes is often difficult and the guidelines set forth in Sections 4.403.1–4.403.12 are meant to clarify and aid the process. In determining gross self-employment income, all income received by the self-employment household must be considered. Self-employment income includes: 1. Monies received from rental or lease of self-employment property. Rental property shall be considered a self-employment enterprise. However, the income will be considered as earned income only if the household member (or disqualified person) actively manages the	lapse in benefits is due to the local office not taking timely action in accordance with the processing standards outlined in Sections 4.604, 4.205, or 4.209.1. 3. Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received, if reasonably anticipated. However, wages held by the employer as a general practice shall not be counted as income unless the household anticipates that it will receive income from such wages previously withheld by the employer. When an advance on wages is subsequently repaid from current wages, only the wages received is considered as income. The amount of repayment is disregarded, even if the wage-earner was not a SNAP participant at the time of the advance. 4. Payment for sick leave, vacation pay, and bonus pay shall be considered as earned income if the person was still employed while receiving the pay. *** E. Self-Employment The method of ascertaining the self-employment income to be considered for SNAP purposes is often difficult and the guidelines set forth in Sections 4.403.1–4.403.12 are meant to clarify and aid the process. In determining gross self-employment income, all income received by the self-employment household must be considered. Self-employment income includes: 1. Monies received from rental or lease of self-employment property. Rental property shall be considered a self-employment enterprise. However, the income will be considered as earned income only if the household member (or disqualified person) actively manages the property at least an average of twenty (20) hours per week. 2. Monies received from the sale of capital goods,		

		property at least an average of twenty (20) hours per week. 2. Monies received from the sale of capital goods, services, and property connected to the self-employment enterprise. Proceeds of sales from capital goods or equipment are to be treated as income rather than as capital gains. The term “capital gains”, as used by the Internal Revenue Service (IRS), describes the handling of the profit from the sale of capital assets such as, but not limited to, computers and other electronic devices, office furniture, vehicles, and equipment used in a self- employment enterprise; or securities, real estate, or other real property held as an investment for a set period of time. For Food Assistance purposes, the total amount received from the sale of capital goods shall be counted as income to the household. F. Owners of Limited Liability Corporations (LLC) and S-Corporations For Food Assistance Program purposes, owners of LLCs or S-Corporations are considered employees of the corporation and, therefore, cannot be considered self-employed. Because they are not considered self-employed, they are not entitled to the exclusion of allowable costs of producing self-employment income. The income from these types of corporations should be treated as regular earned income, not self-employment income. Although income received from these corporations is not considered self-employment, the income as reported on the LLC or S-Corporation owner’s individual form 1040, shall be counted in determining the household's eligibility and benefit level. Income verified on the 1040 would then be annualized. In the case of a new business, anticipated income shall be used to determine financial eligibility until a tax form is available. ***	services, and property connected to the self-employment enterprise. Proceeds of sales from capital goods or equipment are to be treated as income rather than as capital gains. The term “capital gains”, as used by the Internal Revenue Service (IRS), describes the handling of the profit from the sale of capital assets such as, but not limited to, computers and other electronic devices, office furniture, vehicles, and equipment used in a self-employment enterprise; or securities, real estate, or other real property held as an investment for a set time period. For SNAP purposes, the total amount received from the sale of capital goods shall be counted as income to the household. F. Owners of Limited Liability Corporations (LLC) and S-Corporations For SNAP purposes, owners of LLCs or S-Corporations are considered employees of the corporation and, therefore, cannot be considered self-employed. Because they are not considered self-employed, they are not entitled to the exclusion of allowable costs of producing self-employment income. The income from these types of corporations should be treated as regular earned income, not self-employment income. Although income received from these corporations is not considered self-employment, the income as reported on the LLC or S-Corporation owner’s individual form 1040, shall be counted in determining the household's eligibility and benefit level. Income verified on the 1040 would then be annualized. In the case of a new business, anticipated income shall be used to determine financial eligibility until a tax form is available. ***		

4.403.11 (D)	Program name update; non-standardized language	**4.403.11 Determining Monthly Income from Self-Employment** *** D. Anticipating Capital Gains and Other Self-Employment Income When self-employment income is calculated on an anticipated basis, any capital gains that the household anticipates receiving in the next twelve (12) months, beginning with the date the application is filed, are added and divided by twelve (12). This amount is used in successive certification periods over the next twelve months unless a change occurs. A new average monthly amount must be calculated over this twelve month period if the anticipated amount of capital gains changes. The anticipated monthly amount of capital gains and the anticipated monthly self-employment income then are added and the anticipated cost of producing the income deducted. The cost is calculated by anticipating the monthly allowable costs of producing the self-employment income. The monthly net self-employment income will be added to any other earned and unearned income received by the household to determine eligibility of self-employed Food Assistance applicants. For those households with self-employment income which is not annualized, the eligibility worker shall anticipate income. Any anticipated proceeds from the sale of capital gains shall be used as income in the month the proceeds are anticipated to be received.	**4.403.11 Determining Monthly Income from Self-Employment** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, and C her, and including D] *** D. Anticipating Capital Gains and Other Self-Employment Income When self-employment income is calculated on an anticipated basis, any capital gains that the household anticipates receiving in the next twelve (12) months, beginning with the date the application is filed, are added and divided by twelve (12). This amount is used in successive certification periods over the next twelve months unless a change occurs. A new average monthly amount must be calculated over this twelve-month period if the anticipated amount of capital gains changes. The anticipated monthly amount of capital gains and the anticipated monthly self-employment income then are added and the anticipated cost of producing the income deducted. The cost is calculated by anticipating the monthly allowable costs of producing the self-employment income. The monthly net self-employment income will be added to any other earned and unearned income received by the household to determine eligibility of self-employed SNAP applicants. For those households with self-employment income, which is not annualized, the eligibility technician shall anticipate income. Any anticipated proceeds from the sale of capital gains shall be used as income in the month the proceeds are anticipated to be received.	Updating Food Assistance to SNAP; standardizing language	
4.404	Grammar error	**4.404 COUNTABLE UNEARNED INCOME** *** I. Substantial Lottery or Gambling Winnings Substantial lottery or gambling winnings will be counted as unearned income in the month received. If multiple individuals shared in the purchase of a ticket, hand, or similar bet, then only the portion of the winnings allocated to the member of the snap	**4.404 Countable Unearned Income** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, C, D, E, F, G, and H her, and including I] *** I. Substantial Lottery or Gambling Winnings Substantial lottery or gambling winnings will be counted as unearned income in the month received. If multiple individuals shared in the purchase of a ticket,	Correcting incorrect case use	

		household would be counted in the eligibility determination.	hand, or similar bet, then only the portion of the winnings allocated to the member of the SNAP household would be counted in the eligibility determination.		
4.405	Program name update and non-standardized definition	**4.405 EXEMPT INCOME** Income from certain sources will be excluded for Food Assistance eligibility purposes under mandate of law. Only the following will not be considered as income: *** H. Vendor Payments *** 7.Energy assistance payments, other than for the Low-Income Energy Assistance Program (LEAP) or a one-time payment under federal or state law for weatherization or to repair/replace an inoperative furnace or other heating or cooling device, that are made under a state or local program shall be counted as income. The exclusion will still apply if a down payment is made and is followed by a final payment upon completion of work. If a state law prohibits the household from receiving a cash payment under state or local general assistance (or comparable program), the assistance would be excluded. This applies to either an energy assistance payment or other type of payment. Energy assistance payments for an expense paid on behalf of the household under a state law shall be considered an out-of-pocket expense incurred and paid by the household. Energy assistance payments made under Part A of Title IV of the Social Security Act (42 U.S.C. 601, et seq.) is included as income. The Act does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository. ***	**4.405 EXEMPT INCOME** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, C, D, E, F, G, H.1, H.2, H.3, H.4, H.5, H.6, H.8, H.9, H.10, I, and J here, and including H.7] Income from certain sources will be excluded for SNAP eligibility purposes under mandate of law. Only the following will not be considered as income: *** H. Vendor Payments *** 7. Energy assistance payments, other than for the Low-Income Energy Assistance Program (LEAP) or a one-time payment under federal or state law for weatherization or to repair/replace an inoperative furnace or other heating or cooling device, that are made under a state or local program shall be counted as income. The exclusion will still apply if a down payment is made and is followed by a final payment upon completion of work. If a state law prohibits the household from receiving a cash payment under state or local general assistance (or comparable program), the assistance would be excluded. This applies to either an energy assistance payment or other type of payment. Energy assistance payments for an expense paid on behalf of the household under a state law shall be considered an out-of-pocket expense incurred and paid by the household. Energy assistance payments made under Part A of Title IV of the Social Security Act (42 U.S.C. 601, et seq.) is included as income. The Act does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection. ***	Updating Food Assistance to SNAP; and standardizing definition	

4.405.2	Program name update, non-standardized language	**4.405.2 Income Excluded by Other Federal Statutes** The following government payments are received for a specific purpose and are excluded as income by federal law. Copies of the federal laws are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203. A. General 1. P.L. No. 89-642, Section 11(b) of the Child Nutrition Act of 1966, as amended, excludes the value of assistance to children under this Act. 2. Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, (P.L. No. 91-646, Section 216). 3. Any payment to volunteers under Title II (RSVP, Foster Grandparents and others) of the Domestic Volunteer Services Act of 1972, as amended, (P.L. No. 93-113). Payments under Title I (AmeriCorps Volunteers in the Service of America/VISTA - including University Year for Action and Urban Crime Prevention Program) to volunteers shall be excluded for those individuals receiving Food Assistances or public assistance at the time they joined the Title I Program, except that households which are receiving an income exclusion for a VISTA or other Title I Subsistence Allowance at the time of conversion to the Food Assistance Act of 1977 shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in Food Assistance participation shall not alter the exclusion once an initial determination has been made. New applicants who are not receiving public assistance or Food Assistance at the time they joined VISTA shall have these volunteer payments included as earned income. 4. P.L. No. 101-610, Section 17(d), 11/16/90,	**4.405.2 Income Excluded by Other Federal Statutes** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A.7-A.17, A.20-A.26, A.28, B.1-B.12, and B.14-B.21 here, and including A.1-A.6, A.18, A.19, A.27, and B.13.] The following government payments are received for a specific purpose and are excluded as income by federal law. Copies of the federal laws are available for inspection. A. General 1. P.L. No. 89-642, Section 11(b) of the Child Nutrition Act of 1966, as amended, excludes the value of assistance to children under this Act. 2. Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, (P.L. No. 91-646, Section 216). 3. Any payment to volunteers under Title II (RSVP, Foster Grandparents and others) of the Domestic Volunteer Services Act of 1972, as amended, (P.L. No. 93-113). Payments under Title I (AmeriCorps Volunteers in the Service of America/VISTA - including University Year for Action and Urban Crime Prevention Program) to volunteers shall be excluded for those individuals receiving Food Assistances or public assistance at the time they joined the Title I Program, except that households which are receiving an income exclusion for a VISTA or other Title I Subsistence Allowance at the time of conversion to the Food Assistance Act of 1977 shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in Food Assistance participation shall not alter the exclusion once an initial determination has been made. New applicants who are not receiving public assistance or Food Assistance at the time they joined VISTA shall have these volunteer payments included as earned income. 4. P.L. No. 101-610, Section 17(d), 11/16/90, National and Community Service Act (NCSA) of 1990, as amended, provides that Section 142(b) of the JTPA	Updating Food Assistance to SNAP; and standardizing language	

		National and Community Service Act (NCSA) of 1990, as amended, provides that Section 142(b) of the JTPA applies to projects conducted under Title I of the NCSA as if such projects were conducted under the JTPA. Title I includes three Acts: a. Serve-America: the Community Service, Schools and Service-Learning Act of 1990, as amended. b. American Conservation and Youth Service Corps Act of 1990, as amended. c. National and Community Service Act, as amended. There are approximately forty-seven (47) different NCSA programs and they vary by state. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning program and the AmeriCorps umbrella program come under this title. The National Civilian Community Corps (NCCC) is a federally managed AmeriCorps program. The Summer for Safety program is an AmeriCorps program under which participants earn a stipend and a one thousand dollar ($1,000) post-service educational award. The National and Community Service Trust Act of 1993 (P.L. No. 103-82, 9/23/93) amended the National and Community Services Act of 1990, but did not change the exclusion. 5. P.L. No. 93-288, Section 312(d), the Disaster Relief Act of 1974, as amended by P.L. No. 100-707, Section 105(i), the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income for Food Assistance purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations.	applies to projects conducted under Title I of the NCSA as if such projects were conducted under the JTPA. Title I includes three Acts: a. Serve-America: the Community Service, Schools and Service-Learning Act of 1990, as amended. b. American Conservation and Youth Service Corps Act of 1990, as amended. c. National and Community Service Act, as amended. There are approximately forty-seven (47) different NCSA programs and they vary by state. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning program and the AmeriCorps umbrella program come under this title. The National Civilian Community Corps (NCCC) is a federally managed AmeriCorps program. The Summer for Safety program is an AmeriCorps program under which participants earn a stipend and a one thousand dollar ($1,000) post-service educational award. The National and Community Service Trust Act of 1993 (P.L. No. 103-82, 9/23/93) amended the National and Community Services Act of 1990 but did not change the exclusion. 5. P.L. No. 93-288, Section 312(d), the Disaster Relief Act of 1974, as amended by P.L. No. 100-707, Section 105(i), the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income for SNAP purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. A major disaster is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood, or explosion, which the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in		

		A major disaster is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood, or explosion, which the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby. An emergency is any occasion or instance for which the President determines that Federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe. Payments made to homeless people with funds from Federal Emergency Management Assistance (FEMA) to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are not excluded under this provision. 6. Payments, allowances and earnings under the Workforce Innovation and Opportunity Act (WIOA) are excluded as income. Earnings paid for on-the-job training are still counted for the Food Assistance Program. On-the-job training payments for members under nineteen (19) years of age who are participating in WIOA Programs and are under the parental control of an adult member of the household shall be excluded as income. The exclusion shall apply regardless of school attendance and/or enrollment as outlined in Section 4.405, C. On-the-job training payments under the Summer Youth Employment and Training Program are excluded from income. *** 18. Payments made from the Agent Orange Settlement Fund (P.L. No. 101-201). All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded from income retroactive to January 1, 1989.	alleviating the damage, loss, hardship, or suffering caused thereby. An emergency is any occasion or instance for which the President determines that Federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe. Payments made to homeless people with funds from Federal Emergency Management Assistance (FEMA) to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are not excluded under this provision. 6. Payments, allowances and earnings under the Workforce Innovation and Opportunity Act (WIOA) are excluded as income. Earnings paid for on-the-job training are still counted for SNAP. On-the-job training payments for members under nineteen (19) years of age who are participating in WIOA Programs and are under the parental control of an adult member of the household shall be excluded as income. The exclusion shall apply regardless of school attendance and/or enrollment as outlined in Section 4.405, C. On-the-job training payments under the Summer Youth Employment and Training Program are excluded from income. *** 18. Payments made from the Agent Orange Settlement Fund (P.L. No. 101-201). All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded from income retroactive to January 1, 1989. The veteran with disabilities will receive yearly payments. Survivors of deceased veterans with disabilities will receive a lump-sum payment. These payments were disbursed by the AETNA insurance company. P.L. No. 101-239, 12/19/89, the Omnibus Budget Reconciliation Act of 1989, Section 10405, also excludes payments made from the Agent Orange		

		The veteran with disabilities will receive yearly payments. Survivors of deceased veterans with disabiliities will receive a lump-sum payment. These payments were disbursed by the AETNA insurance company. P.L. No. 101-239, 12/19/89, the Omnibus Budget Reconciliation Act of 1989, Section 10405, also excludes payments made from the Agent Orange settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) from income in determining eligibility or the amount of benefits under the Food Assistance Program. P.L. No. 102-4, Agent Orange Act of 1991, 2/6/91, authorized veterans' benefits to some veterans with service connected disabilities resulting from exposure to Agent Orange. These VA payments are not excluded by law. 19. P.L. No. 101-508, Section 5801, which amended Section 402(i) of the Social Security Act, 11/5/90. At-risk block grant child care payments made under section 5801 are excluded from being counted as income for Food Assistance purposes and no deduction may be allowed for any expense covered by such payments. *** 27. P.L. No. 103-322, Section 230202, 9/13/94, Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provides in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay: a. Such crime victim compensation program shall not pay that compensation. b. The other program shall make its	settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) from income in determining SNAP eligibility or the amount of SNAP benefits. P.L. No. 102-4, Agent Orange Act of 1991, 2/6/91, authorized veterans' benefits to some veterans with service connected disabilities resulting from exposure to Agent Orange. These VA payments are not excluded by law. 19. P.L. No. 101-508, Section 5801, which amended Section 402(i) of the Social Security Act, 11/5/90. At-risk block grant child care payments made under section 5801 are excluded from being counted as income for SNAP purposes and no deduction may be allowed for any expense covered by such payments. *** 27. P.L. No. 103-322, Section 230202, 9/13/94, Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provides in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay: a. Such crime victim compensation program shall not pay that compensation. b. The other program shall make its payments without regard to the existence of the crime victim compensation program. Based on this language, payments received under this Program must be excluded from income for SNAP purposes. *** B. American Indian or Alaska Native *** 13. P.L. No. 98-500, Section 8, 10/17/84, Old Age Assistance Claims Settlement Act, provides that funds made to heirs of deceased Indians under this Act shall not be considered as income nor otherwise used to reduce or deny SNAP benefits except for per capita		

		payments without regard to the existence of the crime victim compensation program. Based on this language, payments received under this Program must be excluded from income for Food Assistance purposes. *** B. American Indian or Alaska Native *** 13. P.L. No. 98-500, Section 8, 10/17/84, Old Age Assistance Claims Settlement Act, provides that funds made to heirs of deceased Indians under this Act shall not be considered as income nor otherwise used to reduce or deny Food Assistance benefits except for per capita shares in excess of two thousand dollars ($2,000). The first two thousand dollars ($2,000) of each payment is excluded. ***	shares in excess of two thousand dollars ($2,000). The first two thousand dollars ($2,000) of each payment is excluded. ***		
4.407(A)	Program name update	**4.407 DEDUCTIONS AND EXCLUSIONS FROM INCOME** A. Allowable deductions are subtracted from total monthly gross income to determine the household's monthly net Food Assistance income. The monthly income shall be rounded down to the lower dollar if it ends in one (1) through forty-nine (49) cents and rounded to the next dollar amount if it ends in fifty (50) through ninety-nine (99) cents before deductions are considered. ***	**4.407 DEDUCTIONS AND EXCLUSIONS FROM INCOME** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B, C, D, and E here, and including A.] A. Allowable deductions are subtracted from total monthly gross income to determine the household's monthly net SNAP income. The monthly income shall be rounded down to the lower dollar if it ends in one (1) through forty-nine (49) cents and rounded to the next dollar amount if it ends in fifty (50) through ninety-nine (99) cents before deductions are considered. ***	Updating Food Assistance to SNAP	
4.407.2(A)	Grammar error	**4.407.2 Earned Income Deduction** A. A household with earned income shall receive a deduction of twenty percent (20%) of its gross nonexempt earned income, which is been rounded down to the lower dollar if it ends in the one (1) through forty-nine (49) cents and rounded up to the next dollar amount if it ends in fifty (50) through ninety-nine (99) cents. The twenty percent (20%) deduction shall also apply to prorated income earned by the disqualified member and attributed to the household.	**4.407.2 Earned Income Deduction** A. A household with earned income shall receive a deduction of twenty percent (20%) of its gross nonexempt earned income, which is rounded down to the lower dollar if it ends in the one (1) through forty-nine (49) cents and rounded up to the next dollar amount if it ends in fifty (50) through ninety-nine (99) cents. The twenty percent (20%) deduction shall also apply to prorated income earned by the disqualified member and attributed to the household.	Correcting grammar error	

<table>
<tr>
<td>4.407.3</td>
<td>Program name update; and non-standardized language</td>
<td>4.407.3 Excess Shelter Deduction

***
B. A shelter deduction cap, as specified below, applies to households that do not contain person who is elderly and/or a person with a disability as defined in Section 4.304.41. Those households containing a person who is elderly and/or a person with a disability shall receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

<table><tr><th colspan="2">Shelter Deduction Cap</th></tr><tr><td>Effective October 1, 2020</td><td>$586</td></tr></table>
***
D. A household may claim both the costs of its actual residence and those for a home that is not occupied by the household because of employment or training away from home; or Illness; or abandonment caused by a natural disaster or casualty loss.

For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for Food Assistance purposes; and the home must not be leased or rented during the absence of the household.

***</td>
<td>4.407.3 Excess Shelter Deduction

[PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, C, and E here, including B and D.]
***
B. A shelter deduction cap, as specified below, applies to households that do not contain A person who is aged 60 and older or a person with a disability as defined in Section 4.304.41. Those households containing a person who is aged 60 and older and/or a person with a disability shall receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

<table><tr><th colspan="2">Shelter Deduction Cap</th></tr><tr><td>Effective October 1, 2020</td><td>$586</td></tr></table>
***
D. A household may claim both the costs of its actual residence and those for a home that is not occupied by the household because of employment or training away from home; or Illness; or abandonment caused by a natural disaster or casualty loss.

For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for SNAP purposes; and the home must not be leased or rented during the absence of the household.

***</td>
<td>Updating Food Assistance to SNAP; and standardizing language</td>
<td></td>
</tr>
<tr>
<td>4.407.31</td>
<td>Program name update</td>
<td>4.407.31 Four-Tiered Mandatory Standard Utility Allowance

Effective October 1, 2008, a four tiered mandatory standard utility allowance deduction was implemented in determining a household’s excess shelter deduction. Households cannot claim actual utility expenses and are only entitled to one of the four utility allowances. The four utility allowances shall be reviewed annually and adjusted each year, based on Federal approval, to reflect Colorado's cost of utilities. No utility expenses can be allowed as an income exclusion for self-employed</td>
<td>4.407.31 Four-Tiered Mandatory Standard Utility Allowance

[PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B, C, and D here, and including B.]

Effective October 1, 2008, a four-tiered mandatory standard utility allowance deduction was implemented in determining a household’s excess shelter deduction. Households cannot claim actual utility expenses and are only entitled to one of the four utility allowances. The four utility allowances shall be reviewed annually and adjusted each year, based on Federal approval, to reflect Colorado's cost of utilities. No utility</td>
<td>Updating Food Assistance to SNAP</td>
<td></td>
</tr>
</table>

		households when a mandatory utility allowance is given to the household. When determining expedited eligibility, the appropriate utility allowance shall be applied when establishing the household's shelter costs. The four (4) tiers are as follows: A. Heating and Cooling Utility Allowance (HCUA) 1. "Cooling costs" are defined as utility costs relating to the operation of air conditioning systems, room air conditioners, swamp coolers, or evaporative coolers. Fans are not an allowable cooling cost. A heating and cooling utility allowance (HCUA) is available only to households who: a. Incur or anticipate heating or cooling costs separate and apart from their rent or mortgage; b. Received a Low-Income Energy Assistance Program (LEAP) payment within the previous twelve (12) month period, regardless of whether or not the individual is still residing at the address for which he/she received the LEAP payment; c. Live in private rental housing and are billed by their landlords on the basis of individual usage or are charged a flat rate separately from their rent for heating and cooling; d. Share a residence and who incur at least a portion of the heating or cooling cost; each household will be entitled to the full HCUA; or, e. Live in public housing and are responsible for excess heating and/or cooling costs. 2. A Food Assistance household, which incurs or anticipates a heating or cooling costs on an irregular basis, may continue to receive the HCUA between billing periods.	expenses can be allowed as an income exclusion for self-employed households when a mandatory utility allowance is given to the household. When determining expedited eligibility, the appropriate utility allowance shall be applied when establishing the household's shelter costs. The four (4) tiers are as follows: A. Heating and Cooling Utility Allowance (HCUA) 1. "Cooling costs" are defined as utility costs relating to the operation of air conditioning systems, room air conditioners, swamp coolers, or evaporative coolers. Fans are not an allowable cooling cost. A heating and cooling utility allowance (HCUA) is available only to households who: a. Incur or anticipate heating or cooling costs separate and apart from their rent or mortgage; b. Received a Low-Income Energy Assistance Program (LEAP) payment within the previous twelve (12) month period, regardless of whether or not the individual is still residing at the address for which he/she received the LEAP payment; c. Live in private rental housing and are billed by their landlords on the basis of individual usage or are charged a flat rate separately from their rent for heating and cooling; d. Share a residence and who incur at least a portion of the heating or cooling cost; each household will be entitled to the full HCUA; or, e. Live in public housing and are responsible for excess heating and/or cooling costs. 2. A SNAP household, which incurs or anticipates heating or cooling costs on an irregular basis, may continue to receive the HCUA between billing periods. 3. Operation of a space heater, electric blanket, heat lamp, cooking stove and the like when used as a supplemental heating source are allowable costs		

		3. Operation of a space heater, electric blanket, heat lamp, cooking stove and the like when used as a supplemental heating source are allowable costs when determining eligibility for the basic utility allowance (BUA), but do not qualify a household for the HCUA. 4. The HCUA standard is as follows: **HCUA Standard** **Effective October 1, 2020** \$486 ***	when determining eligibility for the basic utility allowance (BUA), but do not qualify a household for the HCUA. 4. The HCUA standard is as follows: **HCUA Standard** **Effective October 1, 2020** \$486 ***		
4.407.6	Program name update; non-standardized language; and grammar error	**4.407.6 Excess Medical Deduction** A household shall receive a deduction for total medical expenses in excess of thirty-five dollars ($35) per month, incurred by any household member(s) who is elderly or a person with disabilities. Other household members who are not elderly or a person with disabilities, including spouses and dependents, cannot claim costs of their medical treatment and services. A. The following medical costs, less the cost of reimbursements from another source, are allowable: *** 7. Reasonable transportation and lodging to obtain medical treatment or services. Mileage expenses shall be calculated based on the prevailing Internal Revenue Service (IRS) COMMERCIAL mileage rate. *** B. Non-allowable medical costs include, but are not limited to: *** 6. Medical expenses carried forward from past billing periods unless one of the following conditions is met: a. The amount is being carried forward pending reimbursement information; or, b. The household has made arrangements to	**4.407.6 Excess Medical Deduction** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A.1-A.6, A.8, and B.1-B.5 here, and including A.7 and B.6] A household shall receive a deduction for total medical expenses more than thirty-five dollars ($35) per month, incurred by any household member(s) who is aged 60 and older or a person with disabilities. Other household members who are not aged 60 and older or a person with disabilities, including spouses and dependents, cannot claim costs of their medical treatment and services. A. The following medical costs, less the cost of reimbursements from another source, are allowable: *** 7. Reasonable transportation and lodging to obtain medical treatment or services. Mileage expenses shall be calculated based on the prevailing Internal Revenue Service (IRS) commercial mileage rate. *** B. Non-allowable medical costs include, but are not limited to: *** 6. Medical expenses carried forward from past billing periods unless one of the following conditions is met: a. The amount is being carried forward pending	Updating Food Assistance to SNAP; standardizing language; and correcting incorrect capitalization	

		make monthly installments on the past due bills. The past due amount must be due to missed payments under a previous repayment agreement with the medical provider, and the payment plan is now being renegotiated with the provider. The negotiation of a payment plan with a collection agency will not be accepted as a renegotiated payment plan; or, c. Households that become categorically eligible for food assistance by reason of becoming a pure SSI household shall be entitled to excess medical expenses for the period for which they are authorized to receive SSI or from the date of the food assistance application, whichever is later. Restored benefits shall be issued if appropriate; or, d. Medical expenses that occur after the date an application is filed and reported at the subsequent application for redetermination or periodic report shall be considered if the medical expense has not previously been reported and allowed as a medical deduction. If at recertification the household provides previously unreported medical expenses that occurred prior to the last certification period that are past due, the county department shall review the medical expenses under provisions a through c of this subsection.	reimbursement information; or, b. The household has arranged to make monthly installments on the past due bills. The past due amount must be due to missed payments under a previous repayment agreement with the medical provider, and the payment plan is now being renegotiated with the provider. The negotiation of a payment plan with a collection agency will not be accepted as a renegotiated payment plan; or, c. Households that become categorically eligible for SNAP by reason of becoming a pure SSI household shall be entitled to excess medical expenses for the period for which they are authorized to receive SSI or from the date of the SNAP application, whichever is later. Restored benefits shall be issued if appropriate; or, d. Medical expenses that occur after the date an application is filed and reported at the subsequent application for recertification or periodic report shall be considered if the medical expense has not previously been reported and allowed as a medical deduction. If at recertification the household provides previously unreported medical expenses that occurred prior to the last certification period that are past due, the local office shall review the medical expenses under provisions a through c of this subsection.		
4.407.61 (A)	Grammar errors	**4.407.61 Determining Monthly Medical Expenses** A. A household that contains a member who is eligible for a medical expense deduction is eligible for a deduction using either the Standard Medical Expense Deduction (SMED) or using actual medical expenses. Beginning October 1, 2016, the SMED is one hundred sixty five dollars ($165). The smed is used if the total verified medical expenses are greater than thirty five dollars ($35) and less than or equal to the smed. The household may claim actual expenses if the total verified expenses, after deducting the first thirty five dollars (35$), exceed the smed.	**4.407.61 Determining Monthly Medical Expenses** A. A household that contains a member who is eligible for a medical expense deduction is eligible for a deduction using either the Standard Medical Expense Deduction (SMED) or using actual medical expenses. Beginning October 1, 2016, the SMED is one hundred sixty-five dollars ($165). The SMED is used if the total verified medical expenses are greater than thirty-five dollars ($35) and less than or equal to the SMED. The household may claim actual expenses if the total verified expenses, after deducting the first thirty-five dollars ($35), exceed the SMED. ***	Correcting incorrect case usage	

		***			
4.408	Program name update; and non-standardized language	**4.408 RESOURCE ELIGIBILITY STANDARDS** *** D. As a result of the Food, Conservation and Energy Act of 2008, adjustments to the Food Assistance resource limit will be subject to change annually according to the Consumer Price Index. There are currently two (2) resource limits: 1. One established for households that do contain a member who is elderly and/or a person with a disability; and, 2. Another established for households that do not contain a member who is elderly and/or a person with a disability. E. The resource limits are as follows: Effective October 1, 2017, the resource limit for households that do contain a member who is elderly and/or a person with a disability is three thousand five hundred ($3,500). The resource limit for households that do not contain a member who is elderly and/or a person with a disability is two thousand two hundred fifty dollars ($2,250).	**4.408 RESOURCE ELIGIBILITY STANDARDS** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, and C here, and including D and E.] *** D. As a result of the Food, Conservation, and Energy Act of 2008, adjustments to the SNAP resource limit will be subject to change annually according to the Consumer Price Index. There are currently two (2) resource limits: 1. One established for households that do contain a member who is aged 60 and older and/or a person with a disability; and, 2. Another established for households that do not contain a member who is aged 60 and older and/or a person with a disability. E. The resource limits are as follows: Effective October 1, 2017, the resource limit for households that do contain a member who is aged 60 and older and/or a person with a disability is three thousand five hundred ($3,500). The resource limit for households that do not contain a member who is aged 60 and older and/or a person with a disability is two thousand two hundred fifty dollars ($2,250).	Updating Food Assistance to SNAP; and standardizing language	
4.408.1	Spelling error	**4.408.1 Determining the Value of Resources** The value of nonexempt household resources at the time the application is flied must be determined from applicant statements, documents, and/or from collateral contacts when household assessment is uncertain or questionable. *** B. Valuation of Non-Liquid Resources Except for real property, non-exempt non-liquid resources shall have a fair market value as determined from the best source available (such as, but not limited to, blue book, local dealer, or equivalent verifiable Internet web site) less verified encumbrances. If warranted, the eligibility technician	**4.408.1 Determining the Value of Resources** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section A here, including unnumbered section and B.] The value of nonexempt household resources at the time the application is filed must be determined from applicant statements, documents, and/or from collateral contacts when household assessment is uncertain or questionable. *** B. Valuation of Non-Liquid Resources Except for real property, non-exempt non-liquid resources shall have a fair market value as determined from the best	Correcting incorrect spelling	

		worker should adjust the market value for poor or unusable condition of the property before assigning a resource value. The eligibility technician worker shall annotate the case record to show source and computation used to determine resource value. The value of real property, such as buildings, land, or vacation property, unless exempt as income producing may be obtained by using the actual value reported by a county assessor or, if not reported, the current assessed valuation, accomplished in accordance with state law, and dividing the value by the appropriate percentage rate of assessment for real property to derive fair market value and subtracting the amount the household currently owes on the property.	source available (such as, but not limited to, blue book, local dealer, or equivalent verifiable Internet web site) less verified encumbrances. If warranted, the eligibility technician worker should adjust the market value for poor or unusable condition of the property before assigning a resource value. The eligibility technician worker shall annotate the case record to show source and computation used to determine resource value. The value of real property, such as buildings, land, or vacation property, unless exempt as income producing may be obtained by using the actual value reported by a county assessor or, if not reported, the current assessed valuation, accomplished in accordance with state law, and dividing the value by the appropriate percentage rate of assessment for real property to derive fair market value and subtracting the amount the household currently owes on the property.		
4.408.2	Program name update	**4.408.2 Transfer of Resources** At the time of application, households not eligible under expanded or basic categorical eligibility rules shall be asked to provide information regarding any resources which any household member, ineligible non-citizen, or disqualified person whose resources are being considered available to the household has transferred within the three (3) month period immediately preceding the date of application. Households that have transferred resources knowingly for the purpose of qualifying or attempting to qualify for Food Assistance benefits shall be disqualified from participation in the program for up to one (1) year from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three (3) month period prior to application, or if they are transferred knowingly after the household is determined eligible for benefits. A. Eligibility for the program shall not be affected by the following transfers: 1. Resources that would not otherwise affect eligibility, such as resources consisting of excluded person property such as furniture, or of money that when added to other household resources, totaled less at the time of the transfer than the allowable resource limits.	**4.408.2 Transfer of Resources** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section C here, and including A and B.] At the time of application, households not eligible under expanded or basic categorical eligibility rules shall be asked to provide information regarding any resources which any household member, ineligible non-citizen, or disqualified person whose resources are being considered available to the household has transferred within the three (3) month period immediately preceding the date of application. Households that have transferred resources knowingly for the purpose of qualifying or attempting to qualify for SNAP benefits shall be disqualified from participation in the program for up to one (1) year from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three (3) month period prior to application, or if they are transferred knowingly after the household is determined eligible for benefits. A. Eligibility for the program shall not be affected by the following transfers: 1. Resources that would not otherwise affect eligibility, such as resources consisting of excluded person property such as furniture, or of money that when added to other household resources, totaled less at	Updating Food Assistance to SNAP	

		2. Resources that are sold or traded at, or near, fair market value. 3. Resources that are transferred between members of the same household including ineligible non-citizens or disqualified individuals whose resources are being considered available to the household. 4. Resources that are transferred for reasons other than qualifying or attempting to qualify for Food Assistance benefits, for example a parent placing funds into an educational trust fund. B. In the event the local office establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for Food Assistance benefits, the household shall be sent a notice of denial explaining the reason for and length of disqualification. The period of disqualification shall begin in the month of application. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for and the length of disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the notice of adverse action has expired, unless the household has requested a fair hearing and continued benefits. The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable resource limits. ***	the time of the transfer than the allowable resource limits. 2. Resources that are sold or traded at, or near, fair market value. 3. Resources that are transferred between members of the same household including ineligible non-citizens or disqualified individuals whose resources are being considered available to the household. 4. Resources that are transferred for reasons other than qualifying or attempting to qualify for SNAP benefits, for example a parent placing funds into an educational trust fund. B. In the event the local office establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for SNAP, the household shall be sent a notice of denial explaining the reason for and length of disqualification. The period of disqualification shall begin in the month of application. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for and the length of disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the notice of adverse action has expired unless the household has requested a fair hearing and continued benefits. The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable resource limits. ***		
4.410	Program name update; and spelling error	**4.410 EXEMPT RESOURCES** In determining the resources for a household, the following shall be excluded from consideration. *** D. Household Goods, Personal Effects, and Retirement Accounts	**4.410 EXEMPT RESOURCES** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, C, E, F, H, I J.2, J.4-J.11, J.13, J.14, J.16, and J.17 here, and including D, G, J.1, J.3, J.12, and J.15.] In determining the resources for a household, the following shall be excluded from consideration.	Updating Food Assistance to SNAP; and	

		1. Household goods, personal effects, including one burial plot per household member, the cash value of life insurance policies, and livestock not excluded as income producing property are exempt resources.
		
		2. All retirement accounts with Federal tax preferred retirement status are exempt resources. The following retirement accounts are exempt:
		
		a. Pension or traditional defined benefit plan;
		
		b. 401(K) plan and simple 401(K);
		
		c. 501C (18);
		
		d. 403(A) and 403(B) plans;
		
		e. 408 plans including traditional individual retirement accounts (Roth IRA, SIMPLE IRA, and myRA), traditional Individual Retirement Annuities
		
		f. 457 plan;
		
		g. Federal employee thrift savings plan;
		
		h. Keogh plan;
		
		i. 529A funds including funds in a qualified ABLE program
		
		j. Simplified employer plan;
		
		k. Profit sharing plan; and,
		
		l. Cash balance plans.
		
		3. All tax preferred education accounts are exempt resources. The two types of tax preferred education savings accounts are:
		a. Section 529 qualified tuition programs, which allow owners to prepay a student's education expenses or to contribute to an account to pay those expenses.
		
		b. Coverdell education savings accounts and IRA type of account designed to pay a
			***
			D. Household Goods, Personal Effects, and Retirement Accounts
			
			1. Household goods, personal effects, including one burial plot per household member, the cash value of life insurance policies, and livestock not excluded as income producing property are exempt resources.
			
			2. All retirement accounts with Federal tax preferred retirement status are exempt resources. The following retirement accounts are exempt:
			
			a. Pension or traditional defined benefit plan;
			
			b. 401(K) plan and simple 401(K);
			
			c. 501C (18);
			
			d. 403(A) and 403(B) plans;
			
			e. 408 plans including traditional individual retirement accounts (Roth IRA, SIMPLE IRA, and myRA), traditional Individual Retirement Annuities
			
			f. 457 plan;
			
			g. Federal employee thrift savings plan;
			
			h. Keogh plan;
			
			i. 529A funds including funds in a qualified ABLE program
			
			j. Simplified employer plan;
			
			k. Profit sharing plan; and,
			
			l. Cash balance plans.
			
			3. All tax deferred education accounts are exempt resources. The two types of tax deferred education savings accounts are:
			
			a. Section 529 qualified tuition programs, which allow owners to prepay a student's education expenses or to contribute to an account to pay those expenses.
				correcting spelling error	

		student's education expense. 4. One bona fide pre-purchased funeral agreement per household member, which may include one burial plot per household member, shall be excluded provided that the agreement does not exceed one thousand five hundred dollars ($1,500) in equity value; the equity value over one thousand five hundred dollars ($1,500) is counted as a resource. If a burial plot is included in the agreement, the burial plot portion will be exempted prior to determining the equity value of the funeral agreement. *** G. Resources with No Significant Return Resources that, as a practical matter, the household is unlikely to be able to sell for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great, shall be considered inaccessible. A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. Verification of the value of a resource to be excluded shall not be required unless the Food Assistance worker determines that the information provided by the household is insufficient to permit a determination of the resource value or the worker believes that the information is questionable. This provision regarding no significant return does not apply to negotiable financial instruments. A significant return or a significant amount of funds shall be any return/funds after estimated costs of sale or disposition and taking into account the ownership interest of the household. A significant return or a significant amount of funds is an amount that is estimated to be more than one thousand five hundred dollars ($1,500). *** J. Government Payments The following government payments are received for a specific purpose or services and shall be excluded as	b. Coverdell education savings accounts and IRA type of account designed to pay a student's education expense. 4. One bona fide pre-purchased funeral agreement per household member, which may include one burial plot per household member, shall be excluded provided that the agreement does not exceed one thousand five hundred dollars ($1,500) in equity value; the equity value over one thousand five hundred dollars ($1,500) is counted as a resource. If a burial plot is included in the agreement, the burial plot portion will be exempted prior to determining the equity value of the funeral agreement. *** G. Resources with No Significant Return Resources that, as a practical matter, the household is unlikely to be able to sell for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great, shall be considered inaccessible. A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. Verification of the value of a resource to be excluded shall not be required unless the SNAP worker determines that the information provided by the household is insufficient to permit a determination of the resource value or the worker believes that the information is questionable. This provision regarding no significant return does not apply to negotiable financial instruments. A significant return or a significant amount of funds shall be any return/funds after estimated costs of sale or disposition and considering the ownership interest of the household. A significant return or a significant amount of funds is an amount that is estimated to be more than one thousand five hundred dollars ($1,500). *** J. Government Payments The following government payments are received for a specific purpose or services and shall be excluded as a		

		a resource for Food Assistance eligibility. 1. P.L. No. 89-642. Section 11b) of the Child Nutrition Act of 1966 excludes the value of assistance to children under this Act from resources for Food Assistance purposes. *** 3. Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended: for example, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration, Section 312(d) of Disaster Relief Act of 1974. The Disaster Relief Act of 1974. P.L. No 93-288 as amended by P.L. No. 100-707, Section 105(i). the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income or resources for Food Assistance purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. *** 12. A federal earned income tax credit received either as a lump sum or as payments under Section 3507 or the Internal Revenue code for the month of receipt and the following month for the individual and that individual's spouse (P.L. No. 101-508). A federal, state, or local Earned Income Tax Credit (EITC) would be exempted for twelve (12) months from receipt for any household member if the individual receiving the EITC was participating in the Food Assistance Program when the EITC was received and participation continues for	resource for SNAP eligibility. 1. P.L. No. 89-642. Section 11b) of the Child Nutrition Act of 1966 excludes the value of assistance to children under this Act from resources for SNAP purposes. *** 3. Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended: for example, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration, Section 312(d) of Disaster Relief Act of 1974. The Disaster Relief Act of 1974. P.L. No 93-288 as amended by P.L. No. 100-707, Section 105(i). the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income or resources for SNAP purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. *** 12. A federal earned income tax credit received either as a lump sum or as payments under Section 3507 or the Internal Revenue code for the month of receipt and the following month for the individual and that individual's spouse (P.L. No. 101-508). A federal, state, or local Earned Income Tax Credit (EITC) would be exempted for twelve (12) months from receipt for any household member if the individual receiving the EITC was participating in SNAP when the EITC was received, and participation continues for twelve (12) months. Temporary non-participation due to administrative reasons, such as a delayed recertification, shall not affect the twelfth (12th) month participation		

		twelve (12) months. Temporary non-participation due to administrative reasons, such as a delayed recertification, shall not affect the twelfth (12th) month participation requirement (P.L. No. 103-66, Mickey Leland Childhood Hunger Relief Act of 1993). *** 15. P.L. No. 103-322. Section 230202, 9/13/94. Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provide in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay: a. Such crime victim compensation program shall not pay that compensation; b. The other program shall make its payments without regard to the existence of the crime victim compensation program. Based on this language, payments received under this program must be excluded from income for Food Assistance purposes. ***	requirement (P.L. No. 103-66, Mickey Leland Childhood Hunger Relief Act of 1993). *** 15. P.L. No. 103-322. Section 230202, 9/13/94. Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provide in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay: a. Such crime victim compensation program shall not pay that compensation; b. The other program shall make its payments without regard to the existence of the crime victim compensation program. Based on this language, payments received under this program must be excluded from income for SNAP purposes. ***		
4.411.1	Program name update; and non-standardized language	**4.411.1 Treatment of Income and Resources of Disqualified and/or Sanctioned Members** A. Individual household members may be disqualified for being ineligible non-citizens, for failure or refusal to obtain or provide a Social Security Number (SSN), for intentional Program violation/fraud, for being a fleeing felon, for failing to comply with a work requirement, or for being a sanctioned ABAWD (Able Bodied Adult Without Dependents) who has received three (3) months of Food Assistance benefits within a thirty-six (36) month period. B. During the period of time a household member is disqualified, the eligibility and benefit level of any remaining members shall be determined as follows: 1. Households containing members disqualified	**4.411.1 Treatment of Income and Resources of Disqualified and/or Sanctioned Members** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section B.2.a-B.2.d here and including A, B.1, and B.2.] A. Individual household members may be disqualified for being ineligible non-citizens, for failure or refusal to obtain or provide a SSN, for IPV/fraud, for being a fleeing felon, for failing to comply with a work requirement, or for being a sanctioned ABAWD who has received three (3) months of SNAP benefits within a thirty-six (36) month period. B. During the period in which a household member is disqualified, the eligibility and benefit level of any remaining members shall be determined as follows: 1. Households containing members disqualified for	Updating Food Assistance to SNAP; and standardizing acronym use	

		for Intentional Program Violation or fraud, or a work requirement sanction, or classified as a fleeing felon: a. Income, Resources, and Deductible Expenses The income and resources of the disqualified household member(s) shall be counted in their entirety. Resources shall only be considered if the household is required to meet the resource standard. The allowable earned income, standard, medical, dependent care, and shelter deductions shall be allowed in their entirety. b. Eligibility and Benefit Level The disqualified member shall not be included when determining the household's size for purposes of assigning a benefit level to the household. The disqualified household member will not be included when determining the household size for comparison against any eligibility standard, which includes the gross income and net income eligibility limits or the resource eligibility limits. 2. Households containing members disqualified for being an ineligible non-citizen, for failure or refusal to obtain or provide a Social Security Number (SSN), or sanctioned as an able bodied adult without dependents (ABAWD) who has received three (3) months of Food Assistance benefits in a thirty six (36) month period: ***	IPV or fraud, or a work requirement sanction, or classified as a fleeing felon: a. Income, Resources, and Deductible Expenses The income and resources of the disqualified household member(s) shall be counted in their entirety. Resources shall only be considered if the household is required to meet the resource standard. The allowable earned income, standard, medical, dependent care, and shelter deductions shall be allowed in their entirety. b. Eligibility and Benefit Level The disqualified member shall not be included when determining the household's size for purposes of assigning a benefit level to the household. The disqualified household member will not be included when determining the household size for comparison against any eligibility standard; this includes the gross income and net income eligibility limits or the resource eligibility limits. 2. Households containing members disqualified for being an ineligible non-citizen, for failure or refusal to obtain or provide an SSN, or sanctioned as an ABAWD who has received three (3) months of SNAP benefits in a thirty-six (36) month period: ***		
4.411.2(C)	Program name update	**4.411.2 Treatment of Income and Resources of Other Non-Household Members** C.A person who is an ineligible student for Food Assistance purposes shall be treated as a non-household member. The other members of a household containing the ineligible student may be certified. The income and resources of the ineligible student shall not be considered available to the other	**4.411.2 Treatment of Income and Resources of Other Non-Household Members** C. A person who is an ineligible student for SNAP purposes shall be treated as a non-household member. The other members of a household containing the ineligible student may be certified. The income and resources of the ineligible student shall not be considered available to the other household members for determining	Updating Food Assistance to SNAP	

		household members for determining the household's income resources and deductions nor shall the student be considered in determining the household's allotment.	the household's income resources and deductions nor shall the student be considered in determining the household's allotment.		
4.500(B)	Non-standardized language	**4.500 VERIFICATION AND DOCUMENTATION** *** B. The case record shall consist of statements and documentation regarding the sources and results of verification used to determine a household's eligibility. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility worker's determination. When making a decision of ineligibility, the case record must clearly indicate the reason for denial or termination and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record. The case record shall also contain all correspondence pertaining to fair hearings and administrative disqualification hearings. Information to retain in the case record for fair hearings shall include, at a minimum, the household's request for a fair hearing, the scheduling notice with the hearing date and time, all decisions pertaining to the fair hearing, and any exceptions filed by the county department or the household. Information to retain in the case record for administrative disqualification hearings (ADH) shall include, at a minimum, the notice to the individual of the alleged intentional program violation (IPV)/fraud, any notice given to the household waiving the household's right to a disqualification hearing, the scheduling notice of the disqualification hearing if the waiver is not signed and returned, all decisions issued regarding the outcome of the ADH hearing, and the disqualification notice sent to the household notifying the individual of the disqualification period. ***	**4.500 VERIFICATION AND DOCUMENTATION** [PUBLICHSER NOTE NOT FOR PUBLICATION: We are omitting sections A, C, D, and E here; including B.] *** B. The case record shall consist of statements and documentation regarding the sources and results of verification used to determine a household's eligibility. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility technician's determination. When ineligibility is determined, the case record must clearly indicate the reason for denial or termination and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record. The case record shall also contain all correspondence pertaining to fair hearings and administrative disqualification hearings. Information to retain in the case record for fair hearings shall include, at a minimum, the household's request for a fair hearing, the scheduling notice with the hearing date and time, all decisions pertaining to the fair hearing, and any exceptions filed by the local office or the household. Information to retain in the case record for administrative disqualification hearings (ADH) shall include, at a minimum, the notice to the individual of the alleged intentional program violation (IPV)/fraud, any notice given to the household waiving the household's right to a disqualification hearing, the scheduling notice of the disqualification hearing if the waiver is not signed and returned, all decisions issued regarding the outcome of the ADH hearing, and the disqualification notice sent to the household notifying	Standardizing language	

			the individual of the disqualification period. ***		
4.501	Non-standardized language	**4.501 PRUDENT PERSON PRINCIPLE** The rules contained herein are intended to be sufficiently flexible to allow the eligibility worker to exercise reasonable judgment in executing his/her responsibilities. In this regard, the prudent person principle may be applied. The term prudent person principle refers to reasonable judgments made by an individual in a given case. In making an eligibility decision, the eligibility worker should consider whether his/her judgment is reasonable, based on experience and knowledge of the program.	**4.501 PRUDENT PERSON PRINCIPLE (PPP)** The rules contained herein are intended to be sufficiently flexible to allow the eligibility technician to exercise reasonable judgment in executing his/her responsibilities when determining SNAP eligibility, also known as PPP. In making an eligibility decision, the eligibility technician should consider whether his/her judgment is reasonable, based on experience and knowledge of SNAP.	Standardizing language	
4.502	Program name update; non-standardized language and acronyms; repeated language; formatting issues	**4.502 VERIFICATION REQUIREMENTS AT APPLICATION, REDETERMINATION, AND PERIODIC REPORT** A. Verification Requirements at Application 1. Expedited Service Requirements Only verification of the identity of the applicant is required. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. No requirement for a specific document may be imposed. Client declaration of Social Security Number(s) and residency shall be accepted. Client declaration of other household circumstances shall be accepted when determining eligibility for expedited service, and verification of any client-declared information shall be postponed and verified prior to certification. 2. The following information shall be verified prior to certification: a. Identity of the applicant;	**4.502 VERIFICATION REQUIREMENTS AT APPLICATION, RECERTIFICATION, AND PERIODIC REPORT** A. Verification Requirements at Application 1. Expedited Service Requirements Only verification of the identity of the applicant is required. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. No requirement for a specific document may be imposed. Client declaration of Social Security Number(s) and residency shall be accepted. Client declaration of other household circumstances shall be accepted when determining eligibility for expedited service, and verification of any client-declared information shall be postponed and verified prior to certification. 2. The following information shall be verified prior to certification: a. Identity of the applicant; b. Household's gross nonexempt income;	Updating Food Assistance to SNAP; standardizing language and acronyms; removal of repeated sentence; and reformatting section for clarify	

		b. Household's gross nonexempt income; c. Information available through IEVS, including Social Security Numbers (SSNs) for all household members; d. Non-citizen status of persons identified as non-citizens on the application; e. Residency, except for homeless households, or households newly arrived in the state or county for whom third-party verification cannot reasonably be obtained. 3. The household shall be given a reasonable opportunity to submit verification of certain expenses in order to receive expense deductions and exclusions. If a deductible expense must be verified and obtaining verification may delay the household's certification, the local office shall advise the household that the household's eligibility and benefit level will be determined without providing a deduction or exclusion for the claimed but unverified expense. If the expense cannot be verified within thirty (30) calendar days of the date of application, the local office shall determine the household's eligibility and benefit level without providing a deduction or exclusion for the unverified expense. a. Allowable medical expenses less reimbursement; b. Legally-obligated child support payments; c. Dependent care expenses; and, 4. For households eligible under basic or expanded categorical eligibility rules, verification of resources, gross and net income, SSN information, sponsored non-citizen information, and residency beyond that gathered by the public assistance program that confers eligibility shall not be required unless these eligibility factors are not already collected and verified by the other program, are considered questionable, or are unavailable to the Food Assistance Program. The	c. Information available through IEVS, including Social Security Numbers (SSNs) for all household members; d. Non-citizen status of persons identified as non-citizens on the application; e. Residency, except for homeless households, or households newly arrived in the state or county for whom third-party verification cannot reasonably be obtained. 3.The household shall be given a reasonable opportunity to submit verification of certain expenses to receive expense deductions and exclusions. If a deductible expense must be verified and obtaining verification may delay the household's certification, the local office shall advise the household that the household's eligibility and benefit level will be determined without providing a deduction or exclusion for the claimed but unverified expense. If the expense cannot be verified within thirty (30) calendar days of the date of application, the local office shall determine the household's eligibility and benefit level without providing a deduction or exclusion for the unverified expense. These expenses are: a. Allowable medical expenses less reimbursement; b. Legally-obligated child support payments; c. Dependent care expenses; and, d. Shelter expenses, if questionable and verification has been requested. 4. For households eligible under basic or expanded categorical eligibility rules, verification of resources, gross and net income, SSN information, sponsored non-citizen information, and residency beyond that gathered by the PA program that confers eligibility shall not be required unless these eligibility factors are not already collected and verified by the other		

		local office shall verify that each member receives benefits or services from the program that confers basic or expanded categorical eligibility. 5. For households subject to an asset test, the household's written declaration of resources in excess of the resource limit is an acceptable form of verification. B. Verification Requirements at Redetermination and Periodic Report 1. Eligibility factors not verified by the Income and Eligibility Verification System (IEVS) should be verified at redetermination only if they are incomplete, inaccurate, questionable, inconsistent, or outdated and would affect a household's eligibility or benefit level. Unchanged information shall not be verified unless the information is outdated. 2. A change in total monthly earned income of one hundred dollars ($100) or more for each member must be verified at redetermination. 3. At redetermination, all households shall verify the following information if the source has changed or the amount has changed by more than twenty-five dollars ($25) since the last time they were verified: a. Changes in unearned income; b. Allowable medical expenses; c. Legally-obligated child support; d. Dependent care expenses; e. Verification of the above factors, is optional if information is unchanged or changes by twenty five dollars ($25) or less. 4. A reported Social Security Number(s) not verified at initial certification and newly obtained Social Security Numbers shall be verified through the IEVS OR SOLQ-I.	program, are considered questionable, or are unavailable to SNAP. The local office shall verify that each member receives benefits or services from the program that confers basic or expanded categorical eligibility. 5. For households subject to an asset test, the household's written declaration of resources more than the resource limit is an acceptable form of verification. B. Verification Requirements at Redetermination and Periodic Report 1. Eligibility factors not verified by the Income and Eligibility Verification System (IEVS) should be verified at redetermination only if they are incomplete, inaccurate, questionable, inconsistent, or outdated and would affect a household's eligibility or benefit level. Unchanged information shall not be verified unless the information is outdated. 2. A change in total monthly income of fifty ($50) or more for each member must be verified at recertification. If the source of income has not changed and if the amount is unchanged or has changed by fifty dollars ($50) or less, verification is not required unless the information is unclear, questionable or outdate. 3. At recertification, all households shall verify the following information if the source has changed, or the amount has changed by more than twenty-five dollars ($25) since the last time they were verified: a. Dependent care expenses; b. Allowable medical expenses; c. Legally obligated child support; 4. A reported Social Security Number(s) not verified at initial certification and newly obtained Social Security Numbers shall be verified through the IEVS or SOLQ-I. 5. For households subject to an asset test, the		

		5. For households subject to an asset test, the household's written declaration of resources in excess of the resource limit is an acceptable form of verification. 6. If there has been a change in a deductible expense that must be verified and obtaining verification delays the household's redetermination processing, the local office shall advise the household that the household's eligibility and benefit level will be determined without providing a deduction for the claimed but unverified expense.	household's written declaration of resources more than the resource limit is an acceptable form of verification. 6. If there has been a change in a deductible expense that must be verified and obtaining verification delays the household's redetermination processing, the local office shall advise the household that the household's eligibility and benefit level will be determined without providing a deduction for the claimed but unverified expense. C. Verification Requirements at Periodic Report 1. The household shall verify the following changes in circumstances at the time of periodic report: a. A change of more than $100 in the amount of unearned income. b. A change in the source of income, including starting a job. c. Acquisition of a licensed vehicle that is not fully excludable, if resource limits apply. d. A change in liquid resources, unless excluded, if resource limits apply. e. Changes in the legal obligation to pay child support. f. If a member of the household won substantial lottery or gambling winnings. g. Allowable medical expenses to receive an increase in the allowed expense or add a medical expense. 2. Previously reported medical and shelter expenses used to establish the 24-month certification should continue through the end of 24-month certification period unless: a. An increase in medical expenses is verified, or b. An increase in shelter expenses is reported.		

4.503	Non-standardized language	**4.503 CASE DOCUMENTATION** The case record shall consist of statements and documentation regarding the sources and results of verification used to determine eligibility and ineligibility. Such statements shall be entered into a physical case file and/or the statewide automated system. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility worker's determination. When making a decision of ineligibility, the case record must clearly indicate the reason for denial or termination and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record. The case record shall show the names of the employers and others contacted; the dates and amounts of wage stubs and statements; the figures used to arrive at monthly gross income; the household's responsibility to pay utilities; and the method of verifying other information, including non-citizen status, if applicable. A notation shall be made to indicate which household members completed work registration forms and the date completed.	**4.503 CASE DOCUMENTATION** The case record shall consist of statements and documentation regarding the sources and results of verification used to determine eligibility and ineligibility. Such statements shall be entered into a physical case file and/or the statewide automated system. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility technician's determination. When ineligibility is determined, the case record must clearly indicate the reason for denial or termination and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record. The case record shall show the names of the employers and others contacted; the dates and amounts of wage stubs and statements; the figures used to arrive at monthly gross income; the household's responsibility to pay utilities; and the method of verifying other information, including non-citizen status, if applicable. A notation shall be made to indicate which household members completed work registration forms and the date completed.	Standardizing language	
4.504	Non-standardized language	**4.504 SOURCES OF VERIFICATION** The local office shall accept any pertinent documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application, redetermination, periodic report form, or change report form. If written verification cannot be obtained, the eligibility worker shall substitute an acceptable collateral contact.	**4.504 SOURCES OF VERIFICATION** The local office shall accept any pertinent documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application, recertification, PRF, or reported changes. If written verification cannot be obtained, the eligibility technician shall substitute an acceptable collateral contact.	Standardizing language	
4.502	Program name update; and non-standardized language	**4.504.2 Collateral Contacts** *** B. Confidentiality shall be maintained when talking with collateral contacts. The local office shall disclose only the information that is absolutely necessary to get information being sought. When talking with collateral contacts, the	**4.504.2 Collateral Contacts** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A and D here, including B and C.] *** B. Confidentiality shall be maintained when talking with	Updating Food Assistance to	

		local office shall avoid disclosing that the household has applied for Food Assistance. C. If the household fails to provide a collateral contact or provides a contact that is unacceptable to the eligibility worker, the worker may select a collateral contact that can provide information that is needed. ***	collateral contacts. The local office shall disclose only the information that is necessary to get information being sought. When talking with collateral contacts, the local office must not state that an individual or household has applied for SNAP. C. If the household fails to provide a collateral contact or provides a contact that is unacceptable to the eligibility technician, the technician may select a collateral contact that can provide information that is needed. ***	SNAP; and standardizing language	
4.504.5	Program name update	**4.504.5 Colorado Income Eligibility Verification System (IEVS)** A. The Colorado Income and Eligibility Verification System (IEVS) provides for the exchange of information on Food Assistance Program recipients with the Social Security Administration (SSA), Internal Revenue Service (IRS), and the Colorado Department of Labor and Employment (DOLE). B. At initial certification and redetermination, all applicants for Food Assistance benefits shall be notified through a written statement provided on or with the application form of the following information: 1. Information available through the IEVS will be requested and verified through collateral sources when discrepancies are found by the agency. 2. Information available through the IEVS shall be used and that such information will be used and may affect the household's eligibility and level of benefits. ***	**4.504.5 Colorado Income Eligibility Verification System (IEVS)** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections C, D, E, F, G, and H here, and including A and B.] A. The Colorado Income and Eligibility Verification System (IEVS) provides for the exchange of information on SNAP recipients with the Social Security Administration (SSA), Internal Revenue Service (IRS), and the Colorado Department of Labor and Employment (DOLE). B. At initial certification and recertification, all applicants for SNAP shall be notified through a written statement provided on or with the application form of the following information: 1. Information available through the IEVS will be requested and verified through collateral sources when discrepancies are found by the agency. 2. Information available through the IEVS shall be used and that such information will be used and may affect the household's eligibility and level of benefits. ***	Updating Food Assistance to SNAP	
4.504.6	Program name update; non-standardized language and acronyms; and incorrect language	**4.504.6 Information Considered Verified Upon Receipt** *** B. Information that is considered verified upon receipt shall be acted upon for both simplified reporting households and non-simplified reporting households. Information considered verified upon receipt shall be acted on at the time of application, recertification, periodic report, and during a household's certification	**4.504.6 Information Considered Verified Upon Receipt** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A and C here, and including B and D.] *** B. Information that is considered VUR shall be acted upon for all households. Information considered VUR shall be acted on at the time of application, recertification, periodic	Updating Food Assistance to SNAP; standardizing	

		period if the information causes a change in the Food Assistance benefit amount. A household shall not be convicted of fraud for not reporting a change in the information it is not required to report. *** D. The local office shall consider only the following information as verified upon receipt: 1. Social Security and SSI benefit amounts obtained from SSA. SSI and benefit amounts obtained from the SSA are considered reported and verified on the day the information is first known to the agency, either through the IEVS, SDX, BENDEX or another automated interface of information, whichever is sooner. 2. Death information received from the Burial Assistance program. Death information received from the Burial Assistance program is considered reported and verified on the day the information is first known to the agency. 3. Unemployment insurance benefits (UIB) that are reported through the IEVS and obtained through the Department of Labor and Employment (DOLE). The UIB information shall be considered reported and verified on the date of the IEVS notification. Advance notice of adverse action shall be given when acting on the change in information. 4. PA benefit amounts (Colorado Works, Aid to the Needy Disabled (AND) program consisting of AND-State Only (AND-SO) and AND-Colorado Supplement (AND-CS), Home Care Allowance (HCA), and Old Age Pension (OAP), obtained from the State Department. Such information shall be considered reported and verified on the day the public assistance	report, and during a household's certification period if the information causes a change in the SNAP benefit amount. A household shall not be convicted of fraud for not reporting a change in the information it is not required to report. *** D. The local office shall consider only the following information as verified upon receipt: 1. Social Security and SSI benefit amounts obtained from SSA. SSI and benefit amounts obtained from the SSA are considered reported and verified on the day the information is first known to the agency, either through the IEVS, SDX, BENDEX or another automated interface of information, whichever is sooner. 2. Death information received from the Burial Assistance program. Death information received from the Burial Assistance program is considered reported and verified on the day the information is first known to the agency. 3. Unemployment insurance benefits (UIB) that are reported through the IEVS and obtained through the Department of Labor and Employment (DOLE). The UIB information shall be considered reported and verified on the date of the IEVS notification. Advance notice of adverse action shall be given when acting on the change in information. 4. PA benefit amounts (Colorado Works, Aid to the Needy Disabled (AND) program consisting of AND-State Only (AND-SO) and AND-Colorado Supplement (AND-CS), Home Care Allowance (HCA), and Old Age Pension (OAP), obtained from the State Department. Such information shall be considered reported and verified on the day the public assistance benefit amount is authorized. 5. Information that is reported and verified to a public assistance program which results in a change to the	language and acronyms; and removal of incorrect language	

		benefit amount is authorized. 5. Information that is reported and verified to a public assistance program which results in a change to the PA benefit amount and that meets the Food Assistance regulations for verification. Such information shall be considered reported and verified on the day the public assistance program processes the change and authorizes the new PA benefit amount. 6. Child support income and expense amounts obtained through the ACSES. Such information is considered reported and verified on the day the information is reported through an automated interface with ACSES. 7. Non-compliance information obtained from EF agencies of the failure of an ABAWD to meet work requirements. 8. Colorado IPVs. 9. Information obtained from the SAVE system regarding non-citizen status. 10. Changes in household composition that are reported and verified and result in one or more members being removed from one Food Assistance household and added to a new or existing Food Assistance household. Duplicate benefits shall not be issued for a particular individual when removing that individual from one Food Assistance household and adding him/her to a new Food Assistance household. 11. Changes in household composition that are reported and verified by child welfare agencies and result in a child being removed from one Food Assistance household and added to a new or existing Food Assistance household. 12. The disqualification of a household member who is determined to be a fleeing felon or a probation or parole violator.	PA benefit amount and that meets the Food Assistance regulations for verification. Such information shall be considered reported and verified on the day the public assistance program processes the change and authorizes the new PA benefit amount. 6. Child support income and expense amounts obtained through the ACSES. Such information is considered reported and verified on the day the information is reported through an automated interface with ACSES. 7. Non-compliance information obtained from EF agencies of the failure of an ABAWD to meet work requirements. 8.Colorado IPVs. 9. Information obtained from the SAVE system regarding non-citizen status. 10. Changes in household composition that are reported and verified and result in one or more members being removed from one SNAP household and added to a new or existing SNAP household. Duplicate benefits shall not be issued for a particular individual when removing that individual from one SNAP household and adding him/her to a new SNAP household. 11. Changes in household composition that are reported and verified by child welfare agencies and result in a child being removed from one SNAP household and added to a new or existing SNAP household. 12. The disqualification of a household member who is determined to be a fleeing felon or a probation or parole violator.		

4.504.61	Program name update; and non-standardized acronym	**4.504.61 Information Not Considered Verified Upon Receipt** A. Some information received from sources other than the household are not considered verified. Such information shall be subject to independent verification prior to taking adverse action to reduce, suspend, terminate, or deny a household's Food Assistance benefits during the certification period. B. The following sources of information shall not be considered as verified upon receipt: 1. Death information received from a source other than the Burial Assistance program. 2. Veterans Assistance (VA) benefit amounts obtained through the IEVS. 3. Wage data obtained through the IEVS and the DOLE. 4. IRS income and asset information obtained through the IEVS. 5. Information regarding railroad retirement benefits obtained through the ievs. 6. Information received from the Public Assistance Reporting and Information System (PARIS). 7. Prisoner information received during the certification period. 8. Information received from the National Database of New Hires (NDNH). 9. Social Security benefit amounts reported via an award letter given by the household. 10. IPV/disqualification data from another state as reported through the disqualified recipient database.	**4.504.61 Information Not Considered Verified Upon Receipt** A. Some information received from sources other than the household are not considered verified. Such information shall be subject to independent verification prior to taking adverse action to reduce, suspend, terminate, or deny a household's SNAP benefits during the certification period. B. The following sources of information shall not be considered as verified upon receipt: 1. Death information received from a source other than the Burial Assistance program. 2. Veterans Assistance (VA) benefit amounts obtained through the IEVS. 3. Wage data obtained through the IEVS and the DOLE. 4. IRS income and asset information obtained through the IEVS. 5. Information regarding railroad retirement benefits obtained through IEVS. 6. Information received from the Public Assistance Reporting and Information System (PARIS). 7. Prisoner information received during the certification period. 8. Information received from the National Database of New Hires (NDNH). 9. Social Security benefit amounts reported via an award letter given by the household. 10. IPV/disqualification data from another state as reported through the disqualified recipient database.	Updating Food Assistance to SNAP; and standardizing acronym usage	

4.505(A)	Program name update	**4.505 VERIFICATION OF NON-FINANCIAL INFORMATION** A. Some information received from sources other than the household are not considered verified. Such information shall be subject to independent verification prior to taking adverse action to reduce, suspend, terminate, or deny a household's Food Assistance benefits during the certification period.	**4.505 VERIFICATION OF NON-FINANCIAL INFORMATION** A. Some information received from sources other than the household are not considered verified. Such information shall be subject to independent verification prior to taking adverse action to reduce, suspend, terminate, or deny a household's SNAP benefits during the certification period.	Updating Food Assistance to SNAP	
4.505.1(C)	Program name update; and non-standardized acronym use	**4.505.1 Verification of Identity** *** C. When obtaining an Electronic Benefit Transfer (EBT) card, a household shall not be required to provide verification beyond what was utilized to establish identity when determining Food Assistance eligibility. This includes verification through a collateral contact.	**4.505.1 Verification of Identity** *** C. When obtaining an EBT card, a household shall not be required to provide verification beyond what was utilized to establish identity when determining SNAP eligibility. This includes verification through a collateral contact.	Updating Food Assistance to SNAP; and standardizing acronym use	
4.505.3(B)	Program name update; and non-standardized language	**4.505.3 Verification of Residency** *** B. If the eligibility worker and applicant have made reasonable efforts to verify residency and it has proved impossible, the household may be certified, if otherwise eligible. If an individual's county residency cannot be verified, but the individual's Colorado residency is not questionable, then the individual shall be certified if otherwise eligible and not participating in another Food Assistance household. ***	**4.505.3 Verification of Residency** *** B. If the eligibility technician and applicant have made reasonable efforts to verify residency and it has proved impossible, the household may be certified, if otherwise eligible. If an individual's county residency cannot be verified, but the individual's Colorado residency is not questionable, then the individual shall be certified if otherwise eligible and not participating in another SNAP household. ***	Updating Food Assistance to SNAP; and standardizing language	
4.505.4(C)	Program name update	**4.505.4 Verification of Household Composition** *** C. A household or applicant that requests benefits for a child that is already receiving benefits in another household is responsible for verifying that they provide the child with a majority of his or her meals prior to receiving benefits for that child. When determining majority of meals for shared living arrangements, acceptable documentation includes, but is not limited to: custody arrangements, school enrollment forms,	**4.505.4 Verification of Household Composition** *** C. A household or applicant that requests benefits for a child that is already receiving benefits in another household is responsible for verifying that they provide the child with a majority of his or her meals prior to receiving benefits for that child. When determining majority of meals for shared living	Updating Food Assistance to SNAP	

		dependent care forms, a statement from each household, or any other document that can reasonably be used to determine meals. One household's written or verbal statement regarding its provision of the majority of the meals shall not be the only verification used when the statement results in removing a child from one Food Assistance household and placing the child in another Food Assistance household. A calendar completed by the household showing how many meals it provides a child shall be considered a written statement from the household. If both households that are requesting assistance for a child each provide a verbal or written statement regarding how many meals each provide, then both households' statements shall be used as verification to determine who provides the majority of the child's meals.	arrangements, acceptable documentation includes, but is not limited to custody arrangements, school enrollment forms, dependent care forms, a statement from each household, or any other document that can reasonably be used to determine meals. One household's written or verbal statement regarding its provision of most of the meals shall not be the only verification used when the statement results in removing a child from one SNAP household and placing the child in another SNAP household. A calendar completed by the household showing how many meals it provides a child shall be considered a written statement from the household. If both households that are requesting assistance for a child each provide a verbal or written statement regarding how many meals each provides, then both households' statements shall be used as verification to determine who provides most of the child's meals.		
4.505.51 (B)	Non-standardized language	**4.505.51 Verification of Questionable Citizenship** *** B. Application of the above criteria by the eligibility worker must not result in discrimination based on race, religion, ethnic background or national origin, and groups such as migrant farm workers or American Indians shall not be targeted for special verification. The eligibility worker shall not rely on a surname, accent or appearance that seems foreign to find a claim to citizenship questionable. Nor shall the eligibility worker rely on a lack of English speaking, reading or writing ability as grounds to question a claim to citizenship. ***	**4.505.51 Verification of Questionable Citizenship** *** B. Application of the above criteria by the eligibility technician must not result in discrimination based on race, religion, ethnic background or national origin, and groups such as migrant farm workers or American Indians shall not be targeted for special verification. The eligibility technician shall not rely on a surname, accent or appearance that seems foreign to find a claim to citizenship questionable. Nor shall the eligibility technician rely on a lack of English speaking, reading, or writing ability as grounds to question a claim to citizenship. ***	Standardizing language	
4.505.6	Program name update; and non-standardized language	**4.505.6 Verification of Non-citizen Status** A. All applicants for Food Assistance benefits shall be notified on the application form that the non- citizen status of any household member will be subject to verification by the U.S. Citizenship and Immigration Service (USCIS) through the submission of information from the application to the USCIS. The information received from the USCIS may affect the household's eligibility and level of benefits. The application shall contain a statement signed by an adult representative from each household which	**4.505.6 Verification of Non-citizen Status** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section B, D, E, F, G, H, I, and J here, and including A and C.] A. All applicants for SNAP shall be notified on the application form that the non-citizen status of any household member will be subject to verification by the U.S. Citizenship and Immigration Service (USCIS) through the submission of information from the application to the USCIS. The information received from the USCIS may	Updating Food Assistance to SNAP; and standardizing language	

		attests, under penalty of perjury, to citizenship or non-citizen status of each member. *** C. The USCIS Systematic Alien Verification for Entitlement (SAVE) system will verify the alien status of applicant non-citizens. The use of SAVE shall be documented in the case record. The record will contain the date that the primary or secondary request was submitted, along with a copy of the Form G-845 when applicable, and any response to the request for verification. 1. If the non-citizen status is not verified in the primary SAVE verification process, a USCIS Form G-845 will be submitted with a photocopy of the non-citizen's document to the Colorado Refugee Service Program (CRSP). 2. If the proper USCIS documentation is not available, the non-citizen may state the reason and submit other conclusive verification. The local office shall accept other forms of documentation or corroboration from the USCIS that the non-citizen is classified pursuant to Section 207, Section 208, or Section 243(h) of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act, which is codified throughout Title 8 of the United States Code. The federal references do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository. ***	affect the household's eligibility and level of benefits. The application shall contain a statement signed by an adult representative from each household which attests, under penalty of perjury, to citizenship or non-citizen status of each member. *** C. The USCIS Systematic Alien Verification for Entitlement (SAVE) system will verify the alien status of applicant non-citizens. The use of SAVE shall be documented in the case record. The record will contain the date that the primary or secondary request was submitted, along with a copy of the Form G-845 when applicable, and any response to the request for verification. 1. If the non-citizen status is not verified in the primary SAVE verification process, a USCIS Form G-845 will be submitted with a photocopy of the non-citizen's document to the Colorado Refugee Service Program (CRSP). 2. If the proper USCIS documentation is not available, the non-citizen may state the reason and submit other conclusive verification. The local office shall accept other forms of documentation or corroboration from the USCIS that the non-citizen is classified pursuant to Section 207, Section 208, or Section 243(h) of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act, which is codified throughout Title 8 of the United States Code. The federal references do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection. ***		

4.505.61	Program name update; and non-standardized use of acronyms	**4.505.61 Verification of SSA Forty Work Quarters** The Social Security Administration's Quarters of Coverage History System (QCHS) is available for purposes of verifying whether a lawful permanent resident has earned or can receive credit for forty (40) qualifying quarters. If the individual does not have documentation, he/she cannot participate until verification of forty (40) quarters of work is received from either the Social Security Administration (SSA) or the individual. If the Social Security Administration determines that its existing records do not verify that an individual claiming forty (40) credits or quarters in fact has the forty (40) credits or quarters and the individual believes the Social Security Administration records are not correct, the Social Security Administration will work with the individual to determine whether the additional credits or quarters can be established. The individual should be advised that he/she has the option of working with the Social Security Administration and that if he or she exercises this option and obtains a statement from SSA indicating that the number of credits or quarters is under review, he/she can continue to receive Food Assistance for up to six (6) additional months from the date of the original determination of insufficient quarters. A. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to a non-citizen if the non-citizen, parent of the non-citizen, or spouse of such non-citizen actually received any federal means-tested public benefit during the period for which such qualifying quarter of coverage is so credited. B. The local office must evaluate quarters of coverage and receipt of federal means-tested public benefits on a calendar year basis. The local office must first determine the number of quarters creditable in a calendar year, then identify those quarters in which the non-citizen (or the parent(s) or spouse of the non-citizen) received federal means-tested public benefits and then remove those quarters from the number of quarters of coverage earned or credited to the non-citizen in that calendar year. However, if the non-citizen earns the fortieth (40th) quarter of coverage prior to applying for Food Assistance or any other	**4.505.61 Verification of SSA Forty Work Quarters** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section C here, and including A and B.] The SSA Quarters of Coverage History System (QCHS) is available for purposes of verifying whether a lawful permanent resident has earned or can receive credit for forty (40) qualifying quarters. If the individual does not have documentation, he/she cannot participate until verification of forty (40) quarters of work is received from either the SSA or the individual. If the SSA determines that its existing records do not verify that an individual claiming forty (40) credits or quarters in fact has the forty (40) credits or quarters and the individual believes the SSA records are not correct, the SSA will work with the individual to determine whether the additional credits or quarters can be established. The individual should be advised that he/she has the option of working with the SSA and that if he or she exercises this option and obtains a statement from SSA indicating that the number of credits or quarters is under review, he/she can continue to receive SNAP benefits for up to six (6) additional months from the date of the original determination of insufficient quarters. A. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to a non-citizen if the non-citizen, parent of the non-citizen, or spouse of such non-citizen received any federal means-tested public benefit during the period for which such qualifying quarter of coverage is so credited. B. The local office must evaluate quarters of coverage and receipt of federal means-tested public benefits on a calendar year basis. The local office must first determine the number of quarters creditable in a calendar year, then identify those quarters in which the non-citizen (or the parent(s) or spouse of the non-citizen) received federal means-tested public benefits and then remove those quarters from the number of quarters of coverage earned or credited to the noncitizen in that calendar year. However, if the non-citizen earns the fortieth (40th) quarter of coverage prior to applying for SNAP or any other federal means-tested public benefit in that same quarter, the local office must allow that quarter toward the forty (40)	Updating Food Assistance to SNAP; and standardizing use of acronyms	

		federal means-tested public benefit in that same quarter, the local office must allow that quarter toward the forty (40) qualifying quarters total. ***	qualifying quarters total. ***		
4.505.7	Program name update	**4.505.7 Verification of Non-citizen Sponsorship** A. The local office shall verify the following information at the time of initial application and recertification: 1. The income and resources of the non-citizen's sponsor and the sponsor's spouse (if living with the sponsor) at the time of the non-citizen's application for Food Assistance. ***	**4.505.7 Verification of Non-citizen Sponsorship** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A.2-A.4, B, and C here, and including A.1.] A. The local office shall verify the following information at the time of initial application and recertification: 1.The income and resources of the non-citizen's sponsor and the sponsor's spouse (if living with the sponsor) at the time of the non-citizen's application for SNAP. ***	Updating Food Assistance to SNAP	
4.505.8	Program name update; and non-standardized use of acronyms	**4.505.8 Verification of Disqualified Member Data** At the time of application and when adding a new member to a Food Assistance household, the office shall verify data with the national IPV/disqualification database for all household members age eighteen (18) or older to determine if any members have an active intentional Program violation (IPV)/ disqualification from another state which requires a portion, or the entirety of, the disqualification period to be served in Colorado. Application processing shall not be delayed while awaiting verification from another state. The local office shall ensure that: A. Disqualifications from another state due to a drug-related felony or any other disqualification that is not pursued in Colorado due to a waiver or state statute shall not be acted upon; B. IPVs/disqualifications from another state must be independently verified with the originating state prior to taking any action to reduce, suspend, deny, or terminate benefits, if the client is unable to attest to the accuracy of the disqualification; C. States shall be given twenty (20) calendar days to respond to a request for verification. If verification cannot be provided by the other state, then the	**4.505.8 Verification of Disqualified Member Data** At the time of application and when adding a new member to a SNAP household, the office shall verify data with the national IPV/disqualification database for all household members aged eighteen (18) or older to determine if any members have an active IPV / disqualification from another state which requires a portion, or the entirety of, the disqualification period to be served in Colorado. Application processing shall not be delayed while awaiting verification from another state. The local office shall ensure that: A. Disqualifications from another state due to a drug-related felony or any other disqualification that is not pursued in Colorado due to a waiver or state statute shall not be acted upon; B. IPVs/disqualifications from another state must be independently verified with the originating state prior to taking any action to reduce, suspend, deny, or terminate benefits, if the client is unable to attest to the accuracy of the disqualification; C. States shall be given twenty (20) calendar days to respond to a request for verification. If verification cannot be provided by the other state, then the disqualification shall not be acted upon. Local offices shall be given twenty (20) calendar days to respond to another state's request of	Updating Food Assistance to SNAP; standardizing acronyms	

		disqualification shall not be acted upon. Local offices shall be given twenty (20) calendar days to respond to another state's request of obtaining verification of a Colorado IPV. If the county department cannot provide verification, then steps shall be taken to remove the IPV from the national database. D. Once independent verification is received, adverse action shall be granted prior to benefits being reduced, suspended, denied, or terminated; and, E. The disqualified individual shall be provided an opportunity to appeal any adverse action. If the local office issues benefits to an individual while awaiting verification of an IPV disqualification, the benefits issued while awaiting such verification may be claimed back if it is determined that the individual was disqualified from the program at the time the benefits were issued.	obtaining verification of a Colorado IPV. If the local office cannot provide verification, then steps shall be taken to remove the IPV from the national database. D. Once independent verification is received, adverse action shall be granted prior to benefits being reduced, suspended, denied, or terminated; and, E. The disqualified individual shall be provided an opportunity to appeal any adverse action. If benefits are issued by the local office to an individual while awaiting verification of an IPV disqualification, the benefits issued while awaiting such verification may be claimed back if it is determined that the individual was disqualified from the program at the time the benefits were issued.		
4.506	Program name update; non-standardized language; language that has no federal regulatory basis	**4.506 VERIFICATION OF INCOME** Monthly, gross nonexempt income shall be verified prior to initial certification, unless the household is entitled to expedited service and postponed verification for one month. Income is also verified at redetermination and periodic report when a household reports that the amount of income has changed more than twenty-five dollars ($25) or the source of income has changed. A. Responsibility 1. Applicants are primarily responsible for furnishing income verification documents, a collateral contact, or the authorization needed to secure sufficient information to allow written or verbal verification by the eligibility worker. For public assistance (PA) recipients, the PA case record will normally be used as the source of verification. 2. Means of income verification include pension award letters, check stubs, employer letters, and collateral contacts with employers, agencies or other persons having knowledge of the household's circumstances.	**4.506 VERIFICATION OF INCOME** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting B, D, and E here, and including A and C.] Monthly, gross nonexempt income shall be verified prior to initial certification, unless the household is entitled to expedited service and postponed verification for one month. Income is also verified at redetermination and periodic report when a household reports that the amount of income has changed more than twenty-five dollars ($25) or the source of income has changed. A. Responsibility 1. Applicants are primarily responsible for furnishing income verification documents, a collateral contact, or the authorization needed to secure sufficient information to allow written or verbal verification by the eligibility technician. For PA recipients, the PA case record will normally be used as the source of verification. 2. Means of income verification include pension award letters, check stubs, employer letters, and collateral contacts with employers, agencies or other persons	Updating Food Assistance to SNAP; standardizing language; and removal of language with no federal regulatory basis	

		3. When a collateral contact designated by the household cannot be expected to provide accurate third party verification, the local office shall ask the household to designate an acceptable collateral contact, provide an alternative form of verification or substitute a home visit. 4. In some instances, however, all attempts to verify income may be unsuccessful because the person or organization has failed to cooperate with the household. A cooperating applicant shall not be denied solely because a third party refuses to provide verification. The eligibility worker shall, in consultation with the applicant or other sources, arrive at a figure to be used for certification purposes and annotate the household's case record with information used to make an eligibility determination. *** C. Self-Employment Self-employment verification may consist of tax documents, self-employment ledgers maintained by the household, receipts, or other documents used for verifying and documenting the household's self-employment income and expenses. If, at the time of initial certification, a household is recently self-employed or does not have adequate documentation of the household's self-employment income and expenses, the eligibility worker shall use the best information available to determine the household's monthly income. The household shall be encouraged to keep records of income and expenses for subsequent certifications. No specific verification shall be required and the documentation provided by the household shall be accepted unless questionable. *** F. Cases of No Reported Income 1. In addition to verifying reported income, the eligibility worker may have occasion to explore	having knowledge of the household's circumstances. 3. When a collateral contact designated by the household cannot be expected to provide accurate third-party verification, the local office shall ask the household to designate an acceptable collateral contact, provide an alternative form of verification or substitute a home visit. 4. In some instances, however, all attempts to verify income may be unsuccessful because the person or organization has failed to cooperate with the household. A cooperating applicant shall not be denied solely because a third-party refuses to provide verification. The eligibility technician shall, in consultation with the applicant or other sources, arrive at a figure to be used for certification purposes and annotate the household's case record with information used to make an eligibility determination. *** C. Self-Employment Self-employment verification may consist of tax documents, self-employment ledgers maintained by the household, receipts, or other documents used for verifying and documenting the household's self-employment income and expenses. If, at the time of initial certification, a household is recently self-employed or does not have adequate documentation of the household's self-employment income and expenses, the eligibility technician shall use the best information available to determine the household's monthly income. The household shall be encouraged to keep records of income and expenses for subsequent certifications. Documentation provided by the household shall be accepted unless questionable. No specific verification shall be required. *** F. Cases of No Reported Income 1. The existence of resources, unpaid bills, and/or credit might be an explanation of how the household exists with no income or income so low as to place		

		the possibility of unreported income. Prior to determining the eligibility of households who report no income or income so low as to place them at the maximum benefit level without consideration of deductible expenses, the eligibility worker must, through in-depth interviewing techniques, determine how the household maintains its existence and meets ongoing maintenance expenses. Collateral contact with a person or persons knowing the household's circumstances is recommended. The existence of resources might be an explanation of how the household exists at the level of income reported. 2. When exploring the possibility of unreported income or how the household is meeting its expenses, the local office shall not initiate a request for verification of such information, but shall explore how the household is meeting its needs through an interview. If, at the time of recertification, the local office needs to explore the possibility of unreported income or how the household is meeting its needs, the household shall be contacted by telephone to resolve the discrepancy. If the household cannot be contacted, then the interview process outlined in Section 4.204 can be initiated.	them at the maximum benefit level without consideration of deductible expenses. The applicant's statement of no income is acceptable, unless otherwise questionable. 2. When exploring the possibility of unreported income or how the household is meeting its expenses, the local office shall not initiate a request for verification of such information but shall explore how the household is meeting its needs through an interview. If, at the time of recertification, the local office needs to explore the possibility of unreported income or how the household is meeting its needs, the household shall be contacted by telephone to resolve the discrepancy. If the household cannot be contacted, then the interview process outlined in Section 4.204 can be initiated.		
4.601(B)	Outdated language	**4.601 GENERAL REQUIREMENTS FOR REPORTING CHANGES** *** B. Households shall be required to report the increase in income no later than ten (10) calendar days from the end of the calendar month in which the change occurred. The local office has up to ten (10) calendar days to act on the information from the date the change is considered reported. ***	**4.601 GENERAL REQUIREMENTS FOR REPORTING CHANGES** *** B. Households shall be required to report the increase in income no later than ten (10) calendar days from the end of the calendar month in which the change occurred. The local office has up to ten (10) calendar days to act on the information from the date the change is considered reported. ***	Removing language that is no longer applicable	
4.603(A)	Program name update	**4.603 HOUSEHOLD RESPONSIBILITY TO REPORT CHANGES** A. Applicant households shall report all changes related to their Food Assistance eligibility and benefits at the certification interview, including any changes that occurred between the date an application is	**4.603 HOUSEHOLD RESPONSIBILITY TO REPORT CHANGES** A. Applicant households shall report all changes related to their SNAP eligibility and benefits at the certification interview, including any changes that occurred between the date an application is submitted and the date of the	Updating Food	

		submitted and the date of the interview. If a change is reported in an initial month and the application has not yet been processed, the local office shall act on the most current information. ***	interview. If a change is reported in an initial month and the application has not yet been processed, the local office shall act on the most current information. ***	Assistance to SNAP	
4.604	Program name update; and non-standardized language	**4.604 ACTION ON REPORTED CHANGES** Changes shall be acted on in accordance with the following guidelines: A. General Requirements Changes to a household's circumstances shall be acted on prospectively and processed within ten (10) calendar days from the date the change is considered to be reported. Changes reported by households shall be documented in the Food Assistance case record to indicate the change and the date that the change was reported. If the reported change causes a change to the household's allotment, a notice of action form shall be issued to inform the household of a new basis of issuance and/or a supplemental allotment. If a supplemental allotment is to be issued, the amount of the supplemental allotment shall be the difference between the allotment the household is eligible to receive, due to the reported change, and the allotment the household actually received for the current month. The household's total monthly allotment shall be increased for all subsequent months of the certification period that are affected by the change. *** C. Changes Resulting In an Increase 1. The county local office shall act on any change reported by the household that will increase benefits. The increased allotment shall be made no later than the first allotment issued ten (10) or more calendar days after the change is considered to be reported. Any increase in benefits resulting from a change shall take effect the month following the month the change is considered reported. Therefore, if such a change is reported after the twentieth (20th) of a month,	**4.604 ACTION ON REPORTED CHANGES** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B, D, E, F, and H here, and including A, C, and G.] Changes shall be acted on in accordance with the following guidelines: A. General Requirements Changes to a household's circumstances shall be acted on prospectively and processed within ten (10) calendar days from the date the change is reported. Changes reported by households shall be documented in the SNAP case record to indicate the change and the date that the change was reported. If the reported change causes a change to the household's allotment, a notice of action form shall be issued to inform the household of a new basis of issuance and/or a supplemental allotment. If a supplemental allotment is to be issued, the amount of the supplemental allotment shall be the difference between the allotment the household is eligible to receive, due to the reported change, and the allotment the household received for the current month. The household's total monthly allotment shall be increased for all subsequent months of the certification period that are affected by the change. *** C. Changes Resulting in an Increase 1. The county local office shall act on any change reported by the household that will increase benefits. The increased allotment shall be made no later than the first allotment issued ten (10) or more calendar days after the change is reported. Any increase in benefits resulting from a change shall take effect the month following the month the change is considered reported. Therefore, if such a change is reported after the twentieth (20th) of a month, and it is not possible to adjust the following month's allotment before the	Updating Food Assistance to SNAP; and standardizing language.	

		and it is not possible to adjust the following month's allotment before the household's next normal issuance day, a supplemental allotment (in addition to the previously authorized monthly allotment) must be issued within ten (10) calendar days from the date the change was considered to be reported. A supplemental allotment shall not be issued for the month in which the change occurred. 2. Changes that result in increased Food Assistance benefits for a household must be verified by the household within ten (10) calendar days from the date the change is reported. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained. Changes that result in increased Food Assistance benefits for a household must be verified prior to adjusting the household's allotment. *** G. Changes in Household Composition 1. Changes in household composition shall be acted on prospectively for the following month when the local office is able to affect the change prior to the determination of the household's allotment for that month. Anticipated income, deductions and other financial and non-financial criteria of the new member shall be considered in the prospective determination. The anticipated income, deductions, and other financial and non-financial criteria of a removed member shall no longer be considered when determining the household's eligibility. 2. Individuals Disqualified During the Certification Period When an individual is disqualified during the household's certification period, the Food Assistance certification office shall determine the eligibility or ineligibility of the remaining household members based on information contained in the case record. If information in the case record is	household's next normal issuance day, a supplemental allotment (in addition to the previously authorized monthly allotment) must be issued within ten (10) calendar days from the date the change was reported. A supplemental allotment shall not be issued for the month in which the change occurred. 2. Changes that result in increased SNAP benefits for a household must be verified by the household within ten (10) calendar days from the date the change is reported. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained. Changes that result in increased SNAP benefits for a household must be verified prior to adjusting the household's allotment. *** G. Changes in Household Composition 1. Changes in household composition shall be acted on prospectively for the following month when the local office is able to affect the change prior to the determination of the household's allotment for that month. Anticipated income, deductions and other financial and non-financial criteria of the new member shall be considered in the prospective determination. The anticipated income, deductions, and other financial and non-financial criteria of a removed member shall no longer be considered when determining the household's eligibility. 2. Individuals Disqualified During the Certification Period When an individual is disqualified during the household's certification period, the local office shall determine the eligibility or ineligibility of the remaining household members based on information contained in the case record. If information in the case record is insufficient, additional information shall be obtained as needed. a. If a household's benefits are reduced or terminated within the certification period because one or more of its members was disqualified for intentional program violation/fraud, the local office shall notify the remaining members of their		

		insufficient, additional information shall be obtained as needed. a. If a household's benefits are reduced or terminated within the certification period because one or more of its members was disqualified for intentional program violation/fraud, the local office shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member(s) is notified of his or her disqualification. b. If a household's benefits are reduced or terminated within the certification period because one or more of its members is disqualified for being an ineligible noncitizen, noncompliance with a work requirement, or for failure or refusal to obtain or provide a Social Security Number, the local office shall send a Notice of Adverse Action which informs the household of the disqualification, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the disqualified member must take to end the disqualification. ***	eligibility and benefit level at the same time the disqualified member(s) is notified of his or her disqualification. b. If a household's benefits are reduced or terminated within the certification period because one or more of its members is disqualified for being an ineligible noncitizen, noncompliance with a work requirement, or for failure or refusal to obtain or provide a Social Security Number, the local office shall send a Notice of Adverse Action which informs the household of the disqualification, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the disqualified member must take to end the disqualification. ***		
4.604.1	Program name update; and non-standardized language	**4.604.1 Verification of Reported Changes** Changes that affect an allotment may require additional verification prior to taking action. A. Unclear Information 1. If the local county office receives information about changes in a household's circumstances but cannot determine if or how the change will affect the household's benefits and the unclear information is: a. Fewer than sixty (60) days old relative to the current month of participation; and b. Was required to have been reported per simplified reporting rules; or	**4.604.1 Verification of Reported Changes** Before action is taken on reported changes and to determine the effect on benefits, additional verification is required in the following instances: A. Unclear Information 1. If the local office receives information about changes in a household's circumstances but cannot determine if or how the change will affect the household's benefits and the unclear information is: a. Fewer than sixty (60) days old relative to the current month of participation; and b. Was required to have been reported per simplified reporting rules; or	Updating Food Assistance to SNAP; and standardizing language	

		c. Appears to present significantly conflicting information about the household's circumstances from that used by the agency at the time of certification, including changes to the household's categorical eligibility tier, then; The local office shall send a verification request notice requesting the household to provide the specific information or verification within the ten (10) calendar days plus one (1) additional calendar day for mailing time period. Households participating in the Address Confidentiality Program (ACP) shall receive five (5) additional calendar days for mailing time. The local office shall offer assistance in obtaining the verification if the household cannot obtain the information. If the household fails or refuses to provide the verification or to request assistance with obtaining the verification within the ten (10) calendar days plus one (1) additional calendar day for mailing timeframe, or five (5) additional calendar days mailing time for ACP households, the process for closing the case shall be initiated. The Notice of Action Form shall advise the household that a change occurred that could not be acted upon, that the case is being closed, and that the household must provide the needed verification if it wishes to continue participation in the program. The household may be required to reapply if the household takes the required action after a break in benefits of more than thirty (30) calendar days. 2. If the information is more than sixty (60) days old relative to the current month of participation, was not required to be reported, or does not present significantly conflicting information from that used by the agency at the time of certification, the agency shall not act on this information or require the household to provide	c. Appears to present significantly conflicting information about the household's circumstances from that used by the agency at the time of certification, including changes to the household's categorical eligibility tier, then; The local office shall send a verification request notice requesting the household to provide the specific information or verification within the ten (10) calendar days plus one (1) additional calendar day for mailing. Households participating in the Address Confidentiality Program (ACP) shall receive five (5) additional calendar days for mailing time. The local office shall assist the client in obtaining the verification if the household cannot obtain the information. If the household fails or refuses to provide the verification or to request assistance with obtaining the verification within the ten (10) calendar days plus one (1) additional calendar day for mailing timeframe, or five (5) additional calendar days mailing time for ACP households, the process for closing the case shall be initiated. The Notice of Action Form shall advise the household that a change occurred that could not be acted upon, that the case is being closed, and that the household must provide the needed verification if it wishes to continue participation in the program. The household may be required to reapply if the household takes the required action after a break in benefits of more than thirty (30) calendar days. 2. If the information is more than sixty (60) days old relative to the current month of participation, was not required to be reported, or does not present significantly conflicting information from that used by the agency at the time of certification, the agency shall not act on this information or require the household to provide the information until the household's next recertification or periodic report. 3. Changes which result in increased SNAP benefits for a household shall be verified prior to adjusting the household's allotment. If the household fails to provide		

		the information until the household's next recertification or periodic report. 3. Changes which result in increased Food Assistance benefits for a household shall be verified prior to adjusting the household's allotment. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained. B. Computer Matches Not Considered Verified Upon Receipt When information is received from a Prisoner Verification System indicating an individual is currently being held in a federal, state, or local detention or correctional institution for more than thirty (30) days or information is received from a Deceased Matching System indicating a household member has recently died, a notice of match shall be sent to the affected household prior to taking action to adjust or terminate the household's benefits. The notice of match shall explain what information is needed to challenge the match and the consequences of failing to respond. The notice shall provide the household with ten (10) calendar days plus one (1) additional calendar day for mailing time to respond. Households participating in the Address Confidentiality Program (ACP) shall be provided five (5) additional calendar days for mailing time. If the household substantiates the match, fails to respond to the notice, or fails to provide sufficient verification to challenge the match results, the agency shall remove the subject individual from the Food Assistance household and adjust benefits accordingly following the procedures outlined in Section 4.604. If the household provides sufficient verification that the match is invalid, no further action shall be taken to remove the subject individual or adjust the household's benefits. The case record shall be documented accordingly.	verification, benefits shall remain at the original level until verification is obtained. B. Computer Matches Not Considered Verified Upon Receipt When information is received from a Prisoner Verification System indicating an individual is currently being held in a federal, state, or local detention or correctional institution for more than thirty (30) days or information is received from a Deceased Matching System indicating a household member has recently died, a notice of match shall be sent to the affected household prior to taking action to adjust or terminate the household's benefits. The notice of match shall explain what information is needed to challenge the match and the consequences of failing to respond. The notice shall provide the household with ten (10) calendar days plus one (1) additional calendar day for mailing time to respond. Households participating in the ACP shall be provided five (5) additional calendar days for mailing time. If the household substantiates the match, fails to respond to the notice, or fails to provide sufficient verification to challenge the match results, the agency shall remove the subject individual from the SNAP household and adjust benefits accordingly following the procedures outlined in Section 4.604. If the household provides sufficient verification that the match is invalid, no further action shall be taken to remove the subject individual or adjust the household's benefits. The case record shall be documented accordingly.		

4.605	Program name update; and unclear language	**4.605 FAILURE TO REPORT CHANGES** If Food Assistance benefits are over-issued because a household fails to timely report changes as required, a claim shall be established and a notice of overpayment and a repayment agreement will be mailed. If the discovery is made within the certification period, the household must be given advance notice of adverse action if its benefits are to be reduced.	**4.605 FAILURE TO REPORT CHANGES** If SNAP benefits are over-issued because a household fails to timely report changes as required, a claim shall be established. Upon the establishment of a claim, a notice of overpayment, a detailed explanation of why the claim was established, and a repayment agreement will be mailed to the household. If the discovery is made within the certification period, the household must be given advance notice of adverse action if its benefits are to be reduced.	Updating Food Assistance to SNAP; adding language to clarify requirements per Federal regulations	
4.606	Program name update; non-standardized language and acronyms	**4.606 HANDLING PUBLIC ASSISTANCE (PA) HOUSEHOLD CHANGES** A. Households that receive public assistance benefits which report a change in circumstances to the public assistance worker shall be considered to have reported the change for Food Assistance purposes. Information that is reported and verified to a public assistance (PA) program which results in a change to the PA benefit amount and that meets the Food Assistance rules for verification shall be considered verified upon receipt. The date the change is considered reported and verified is the date the public assistance program processes the change and authorizes the new PA benefit amount. When acting on information considered verified upon receipt, advance notice of adverse action is required, except as noted in Section 4.608.1. B. When there is a change in a public assistance case and the county has sufficient information to make the corresponding Food Assistance adjustment, the county shall follow the guidelines listed below. 1. If the change in household circumstances requires a reduction or termination of both public assistance and Food Assistance, the following action will be required: a. Send Notices of Adverse Action for both programs simultaneously with both notices bearing the same effective date. b. If a household requests a fair hearing any time prior to the effective date of the Notice of	**4.606 PA HOUSEHOLD CHANGES** A. Households that receive PA benefits which report a change in circumstances to the PA worker shall be considered to have reported the change for SNAP purposes. Information that is reported and verified to a PA program which results in a change to the PA benefit amount and that meets the SNAP rules for verification shall be considered VUR. The date the change is considered reported and verified is the date the PA program processes the change and authorizes the new PA benefit amount. When acting on information considered VUR, advance notice of adverse action is required, except as noted in Section 4.608.1. B. When there is a change in a PA case and the county has sufficient information to make the corresponding SNAP adjustment, the county shall follow the guidelines listed below. 1. If the change in household circumstances requires a reduction or termination of both PA and SNAP, the following action will be required: a. Send NOAs for both programs simultaneously with both notices bearing the same effective date. b. If a household requests a fair hearing any time prior to the effective date of the Notice of Adverse Action, and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action, unless the household specifically waives continuation of benefits. Continued benefits shall not be issued	Updating Food Assistance to SNAP; and standardizing language and acronyms	

		Adverse Action, and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action, unless the household specifically waives continuation of benefits. Continued benefits shall not be issued for a period beyond the end of the current certification period. c. If the household appeals only a PA adverse action and is granted interim relief, Food Assistance benefits authorized prior to the adverse action shall continue or be restored. However, the household must reapply if the Food Assistance certification period expires before the hearing process is completed. d. If the household does not appeal the adverse action to decrease the public assistance or Food Assistance benefits within the adverse action period, the changes shall be made in accordance with timeframes outlined in Section 4.603. 2. If the change requires a reduction or termination of public assistance and/or increases in Food Assistance, the following action will be required: a. A public assistance Notice of Adverse Action shall be issued to the household and Food Assistance benefits shall not be increased until the adverse action period expires. If the household does not appeal, the increase shall be effective in accordance with Section 4.604. The time limit for taking the action to increase Food Assistance benefits shall be calculated from the date the PA Notice of Adverse Action expires. The Notice of Adverse Action expires eleven (11) calendar days from the date it is issued or fifteen (15) calendar days for households participating in the address confidentiality program (ACP). b. If the household requests a PA state	for a period beyond the end of the current certification period. C. If the household appeals only a PA adverse action and is granted interim relief, SNAP benefits authorized prior to the adverse action shall continue or be restored. However, the household must reapply if the SNAP certification period expires before the hearing process is completed. d. If the household does not appeal the adverse action to decrease the PA or SNAP benefits within the adverse action period, the changes shall be made in accordance with timeframes outlined in Section 4.603. 2. If the change requires a reduction or termination of PA benefits and/or increases in SNAP benefits, the following action will be required: a. A PA Notice of Adverse Action shall be issued to the household and SNAP benefits shall not be increased until the adverse action period expires. If the household does not appeal, the increase shall be effective in accordance with Section 4.604. The time limit for taking the action to increase SNAP benefits shall be calculated from the date the PA Notice of Adverse Action expires. The Notice of Adverse Action expires eleven (11) calendar days from the date it is issued or fifteen (15) calendar days for households participating in the address confidentiality program (ACP). b. If the household requests a PA state appeal and is granted interim relief, the household is entitled only to SNAP benefits that were authorized immediately prior to the PA adverse action and action must be taken to correct the current basis of issuance. A SNAP claim must be made against the household if there was an over-issuance for the period pending the appeal decision. 3. When there is a change in a PA case which results in a termination of PA but there is insufficient information to determine SNAP eligibility, the county shall follow the guidelines listed below:		

		appeal and is granted interim relief, the household is entitled only to Food Assistance benefits that were authorized immediately prior to the PA adverse action and action must be taken to correct the current basis of issuance. A Food Assistance claim must be made against the household if there was an overissuance for the period pending the appeal decision. 3. When there is a change in a PA case which results in a termination of PA but there is insufficient information to determine Food Assistance eligibility, the county shall follow the guidelines listed below: a. The PA Advance Notice of Adverse Action and a verification request notice are issued simultaneously. The public assistance notice makes the action effective on the last day of the month the notice is sent (or the last day of the following month, as appropriate, to allow for the required advance notice period). The routine extension on Food Assistance notices allows the household time to reapply for benefits at the appropriate local office. The verification request notice shall advise the household of the information that needs to be verified for the household to continue to receive Food Assistance benefits. The worker shall not take any further action until the PA Notice of Adverse Action period expires or until the household requests a fair hearing. If the household does not appeal the PA action and request a continuation of benefits, the agency may resume action on the reported change. Depending on the response or non-response to the verification request, the worker shall adjust the household's benefits if the verification of the household circumstances are received, or issue a Notice of Adverse Action to close the household's case if the household does not respond or refuses to provide information.	a. The PA Advance Notice of Adverse Action and a verification request notice are issued simultaneously. The PA notice makes the action effective on the last day of the month the notice is sent (or the last day of the following month, as appropriate, to allow for the required advance notice period). The routine extension on SNAP notices allows the household time to reapply for benefits at the appropriate local office. The verification request notice shall advise the household of the information that needs to be verified for the household to continue to receive SNAP benefits. The worker shall not take any further action until the PA Notice of Adverse Action period expires or until the household requests a fair hearing. If the household does not appeal the PA action and request a continuation of benefits, the agency may resume action on the reported change. Depending on the response or non-response to the verification request, the eligibility technician shall adjust the household's benefits if the verification of the household circumstances is received or issue a Notice of Adverse Action to close the household's case if the household does not respond or refuses to provide information. b. Households requesting a SNAP appeal may be entitled to continued benefits. c. If the household requests only a PA state appeal and is granted interim relief, SNAP benefits authorized immediately prior to the adverse action will continue or be restored. 4. If the situation does not require a PA Notice of Adverse Action, the county local office shall act based on the normal change reporting processing time frames and provide proper noticing as described in this section. C. Local offices shall ensure that there is no increase in SNAP benefits to households as the result of a penalty being imposed for an IPV or failure to comply with program requirements for a		

		b. Households requesting a Food Assistance appeal may be entitled to continued benefits. c. If the household requests only a public assistance state appeal and is granted interim relief, Food Assistance benefits authorized immediately prior to the adverse action will continue or be restored. 4. If the situation does not require a PA Notice of Adverse Action, the county local office shall take action based on the normal change reporting processing time frames and provide proper noticing as described in this section. C. Local offices shall ensure that there is no increase in Food Assistance benefits to households as the result of a penalty being imposed for an intentional program violation (IPV) or failure to comply with program requirements for a federal, state, or local means-tested program that distributes publicly funded benefits. The local office shall calculate the Food Assistance allotment using the benefit amount that would be issued by that program if no penalty had been imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in Food Assistance benefits shall also not be affected by these provisions.	federal, state, or local means-tested program that distributes publicly funded benefits. The local office shall calculate the SNAP allotment using the benefit amount that would be issued by that program if no penalty had been imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in SNAP benefits shall also not be affected by these provisions.		
4.607	Program name update; and non-standardized acronyms and language	**4.607 MASS CHANGES** There are certain changes that occur which are not caused by the household and which affect a mass portion of the Food Assistance caseload simultaneously. Such adjustments go into effect for all households at a specific point in time, and the local office will have full prior knowledge of the change. Such changes are generally initiated as a result of a change in state or federal regulations. When such changes occur, the local office shall be responsible for making the appropriate adjustments in the household's eligibility or allotment as	**4.607 MASS CHANGES** There are certain changes that occur which are not caused by the household and which affect a mass portion of the SNAP caseload simultaneously. Such adjustments go into effect for all households at a specific point in time, and the local office will have full prior knowledge of the change. Such changes are generally initiated because of a change in state or federal regulations. When such changes occur, the local office shall be responsible for making the appropriate adjustments in the household's eligibility or allotment as directed by the State Department and noticing the client as outlined below:	Updating Food Assistance to SNAP; and standardizing acronyms and language	

		directed by the State Department and noticing the client as outlined below: A. Federal adjustments to eligibility standards, allotments, and deductions; state adjustments to the Standard Utility Allowance; and any federal reduction, cancellation, or suspension of Food Assistance Program benefits. These mass changes shall not require Advance Notice of Adverse Action to affected households; however, households shall be notified of such changes through the news media; posters in certification or issuance offices, or other locations frequented by participating households; or general notices mailed to participating households. Adjustments to federal standards and state adjustments to utility standards shall be implemented prospectively. B. Mass changes in public assistance grants, such as state-only Old Age Pension and Aid to the Needy Disabled; and Cost of Living Adjustments (COLA) and increases in federal RSDI, SSI benefits (Title XVI), and SSA (Title II). These mass changes shall require a Notice of Adverse Action when food assistance benefits are decreased or terminated. Such notice for these mass changes shall be provided to the household as much before the household's scheduled issuance date as reasonably possible, although the notice need not be given any earlier than the time required for advance Notice of Adverse Action, per Section 4.608. Mass changes shall be processed prospectively for all households. 1. At a minimum, affected households shall be informed of: a. The general nature of the change; b. Examples of the change's effect on household's allotments; c. The month in which the change will take effect; d. The household's right to a fair hearing;	A. Federal adjustments to eligibility standards, allotments, and deductions; state adjustments to the Standard Utility Allowance; and any federal reduction, cancellation, or suspension of SNAP benefits. These mass changes shall not require Advance Notice of Adverse Action to affected households; however, households shall be notified of such changes through the news media; posters in certification or issuance offices, or other locations frequented by participating households; or general notices mailed to participating households. Adjustments to federal standards and state adjustments to utility standards shall be implemented prospectively. B. Mass changes in public assistance grants, such as state-only OAP and AND; and Cost of Living Adjustments (COLA) and increases in federal RSDI, SSI benefits (Title XVI), and SSA (Title II). These mass changes shall require a Notice of Adverse Action when SNAP benefits are decreased or terminated. Such notice for these mass changes shall be provided to the household as much before the household's scheduled issuance date as reasonably possible, although the notice need not be given any earlier than the time required for advance Notice of Adverse Action, per Section 4.608. Mass changes shall be processed prospectively for all households. 1. At a minimum, affected households shall be informed of: a. The general nature of the change; b. Examples of the change's effect on household's allotments; c. The month in which the change will take effect; d. The household's right to a fair hearing; e. The household's right to receive a continuation of benefits if the following criteria are met: 1) The household has not specifically waived its right to a continuation of benefits;		

		e. The household's right to receive a continuation of benefits if the following criteria are met: 1) The household has not specifically waived its right to a continuation of benefits; 2) The household requests a fair and the request for a hearing is based upon improper computation of Food Assistance eligibility or benefits, or upon misapplication or misinterpretation of state rules, or federal law or regulation. f. The household's liability for any over-issued benefits if the hearing decision is adverse; g. General information on whom to contact for additional information. 2. Processing Mass Changes in Public Assistance (PA) Public assistance grant cost-of-living increases and SSA/SSI cost-of-living increases are treated as mass changes in the Food Assistance Program. Mass changes shall be processed prospectively for all households. Food assistance benefits shall be recomputed and the change shall be effective in the same month as the change in the PA grant. If the local office has at least thirty (30) calendar days' advance knowledge of the amount of the public assistance adjustment, the Food Assistance benefits shall be recomputed and the change shall be effective in the same month as the change in the PA grant. In cases where the local office does not have thirty (30) calendar days' advance notice, the Food Assistance change shall be made effective no later than the month following the month in which the PA grant was changed.	2) The household requests a fair and the request for a hearing is based upon improper computation of SNAP eligibility or benefits, or upon misapplication or misinterpretation of state rules, or federal law or regulation. f. The household's liability for any over-issued benefits if the hearing decision is adverse; g. General information on whom to contact for additional information. 2. Processing Mass Changes in PA PA grant cost-of-living increases and SSA/SSI cost-of-living increases are treated as mass changes in SNAP. Mass changes shall be processed prospectively for all households. SNAP benefits shall be recalculated, and the change shall be effective in the same month as the change in the PA grant. If the local office has at least thirty (30) calendar days' advance knowledge of the amount of the PA adjustment, the SNAP benefits shall be recalculated, and the change shall be effective in the same month as the change in the PA grant. In cases where the local office does not have thirty (30) calendar days' advance notice, the SNAP change shall be made effective no later than the month following the month in which the PA grant was changed.		

4.608(D)	Non-standardized language	**4.608 ADVANCE NOTICE OF ADVERSE ACTION** *** D. The participant household may also, prior to the effective date of the Notice of Adverse Action, either before or after the conference, appeal the proposed action. Households that timely request a hearing may be entitled to continued benefits. The eligibility worker shall explain to the household that a demand will be made for the amount of any benefits determined by the hearing officer to have been over-issued.	**4.608 ADVANCE NOTICE OF ADVERSE ACTION** *** D. The participant household may also, prior to the effective date of the Notice of Adverse Action, either before or after the conference, appeal the proposed action. Households that timely request a hearing may be entitled to continued benefits. The eligibility technician shall explain to the household that a demand will be made for the amount of any benefits determined by the hearing officer to have been over-issued.	Standardizing language	
4.608.1	Program name update; non-standardized language and acronyms	**4.608.1 Changes Not Requiring Advance Notice of Adverse Action** Advance Notice of Adverse Action may be given, but is not required in the following situations: A. The Food Assistance Program Division initiates mass changes outlined in Section 4.607, paragraph A. Such changes must be publicized in advance. Announcements may be handed out or mailed to affected participant households. *** F. The household applied for public assistance (PA) and Food Assistance jointly and has been receiving Food Assistance benefits pending the approval of the PA grant and was notified at the time of certification that Food Assistance benefits would be reduced upon approval of the PA grant. *** J. Converting a household from cash and/or Food Assistance repayment for claims to allotment reduction as a result of a failure to make agreed-on repayments. *** L. A change that is reported at redetermination for a household certified for six (6) months, or at periodic report for a household certified for twenty-four (24) months, which results in a decrease to the	**4.608.1 Changes Not Requiring Advance Notice of Adverse Action** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B, C, D, E, G, H, I, and K here and including A, F, and J.] Advance Notice of Adverse Action may be given, but is not required in the following situations: A. The state department initiates mass changes outlined in Section 4.607, paragraph A. Such changes must be publicized in advance. Announcements may be handed out or mailed to affected participant households. *** F. The household applied for PA and SNAP jointly and has been receiving SNAP benefits pending the approval of the PA grant and was notified at the time of certification that SNAP benefits would be reduced upon approval of the PA grant. *** J. Converting a household from cash and/or SNAP repayment for claims to allotment reduction because of a failure to make agreed-on repayments. *** L. A change that is reported at recertification for a household certified for six (6) months, or at periodic report for a household certified for twenty-four (24) months, which results in a decrease to the household's SNAP allotment.	Updating Food Assistance to SNAP; standardizing language and acronyms	

		household's Food Assistance allotment.			
4.609	Lack of non-standard acronyms	**4.609 TRANSITIONAL FOOD ASSISTANCE**	**4.609 TRANSITIONAL FOOD ASSISTANCE (TFA)**	Standardizing acronyms	
4.609.1	Program name update; non-standardized use of acronyms	**4.609.1 GENERAL ELIGIBILITY GUIDELINES [Rev. eff. 2/1/16]** A. Households that receive Food Assistance and Colorado Works basic cash assistance that become ineligible for continued receipt of Colorado Works basic cash assistance as a result of changes in household income are eligible to receive Transitional Food Assistance (TFA), as provided for within this section. Colorado works diversion payments are not considered basic cash assistance. Colorado works basic cash assistance is defined in Section 3.601 of the Code of Colorado Regulations (9 CCR 2503-6). B. Households that are eligible to receive Transitional Food Assistance will have the Food Assistance benefit amount continued for five (5) months. The household's Food Assistance allotment will be continued in an amount based on what the household received prior to when the household's income made them ineligible for Colorado Works basic cash assistance. Only the following four (4) changes will be acted upon when determining the Food Assistance allotment that is to be continued. 1. The loss of the Colorado Works cash grant; 2. Changes in household composition that result in a household member leaving and applying for Food Assistance in another household; 3. Updates to the Food Assistance eligibility standards that change each October 1 as a result of the annual cost-of-living adjustments (see Section 4.607); and, 4. Imposing an intentional program violation	**4.609.1 GENERAL ELIGIBILITY GUIDELINES [Rev. eff. 2/1/16]** A. Households that receive SNAP and CW basic cash assistance that become ineligible for continued receipt of CW basic cash assistance because of changes in household income are eligible to receive TFA, as provided for within this section. CW diversion payments are not considered basic cash assistance. CW basic cash assistance is defined in Section 3.601 of the Code of Colorado Regulations (9 CCR 2503-6). B. Households that are eligible to receive TFA will have the SNAP benefit amount continued for five (5) months. The household's SNAP allotment will be continued in an amount based on what the household received prior to when the household's income made them ineligible for CW basic cash assistance. Only the following four (4) changes will be acted upon when determining the SNAP allotment that is to be continued. 1. The loss of the CW cash grant; 2. Changes in household composition that result in a household member leaving and applying for SNAP in another household; 3.Updates to the SNAP eligibility standards that change each October 1 because of the annual cost-of-living adjustments (see Section 4.607); and, 4. Imposing an IPV disqualification. C. When the SNAP benefit amount is continued, the household's existing certification period shall end, and the household shall be assigned a new five (5) month certification period. The recertification requirements that	Updating Food Assistance to SNAP; standardizing acronyms	

		disqualification. C. When the Food Assistance benefit amount is continued, the household's existing certification period shall end, and the household shall be assigned a new five (5) month certification period. The recertification requirements that would normally apply when the household's certification period ends must be postponed until the end of the five (5) month transitional certification period. D. Households who are denied or not eligible for Transitional Food Assistance must have continued eligibility and benefit level determined in accordance with Section 4.604. E. The following households are not eligible to receive Transitional Food Assistance: 1. Households leaving the Colorado Works program due to a Colorado Works sanction; or, 2. Households that are ineligible to receive Food Assistance because all individuals in the household meet one of the following criteria: a. Disqualified for intentional program violation; b. Ineligible for failure to comply with a work requirement; c. Ineligible student; d. Ineligible non-citizen; e. Disqualified for failing to provide information necessary for making a determination of eligibility or for completing any subsequent review of its eligibility; f. Disqualified for receiving Food Assistance benefits in more than one household in the same month; g. Disqualified for being a fleeing felon;	would normally apply when the household's certification period ends must be postponed until the end of the five (5) month transitional certification period. D. Households who are denied or not eligible for TFA must have continued eligibility and benefit level determined in accordance with Section 4.604. E. The following households are not eligible to receive TFA: 1. Households leaving the CW program due to a CW sanction; or, 2. Households that are ineligible to receive SNAP because all individuals in the household meet one of the following criteria: a. Disqualified for IPV; b. Ineligible for failure to comply with a work requirement; c. Ineligible student; d. Ineligible non-citizen; e. Disqualified for failing to provide information f. Disqualified for receiving SNAP benefits in more than one household in the same month; g. Disqualified for being a fleeing felon; h. ABAWDs who fail to comply with the requirements of Section 4.310.		

		h. Able-bodied adults without dependents who fail to comply with the requirements of Section 4.310.			
4.609.4	Program name update; and non-standardized acronyms	**4.609.4 HOUSEHOLDS WHO RETURN TO COLORADO WORKS DURING THE TRANSITIONAL PERIOD [Rev. eff. 2/1/16]** If a household receiving Transitional Food Assistance returns to Colorado Works during the transitional period, the local office shall complete the recertification process for Food Assistance to determine the household's continued eligibility and benefit amount. If the household remains eligible for Food Assistance, the household shall be assigned a new certification period.	**4.609.4 HOUSEHOLDS WHO RETURN TO COLORADO WORKS (CW) DURING THE TRANSITIONAL PERIOD [Rev. eff. 2/1/16]** If a household receiving TFA returns to CW during the transitional period, the local office shall complete the recertification process for SNAP to determine the household's continued eligibility and benefit amount. If the household remains eligible for SNAP, the household shall be assigned a new certification period.	Updating Food Assistance to SNAP; and standardizing acronyms	
4.609.5(A)	Program name update; and non-standardized language	**4.609.5 HOUSEHOLDS WHO REAPPLY FOR FOOD ASSISTANCE DURING THE TRANSITIONAL PERIOD [Rev. eff. 2/1/16]** A. At any time during the transitional period, the household may submit an application for recertification to determine if the household is eligible for a higher Food Assistance allotment. In determining if the household is eligible for a higher allotment, all changes in household circumstances shall be acted upon.	**4.609.5 HOUSEHOLDS WHO REAPPLY FOR SNAP DURING THE TRANSITIONAL PERIOD [Rev. eff. 2/1/16]** A. At any time during the transitional period, the household may apply for recertification to determine if the household is eligible for a higher SNAP allotment. In determining if the household is eligible for a higher allotment, all changes in household circumstances shall be acted upon.	Updating Food Assistance to SNAP; and standardizing language	
4.609.6	Program name update; and non-standardized acronyms	**4.609.6 TRANSITIONAL NOTICE REQUIREMENTS [Rev. eff. 2/1/16]** When a household is approved for Transitional Food Assistance, the household shall be notified of the following information: ***	**4.609.6 TRANSITIONAL NOTICE REQUIREMENTS [Rev. eff. 2/1/16]** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, D, E, and F here and including C] When a household is approved for TFA, the household shall be notified of the following information: ***	Updating Food Assistance to SNAP; standardizing acronyms	

		C. A statement that if the household returns to Colorado Works during its transitional benefit period, the household must undergo the recertification process to determine the household's continued eligibility and Food Assistance allotment for Food Assistance; and, ***	C. A statement that if the household returns to CW during its TFA period, the household must undergo the recertification process to determine the household's continued eligibility and new SNAP allotment; and, ***		
4.610	Program name update	**4.610 REINSTATEMENT OF BENEFITS** A household may be eligible for a reinstatement of benefits, without filing a new application, during the remaining month(s) of the certification period if the reason for the original closure has been resolved and eligibility may be reestablished. The local office may reinstate the household if the household reports and verifies a reported change in circumstances that reestablishes the household's eligibility within 30 calendar days following the date of ineligibility. Within standard processing timeframes, the local office will review the case to determine if the household continues to meet all other eligibility requirements. If eligible for reinstatement, the local office will prorate food assistance benefits from the date the household took all required action(s) to reestablish eligibility. If the certification period has already ended or will end during the month the household is attempting to reestablish eligibility, a new application is needed.	**4.610 REINSTATEMENT OF BENEFITS** A household may be eligible for a reinstatement of benefits, without filing a new application, during the remaining month(s) of the certification period if the reason for the original closure has been resolved and eligibility may be reestablished. The local office may reinstate the household if the household reports and verifies a reported change in circumstances that reestablishes the household's eligibility within 30 calendar days following the date of ineligibility. Within standard processing timeframes, the local office will review the case to determine if the household continues to meet all other eligibility requirements. If eligible for reinstatement, the local office will prorate SNAP benefits from the date the household took all required action(s) to reestablish eligibility. If the certification period has already ended or will end during the month the household is attempting to reestablish eligibility, a new application is needed.	Updating Food Assistance to SNAP	
4.700	Program name update; non-standardized use of acronyms	**4.700 FOOD ASSISTANCE BENEFIT ISSUANCE** The Colorado Electronic Benefits Transfer System (CO/EBTS) will allow electronic debiting of benefits onto an Electronic Benefit Transfer (EBT) card for certified	**4.700 SNAP BENEFIT ISSUANCE** CO/EBTS will allow electronic debiting of benefits onto an EBT card for certified eligible households. Every household must be informed of the issuance accommodations that are available.	Updating Food Assistance to	

		eligible households. Every household must be informed of the issuance accommodations that are available. Local offices must provide an adequate number of issuance locations and hours of operation to allow all eligible households to receive their Electronic Benefit Transfer (EBT) cards. As the Food Assistance Program is a national program, food benefits issued to eligible households may be used for the purchase of eligible food in every state.	Local offices must provide an adequate number of issuance locations and hours of operation to allow all eligible households to receive their EBT) cards. As SNAP is a national program, benefits issued to eligible households may be used for the purchase of eligible food in every state.	SNAP; standardizing acronyms	
4.701	Non-standardized language; and misspelling	**4.701 PROVIDING BENEFITS TO PARTICIPANTS** *** B. Those households comprised of persons who are elderly or persons with a disability who have difficulty reaching issuance offices and households which do not reside in a permanent dwelling or have a fixed mailing address, and those in remote, rural areas shall be given assistance in obtaining their EBT card. Food assistance offices shall assist these households by arranging for the mail issuance of EBT cards to them, by assisting them in finding authorized representatives who can act on their behalf, or by using other appropriate means. C. The eligibility worker shall be sufficiently familiar with issuance operations to answer any questions the household may have about when, where, and how to access one's benefits from the EBT card.	**4.701 PROVIDING BENEFITS TO PARTICIPANTS** [PUBLISHER NOTE NOT FOR PUBLICATION: We are excluding section A here, including B and C.] *** B. Those households composed of persons who are aged 60 and older or persons with a disability who have difficulty reaching issuance offices and households which do not reside in a permanent dwelling or have a fixed mailing address, and those in remote, rural areas shall be given assistance in obtaining their EBT card. The local office shall assist these households by arranging for the mail issuance of EBT cards to them, by assisting them in finding authorized representatives who can act on their behalf, or by using other appropriate means. C. The eligibility technician shall be sufficiently familiar with issuance operations to answer any questions the household may have about when, where, and how to access one's benefits from the EBT card.	Standardizing language; and correcting misspelling	

4.701.2(D)	Non-standardized language	**4.701.2 EBT Cards** *** D. Food assistance offices shall limit issuance of EBT cards to the time of initial certification, with replacements made only in instances when the EBT card is lost, mutilated, destroyed, or if there are changes in the person authorized to obtain benefits, or when the office determines that a new EBT card is needed. Whenever possible, the office shall collect the EBT card that it is replacing. The issuance unit must be notified of a replacement EBT card to assure that only the most recently issued EBT card is used for benefit issuance. ***	**4.701.2 EBT Cards** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, C, E, and F here, including section D.] *** D. The local office shall limit issuance of EBT cards to the time of initial certification, with replacements made only in instances when the EBT card is lost, mutilated, destroyed, or if there are changes in the person authorized to obtain benefits, or when the office determines that a new EBT card is needed. Whenever possible, the office shall collect the EBT card that it is replacing. The issuance unit must be notified of a replacement EBT card to assure that only the most recently issued EBT card is used for benefit issuance. ***	Standardizing language	
4.702.1	Program name update; and non-standardized language	**4.702.1 Eligibility for Restoration of Lost Benefits** A. To be eligible for restored benefits, the household must have had its Food Assistance benefits wrongfully delayed, denied, or terminated. Delay shall mean that an eligibility determination was not accomplished within processing timeframe standards. B. A restoration of benefits is warranted when a household has received fewer benefits than it was	**4.702.1 Eligibility for Restoration of Lost Benefits** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections C, D, E, and F here, and including A and B.] A. To be eligible for restored benefits, the household must have had its SNAP benefits wrongfully delayed, denied, or terminated. Delay shall mean that an eligibility determination was not accomplished within processing timeframe standards. B. A restoration of benefits is warranted when a household has received fewer benefits than it was eligible to receive due to:	Updating Food Assistance to SNAP; and standardizing language	

		eligible to receive due to: 1. An error by the local office; 2. A court decision overturning or reversing a disqualification for intentional program violation; or, 3. A determination by a court that the household should have received more benefits than it received during a given issuance period. ***	1. An error by the local office; 2. A court decision overturning or reversing a disqualification for IPV; or 3. A determination by a court that the household should have received more benefits than it received during a given issuance period. ***		
4.702.4	Program name update; and non-standardized acronyms	**4.702.4 Errors by the Social Security Administration (SSA) Office** The local office shall restore to the household any benefits lost as the result of an error by the local office or by the Social Security Administration through joint processing. Benefits shall be restored back to the date of an applicant's release from a public institution if, while in the institution, the applicant jointly applied for SSI and Food Assistance, but the local office was not notified on a timely basis of the applicant's release.	**4.702.4 Errors by the SSA Office** The local office shall restore to the household any benefits lost as the result of an error by the local office or by the SSA through joint processing. Benefits shall be restored back to the date of an applicant's release from a public institution if, while in the institution, the applicant jointly applied for SSI and SNAP, but the local office was not notified on a timely basis of the applicant's release.	Updating Food Assistance to SNAP; and standardizing acronyms	
4.705	Program name update; and non-standardized acronyms	**4.705 WHEN AN INCREASE TO FOOD ASSISTANCE BENEFITS SHOULD NOT BE ISSUED** A. Local offices shall ensure that there is no increase in Food Assistance benefits to households as the result of a penalty being imposed for an intentional Program violation (IPV) or for failure to comply with work requirements or for failure to comply with another program requirement for a federal, state, or local means-tested program that distributes publicly funded benefits.	**4.705 WHEN AN INCREASE TO SNAP BENEFITS SHOULD NOT BE ISSUED** A. Local offices shall ensure that there is no increase in SNAP benefits to households as the result of a penalty being imposed for an IPV or for failure to comply with work requirements or for failure to comply with another program requirement for a federal, state, or local means-tested program that distributes publicly funded benefits. B. To determine the SNAP allotment when there is such a decrease, the local office shall calculate the allotment using the benefit amount which would be issued by that program if no penalty had been	Updating Food Assistance to SNAP; and standardizing acronyms	

		B. To determine the Food Assistance allotment when there is such a decrease, the local office shall calculate the Food Assistance allotment using the benefit amount which would be issued by that program if no penalty had been imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in Food Assistance benefits shall also not be affected by these provisions.	imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in SNAP benefits shall also not be affected by these provisions.		
4.706	Program name update	**4.706 REPLACEMENT ISSUANCES TO HOUSEHOLDS DUE TO MISFORTUNE** A. A household may request a replacement issuance if food purchased with program benefits was destroyed in a household misfortune, such as, but not limited to, fire or flood. Replacement issuances shall be provided in the amount of the loss to the household, not to exceed one month's allotment, unless the issuance includes restored benefits that shall be replaced up to their full value. To qualify for a replacement, the household shall report the destruction to the local office within ten (10) calendar days of the incident. The household shall sign and return a statement or an Affidavit for Food Destroyed in Misfortune to the local office within ten (10) calendar days of the date of the report, or benefits shall not be replaced. If the tenth (10th) day falls on a weekend or holiday, and the statement or Affidavit	**4.706 REPLACEMENT ISSUANCES TO HOUSEHOLDS DUE TO MISFORTUNE** A. A household may request a replacement issuance if food purchased with program benefits was destroyed in a household misfortune, such as, but not limited to, fire or flood. Replacement issuances shall be provided in the amount of the loss to the household, not to exceed one month's allotment, unless the issuance includes restored benefits that shall be replaced up to their full value. To qualify for a replacement, the household shall report the destruction to the local office within ten (10) calendar days of the incident. The household shall sign and return a statement or an Affidavit for Food Destroyed in Misfortune to the local office within ten (10) calendar days of the date of the report, or benefits shall not be replaced. If the tenth (10th) day falls on a weekend or holiday, and the statement or Affidavit for Food Destroyed in Misfortune is received the day after the weekend or holiday, the local office shall consider the statement or affidavit timely received. The statement or affidavit shall: 1. Attest to the destruction of the food purchased with the household's SNAP benefits;	Updating Food Assistance to SNAP	

		for Food Destroyed in Misfortune is received the day after the weekend or holiday, the local office shall consider the statement or affidavit timely received. The statement or affidavit shall: 1. Attest to the destruction of the food purchased with the household's Food Assistance benefits; 2. State that the household is aware of the penalties for intentional misrepresentation of the facts. B. Upon receiving a request for replacement of Food Assistance benefits for food reported as destroyed in an individual household misfortune, the local office shall: 1. Verify the disaster through either a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit; 2. Issue replacement benefits within ten (10) calendar days of the report of loss, provided a signed statement of loss or an Affidavit for Food Destroyed in Misfortune is received. If the statement of loss is received on the ninth (9th) or tenth (10th) day after the report of loss, the issuance must be replaced within two (2) business days; and, 3. Document in the case record	2. State that the household is aware of the penalties for intentional misrepresentation of the facts. B. Upon receiving a request for replacement of SNAP benefits for food reported as destroyed in an individual household misfortune, the local office shall: 1. Verify the disaster through either a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit; 2. Issue replacement benefits within ten (10) calendar days of the report of loss, provided a signed statement of loss or an Affidavit for Food Destroyed in Misfortune is received. If the statement of loss is received on the ninth (9th) or tenth (10th) day after the report of loss, the issuance must be replaced within two (2) business days; and, 3. Document in the case record the date and reason that a replacement has been provided. This provision shall apply in cases of an individual household misfortune, such as a fire, as well as in natural disasters affecting more than one (1) household. No limit on the number of replacements shall be placed on food purchased with SNAP benefits that were subsequently destroyed in a household misfortune.		

		the date and reason that a replacement has been provided. This provision shall apply in cases of an individual household misfortune, such as a fire, as well as in natural disasters affecting more than one (1) household. No limit on the number of replacements shall be placed on food purchased with Food Assistance benefits that were subsequently destroyed in a household misfortune.			
4.706.1	Program name update	**4.706.1 Disaster and Replacement Allotments** Where USDA/FNS has issued a disaster declaration of individual assistance, individuals in a household who are eligible for emergency Food Assistance benefits shall not receive both the disaster allotment and a replacement allotment.	**4.706.1 Disaster and Replacement Allotments** Where USDA/FNS has issued a disaster declaration of individual assistance, individuals in a household who are eligible for emergency SNAP benefits shall not receive both the disaster allotment and a replacement allotment.	Updating Food Assistance to SNAP	
4.706.2	Non-standardized acronyms	**4.706.2 Replacement of EBT Cards Lost in the Mail or Stolen Prior to Receipt by the Household** Food assistance offices shall comply with the following procedures in replacing EBT cards reported lost in the mail or stolen from the mail prior to receipt by the household. A. Determine if the EBT card was actually mailed, if sufficient time has elapsed for delivery or if the card was returned in the mail back to the local office. B. Issue a replacement EBT card and new PIN. C. Take other action, such as correcting the address on the master	**4.706.2 Replacement of EBT Cards Lost in the Mail or Stolen Prior to Receipt by the Household** Local offices shall comply with the following procedures in replacing EBT cards reported lost in the mail or stolen from the mail prior to receipt by the household. A. Determine if the EBT card was mailed, if sufficient time has elapsed for delivery or if the card was returned in the mail back to the local office. B. Issue a replacement EBT card and new PIN. C. Take other action, such as correcting the address on the master issuance file by updating the households mailing and/or home address within the automated system.	Standardizing acronyms	

		issuance file by updating the households mailing and/or home address within the automated system.			
4.706.3	Program name update	**4.706.3 Request for Replacement Issuances after Receipt of EBT Card** Households cannot receive a replacement allotment of Food Assistance benefits that have been reported as stolen and used from the EBT card by someone without the household's knowledge and consent. An EBT Card received by a household and subsequently mutilated or found to be improperly manufactured shall be replaced.	**4.706.3 Request for Replacement Issuances after Receipt of EBT Card** Households cannot receive a replacement allotment of SNAP benefits that have been reported as stolen and used from the EBT card by someone without the household's knowledge and consent. An EBT card received by a household and subsequently mutilated or found to be improperly manufactured shall be replaced.	Updating Food Assistance to SNAP	
4.706.4	Program name update	**4.706.4 Authorized Number of Replacement Issuances** No limit on the number of replacements shall be placed on the replacement of benefits if the food purchased with Food Assistance benefits was destroyed in a household misfortune. The local office shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent. When a local office intends to deny or delay a replacement of Food Assistance benefits for any reason, the local office shall notify the household of the delay or denial through use of a Notice of Action form. The household shall be informed of its right to a county dispute resolution conference or state-level fair hearing to contest the denial or delay of a replacement issuance. Replacement shall not be made while the denial or delay is being appealed.	**4.706.4 Authorized Number of Replacement Issuances** No limit on the number of replacements shall be placed on the replacement of benefits if the food purchased with SNAP benefits was destroyed in a household misfortune. The local office shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent. When a local office intends to deny or delay a replacement of SNAP benefits for any reason, the local office shall notify the household of the delay or denial through use of a Notice of Action form. The household shall be informed of its right to a county dispute resolution conference or state-level fair hearing to contest the denial or delay of a replacement issuance. Replacement shall not be made while the denial or delay is being appealed. Replacement issuances shall be provided to households within ten (10) calendar days after report of loss (fifteen days if issuance was by certified or registered mail) or within two (2) working days of receiving the signed household statement, whichever date is later. When a request for replacement is made late in an issuance month, the replacement will be issued in a month	Updating Food Assistance to SNAP	

		Replacement issuances shall be provided to households within ten (10) calendar days after report of loss (fifteen days if issuance was by certified or registered mail) or within two (2) working days of receiving the signed household statement, whichever date is later. When a request for replacement is made late in an issuance month, the replacement will be issued in a month subsequent to the month in which the original allotment was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement.	after the month in which the original allotment was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement.		
4.707	Program name update; non-standardized language	**4.707 FOOD ASSISTANCE ISSUANCE AND ACCOUNTABILITY** A. Food assistance offices shall establish issuance and accountability systems to comply with these rules and to ensure that only certified eligible households receive benefits, EBT cards are accepted, stored, and protected after delivery to receiving points, benefits are timely distributed in the correct amounts, and that benefit issuance and reconciliation are properly conducted and accurately reported. B. Electronic benefit issuance shall be handled through the Colorado Department of Human Services, Food Assistance Programs Division, and at designated contractor sites through the Colorado Electronic Benefit Transfer System (CO/EBTS). C. Food assistance offices shall assure a separation of certification functions from issuance functions and thereby provide for internal controls and prevention of fraud. Certification functions include determining eligibility for a household	**4.707 SNAP ISSUANCE AND ACCOUNTABILITY** A. Local offices shall establish issuance and accountability systems to comply with these rules and to ensure that only certified eligible households receive benefits, EBT cards are accepted, stored, and protected after delivery to receiving points, benefits are timely distributed in the correct amounts, and that benefit issuance and reconciliation are properly conducted and accurately reported. B. Electronic benefit issuance shall be handled through the state department, and at designated contractor sites through the Colorado Electronic Benefit Transfer System (CO/EBTS). C. Local offices shall assure a separation of certification functions from issuance functions and thereby provide for internal controls and prevention of fraud. Certification functions include determining eligibility for a household and ensuring that the eligibility is current and accurate. Eligibility shall be updated and maintained in the automated system. It shall be the responsibility of the certification unit to complete all necessary actions in the automated system to authorize the issuance of benefits. Data entry of case information may be completed by either the certification unit or a separate data entry unit, but not by the issuance unit. D. Issuance offices are responsible for the timely and	Updating Food Assistance to SNAP; and standardizing language	

		and ensuring that the eligibility is current and accurate. Eligibility shall be updated and maintained in the automated system. It shall be the responsibility of the certification unit to complete all necessary actions in the automated system to authorize the issuance of benefits. Data entry of case information may be completed by either the certification unit or a separate data entry unit, but not by the issuance unit. D. Issuance offices are responsible for the timely and accurate issuance of Food Assistance benefits to eligible participant households. An approved accountability and benefit issuance delivery system shall be established to ensure that eligibility information is data entered, that the automated system has an issuance available, and only certified households receive benefits.	accurate issuance of SNAP benefits to eligible participant households. An approved accountability and benefit issuance delivery system shall be established to ensure that eligibility information is data entered, that the automated system has an issuance available, and only certified households receive benefits.		
4.707.1	Non-standardized language and acronyms	**4.707.1 Security Procedures** The electronic benefit issuance area shall be physically separated, such as, but not limited to, the cage, counter, and railing, from both participants and other employees of the office who are not responsible for benefit issuance and accountability. Persons not specifically responsible for benefit issuance accountability shall also be barred from the electronic benefit card storage area. Food assistance offices, including contract issuers, shall take all precautions necessary to avoid acceptance, transfer, negotiation, or use of counterfeit food benefits and to avoid any unauthorized use, transfer, acquisition, alteration or possession of benefits. Electronic Benefit Transfer (EBT) cards shall be safeguarded from theft, embezzlement,	**4.707.1 Security Procedures** The electronic benefit issuance area shall be physically separated, such as, but not limited to, the cage, counter, and railing, from both participants and other employees of the office who are not responsible for benefit issuance and accountability. Persons not specifically responsible for benefit issuance accountability shall also be barred from the electronic benefit card storage area. Local offices, including contract issuers, shall take all precautions necessary to avoid acceptance, transfer, negotiation, or use of counterfeit food benefits and to avoid any unauthorized use, transfer, acquisition, alteration, or possession of benefits. EBT cards shall be safeguarded from theft, embezzlement, loss, damage, or destruction. Issuance supervisors shall give each cashier a daily supply of blank EBT cards from the bulk card inventory. On high volume issuance days, the cashier's supply may need to be replenished during issuance hours from an office vault. Such a vault containing bulk card inventory shall remain	Standardizing language and acronyms	

		loss, damage or destruction. Issuance supervisors shall give each cashier a daily supply of blank Electronic Benefit Transfer cards from the bulk card inventory. On high volume issuance days, the cashier's supply may need to be replenished during issuance hours from an office vault. Such a vault containing bulk card inventory shall remain locked unless opened to withdraw cards. Keys and lock combinations shall be controlled and restricted to as few individuals as possible. Combinations and locks should be changed whenever an individual who has received them leaves the employ of the office. EBT cards must be removed from public view and reach. It is required that each cashier operate from a card drawer rather than from sources on top of the counter. The EBT cards must be locked in the drawer whenever the cashier leaves the issuance area for any reason. In small offices where it is not possible for each cashier to have a separate supply of EBT cards, the number of EBT cards shall be counted whenever one cashier assumes duties of another cashier at the issuance counter, and transferred to that cashier's responsibility. The office shall never be left unattended during hours of issuance, such as during breaks or lunch, unless the building is secured as it would be after business hours.	locked unless opened to withdraw cards. Keys and lock combinations shall be controlled and restricted to as few individuals as possible. Combinations and locks should be changed whenever an individual who has received them leaves the employ of the office. EBT cards must be removed from public view and reach. It is required that each cashier operate from a card drawer rather than from sources on top of the counter. The EBT cards must be locked in the drawer whenever the cashier leaves the issuance area for any reason. In small offices where it is not possible for each cashier to have a separate supply of EBT cards, the number of EBT cards shall be counted whenever one cashier assumes duties of another cashier at the issuance counter and transferred to that cashier's responsibility. The office shall never be left unattended during hours of issuance, such as during breaks or lunch, unless the building is secured as it would be after business hours.		
4.707.2	Non-standardized language	**4.707.2 Security Program and Types of Prevention of Theft** The goal of a security program is to safeguard issuance personnel, EBT cards, and other valuables. In the event of a robbery, a planned security program will	**4.707.2 Security Program and Types of Prevention of Theft** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, and C here.] The goal of a security program is to safeguard issuance	Standardizing language	

		prevent panic that could endanger the lives of the people in the office. A major element in an effective security program is the designation of a security officer who would continually review office facilities and procedures to improve office security and deter loss. She/he shall acquaint fellow employees with the security measures including precautions during issuance, night security and safety of persons and EBT cards while they are in transit between the issuance office and bulk storage area. In addition to a security officer, each office shall distribute written instructions to all employees concerning appropriate behavior in the event of a robbery attempt and procedures for reporting the theft to law authorities and the Food Assistance Programs Division.	personnel, EBT cards, and other valuables. In the event of a robbery, a planned security program will prevent panic that could endanger the lives of the people in the office. A major element in an effective security program is the designation of a security officer who would continually review office facilities and procedures to improve office security and deter loss. She/he shall acquaint fellow employees with the security measures including precautions during issuance, night security and safety of persons and EBT cards while they are in transit between the issuance office and bulk storage area. In addition to a security officer, each office shall distribute written instructions to all employees concerning appropriate behavior in the event of a robbery attempt and procedures for reporting the theft to law authorities and the state department.		
4.707.21	Non-standardized language	**4.707.21 Reporting a Robbery or Burglary** The local law enforcement agency shall be notified immediately by one of the persons who have been designated to carry out the reporting of a robbery or burglary. The Food Assistance Programs Division shall also be notified immediately and will be responsible for informing USDA/FNS. The office shall be protected to ensure that evidence is not destroyed. Any articles touched by the robbers (papers, furniture, counter tops) should not be touched by employees or other persons until law enforcement officers arrive. The names of persons other than employees in the office at the time of the robbery shall be obtained if they insist on leaving prior to the arrival of law enforcement officers.	**4.707.21 Reporting a Robbery or Burglary** The local law enforcement agency shall be notified immediately by one of the persons who have been designated to carry out the reporting of a robbery or burglary. The state department shall also be notified immediately and will be responsible for informing USDA/FNS. The office shall be protected to ensure that evidence is not destroyed. Any articles touched by the robbers (papers, furniture, counter tops) should not be touched by employees or other persons until law enforcement officers arrive. The names of persons other than employees in the office at the time of the robbery shall be obtained if they insist on leaving prior to the arrival of law enforcement officers. Each employee shall write down all pertinent information about the robbery. They should be told it is important to record their own impressions and observations prior to any discussion of them with other employees.	Standardizing language	

		Each employee shall write down all pertinent information about the robbery. They should be told it is important to record their own impressions and observations prior to any discussion of them with other employees. After law enforcement officers have made their examinations and with their approval, an immediate reconciliation of EBT cards shall be made to determine the amount of any loss. Stolen EBT cards will be identified by serial numbers.	After law enforcement officers have made their examinations and with their approval, an immediate reconciliation of EBT cards shall be made to determine the amount of any loss. Stolen EBT cards will be identified by serial numbers.		
4.407.3	Non-standardized language	**4.707.3 EBT Requisition** Issuance units shall maintain EBT card inventory at proper levels as determined by volume of issuance, availability of adequate storage facilities and insurance coverage. EBT card inventory levels shall not exceed a six-month supply, including EBT cards on hand and those on order. The security of issuance offices shall be continually monitored to ensure that adequate safeguards and insurance coverage are provided for the EBT card inventory on hand. Arrangements have been made for local issuance offices with sufficient issuance volume to receive shipments of EBT cards directly from USDA/FNS. Offices with low issuance volume will receive EBT card shipments from the Food Assistance Programs Division storage vault by fully insured registered mail. It is advised that offices that receive direct shipments should check EBT cards after monthly reconciliation and order EBT cards according to USDA/FNS instructions. USDA/FNS will assess the reasonableness of EBT card requisitions based on prior inventory change. The	**4.707.3 EBT Requisition** Issuance units shall maintain EBT card inventory at proper levels as determined by volume of issuance, availability of adequate storage facilities and insurance coverage. EBT card inventory levels shall not exceed a six-month supply, including EBT cards on hand and those on order. The security of issuance offices shall be continually monitored to ensure that adequate safeguards and insurance coverage are provided for the EBT card inventory on hand. Arrangements have been made for local issuance offices with sufficient issuance volume to receive shipments of EBT cards directly from USDA/FNS. Offices with low issuance volume will receive EBT card shipments from the state department storage vault by fully insured registered mail. It is advised that offices that receive direct shipments should check EBT cards after monthly reconciliation and order EBT cards according to USDA/FNS instructions. USDA/FNS will assess the reasonableness of EBT card requisitions based on prior inventory change. The requisitioning office will be notified prior to any adjustment made to requisitions. Those offices which receive their EBT card supply from the state department storage vault shall requisition EBT cards in accordance with the instructions submitted from the state department. The instructions will advise of procedures for	Standardizing language	

		requisitioning office will be notified prior to any adjustment made to requisitions. Those offices which receive their EBT card supply from the Food Assistance Programs Division storage vault shall requisition EBT cards in accordance with the instructions submitted from the Food Assistance Programs Division. The instructions will advise of procedures for ordering from the contractual provider.	ordering from the contractual provider.		
4.707.4	Non-standardized language	**4.707.4 Designated Personnel and Receiving Locations** A. Food assistance offices ordering EBT cards shall designate at least two persons who are authorized to receive EBT cards. The Food Assistance Programs Division shall be notified by letter of the following: 1. Names of authorized personnel; 2. Complete address of EBT card receiving location; 3. Hours in which EBT card delivery will be accepted. B. Verification of Shipments Issuance offices and bulk storage points shall promptly verify and acknowledge, in writing the contents of EBT card shipments received and shall be responsive for the control and storage of EBT cards. Cartons of blank EBT cards are usually numbered consecutively, and serial numbers should be verified on receipt of shipment. The receiving agent shall assure that the indicated number of cartons is received before signing the receipt form.	**4.707.4 Designated Personnel and Receiving Locations** A. Local offices ordering EBT cards shall designate at least two persons who are authorized to receive EBT cards. The state department shall be notified by letter of the following: 1. Names of authorized personnel; 2. Complete address of EBT card receiving location; 3. Hours in which EBT card delivery will be accepted. B. Verification of Shipments Issuance offices and bulk storage points shall promptly verify and acknowledge, in writing the contents of EBT card shipments received and shall be responsive for the control and storage of EBT cards. Cartons of blank EBT cards are usually numbered consecutively, and serial numbers should be verified on receipt of shipment. The receiving agent shall assure that the indicated number of cartons is received before signing the receipt form. C. Receipt of EBT Cards from USDA, FNS When a shipment of EBT cards is received from USDA/FNS, an original and three copies of Form FNS 261 (Advice of Shipment) are mailed to the consignee. If the shipment is in order, the receiving agent shall complete Form FNS 261. If the shipment is not in order, immediately notify the state department. The	Standardizing language	

		C. Receipt of EBT Cards from USDA, Food and Nutrition Service When a shipment of EBT cards is received from USDA/FNS, an original and three copies of Form FNS 261 (Advice of Shipment) are mailed to the consignee. If the shipment is in order, the receiving agent shall complete Form FNS 261. If the shipment is not in order, immediately notify the Food Assistance Programs Division. The receiving agent will then be instructed to annotate Form FNS 261, describing the EBT card discrepancy or damaged condition of the EBT cards Form FNS 261 must be signed, dated and submitted in the normal manner. D. Receipt of EBT Cards from the State Office When a shipment is received from the Food Assistance Programs Division, Form FNS 300 (Advice of Transfer) is mailed to the consignee in the original and three copies. If the shipment is in order, the original and all copies of Form FNS-300 are signed and dated by the receiving agent. If the shipment is not in order, immediately notify the Food Assistance Programs Division	receiving agent will then be instructed to annotate Form FNS 261, describing the EBT card discrepancy or damaged condition of the EBT cards Form FNS 261 must be signed, dated, and submitted in the normal manner. D. Receipt of EBT Cards from the State Department When a shipment is received from the state department, Form FNS 300 (Advice of Transfer) is mailed to the consignee in the original and three copies. If the shipment is in order, the original and all copies of Form FNS-300 are signed and dated by the receiving agent. If the shipment is not in order, immediately notify the state department.		
4.707.5	Non-standardized language	**4.707.5 Inventory Records** *** B. Improperly Manufactured or Mutilated EBT Cards in Shipment If EBT cards are improperly manufactured or mutilated, Form FNS-471 shall be completed. The EBT cards are cancelled immediately and destroyed at the end of the month in accordance with Section	**4.707.5 Inventory Records** [PUBLISHER NOTE NOT FOR PUBLICATION: We are excluding A and C here, including B.] *** B. Improperly Manufactured or Mutilated EBT Cards in Shipment If EBT cards are improperly manufactured or mutilated, Form FNS-471 shall be completed. The	Standardizing language	

		4.708.5. If one or more boxes of EBT cards were improperly manufactured, local offices shall contact the Food Assistance Programs Division. The Division will contact USDA/FNS on the instructions for disposition of the destructible EBT cards. EBT cards must be destroyed within thirty (30) calendar days from the close of the month in which the EBT cards were received. For disposition of mutilated EBT cards returned by participants, refer to Section 4.708.5. ***	EBT cards are cancelled immediately and destroyed at the end of the month in accordance with Section 4.708.5. If one or more boxes of EBT cards were improperly manufactured, local offices shall contact the state department, who will contact USDA/FNS on the instructions for disposition of the destructible EBT cards. EBT cards must be destroyed within thirty (30) calendar days from the close of the month in which the EBT cards were received. For disposition of mutilated EBT cards returned by participants, refer to Section 4.708.5. ***		
4.707.6	Program name update; and non-standardized language	**4.707.6 Benefit Issuance Locations and Storage Facilities** A. Issuance locations shall be established by every local office to accomplish the issuance of EBT cards to certified Food Assistance households. B. The Food Assistance Program in the Food and Energy Assistance Division shall be notified of all issuance locations and EBT card shipment receiving points created, changed, or terminated at least thirty (30) calendar days prior to effective date of action. C. Whenever an issuance office or bulk storage point is terminated, the Food Assistance Programs Division will complete a closeout accountability audit within thirty (30) calendar days of the termination. The findings of the audit shall be forwarded to USDA/FNS immediately. The Food Assistance Programs Division shall perform an actual count of EBT cards on hand	**4.707.6 Benefit Issuance Locations and Storage Facilities** A. Issuance locations shall be established by every local office to accomplish the issuance of EBT cards to certified SNAP households. B. The state department shall be notified of all issuance locations and EBT card shipment receiving points created, changed, or terminated at least thirty (30) calendar days prior to THE effective date of action. C. Whenever an issuance office or bulk storage point is terminated, the state department will complete a closeout accountability audit within thirty (30) calendar days of the termination. The findings of the audit shall be forwarded to USDA/FNS immediately. The state department shall perform an actual count of EBT cards on hand and transfer the inventory to another issuance office or bulk storage point preferably within the same project area. The actual inventory and transfer shall be properly documented and reported on Form FNS250. D. At least thirty (30) calendar days prior to closure of an issuance location, SNAP participants shall be notified of the impending closure. Notification shall include alternative issuance locations and information concerning available public transportation. A notice of	Updating Food Assistance to SNAP and standardizing language	

		and transfer the inventory to another issuance office or bulk storage point preferably within the same project area. The actual inventory and transfer shall be properly documented and reported on Form FNS-250. D. At least thirty (30) calendar days prior to closure of an issuance location, Food Assistance Program participants shall be notified of the impending closure. Notification shall include alternative issuance locations and information concerning available public transportation. A notice of closure shall also be prominently displayed in the issuance office. All necessary action shall be taken to maintain participant service without interruption. E. The transfer of EBT cards between project areas is allowed only in emergency situations and only when authorized by the Food Assistance Programs Division. The transferring office initiates Form FNS-300, retains copy 4 and forwards all other parts to the receiving office with EBT card shipment. On verification of shipment, Form FNS-300 is dated and signed by the receiving office and copy 3 is returned to the transferring office. The counties involved in “transferring out” and “transferring in” must properly document the transaction on Form FNS-250 submitted at the end of the month.	closure shall also be prominently displayed in the issuance office. All necessary action shall be taken to maintain participant service without interruption. E. The transfer of EBT cards between project areas is allowed only in emergency situations and only when authorized by the state department. The transferring office initiates Form FNS-300, retains copy 4 and forwards all other parts to the receiving office with EBT card shipment. On verification of shipment, Form FNS-300 is dated and signed by the receiving office and copy 3 is returned to the transferring office. The counties involved in “transferring out” and “transferring in” must properly document the transaction on Form FNS-250 submitted at the end of the month.		

4.707.7	Non-standardized language	**4.707.7 Monitoring of EBT Card Issuers** The Food Assistance Programs Division shall conduct an onsite review of each EBT card issuer and bulk storage point at least once every three (3) years. All offices or units of an EBT card issuer are subject to this review requirement. The Food Assistance Programs Division shall base each review on the specific activities performed by each EBT card issuer or bulk storage point. A physical inventory of EBT cards shall be taken at each location, and count compared with perpetual inventory records and the monthly reports of the EBT card issuer or bulk storage point. This review may be conducted at branch sites as well as the main offices of each issuer and bulk storage point that operates in more than one office.	**4.707.7 Monitoring of EBT Card Issuers** The state department shall conduct an onsite review of each EBT card issuer and bulk storage point at least once every three (3) years. All offices or units of an EBT card issuer are subject to this review requirement. The state department shall base each review on the specific activities performed by each EBT card issuer or bulk storage point. A physical inventory of EBT cards shall be taken at each location, and count compared with perpetual inventory records and the monthly reports of the EBT card issuer or bulk storage point. This review may be conducted at branch sites as well as the main offices of each issuer and bulk storage point that operates in more than one office.	Standardizing language	
4.707.8	Non-standardized language	**4.707.8 Division of Issuance Responsibilities** Over-the-counter and mail issuance responsibilities shall be divided between a cashier and another issuance employee. A. It is not always feasible for the duties of the cashier to be performed by separate employees because of a low issuance volume at an issuance location. Therefore, any county that can justify deviation from the requirement, and is willing to assume the additional risk, may obtain permission for one-person issuance through written request to the Food Assistance Programs Division (refer to Section 4.707).	**4.707.8 Division of Issuance Responsibilities** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B and C here, including A.] Over the counter and mail issuance responsibilities shall be divided between a cashier and another issuance employee. A. It is not always feasible for the duties of the cashier to be performed by separate employees because of a low issuance volume at an issuance location. Therefore, any county that can justify deviation from the requirement, and is willing to assume the additional risk, may obtain permission for one-person issuance through written request to the state department (refer to Section 4.707).	Standardizing language	

4.707.84	Non-standardized language	**4.707.84 Control of Issuance Documents** Food assistance offices shall control all issuance documents that establish household eligibility while the documents are transferred and processed within the local office. The office shall use numbers, batching, inventory control togs, or similar controls from the point of initial receipt through the issuance and reconciliation process. All Notices of Action that initiate or terminate the Master Issuance file and blank EBT cards shall have access limited to authorized personnel.	**4.707.84 Control of Issuance Documents** Local offices shall control all issuance documents that establish household eligibility while the documents are transferred and processed within the local office. The local office shall use numbers, batching, inventory control togs, or similar controls from the point of initial receipt through the issuance and reconciliation process. All Notices of Action that initiate or terminate the Master Issuance file and blank EBT cards shall have access limited to authorized personnel.	Standardizing language	
4.707.9	Grammar issue	**4.707.9 Issuance Methods** The issuance office may mail EBT cards to all eligible households or establish over-the-counter issuance with optional mail issuance at the request of the household. Certified households must be issue EBT cards by the end of the month, except when benefits are suspended, cancelled or reduced. If benefits have been suspended, and the local office receives a directive to resume issuance of benefits, the issuance of mailed or over-the-counter EBT cards will be staggered through the end of the month or over a five-day period following the resumption of issuance. This could result in benefits being issued after the end of the month in which the suspension occurred.	**4.707.9 Issuance Methods** The issuance office may mail EBT cards to all eligible households or establish over-the-counter issuance with optional mail issuance at the request of the household. Certified households must be issued EBT cards by the end of the month, except when benefits are suspended, cancelled, or reduced. If benefits have been suspended, and the local office receives a directive to resume issuance of benefits, the issuance of mailed or over the counter EBT cards will be staggered through the end of the month or over a five-day period following the resumption of issuance. This could result in benefits being issued after the end of the month in which the suspension occurred.	Correcting incorrect grammar	
4.407.91	Program name update; and non-standardized language	**4.707.91 Mail Issuance** A. Exclusive Mail Issuance Food assistance offices which rely exclusively on mail issuance shall ensure that participants receive allotments on a timely basis and eligible households, either destitute of income or with no income, receive	**4.707.91 Mail Issuance** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B, C, and D here, including A and E.] A. Exclusive Mail Issuance Local offices which rely exclusively on mail issuance shall ensure that participants receive allotments on a timely basis and eligible households, either destitute of	Updating Food Assistance to SNAP; standardizing language	

		expedited issuance in accordance with Sections 4.205 and 4.701. *** E. Food Assistance Mail Issuance Report Form FNS-259 reports shall be submitted by local offices for each unit using a mail issuance system. Food assistance offices shall submit Form FNS-259 reports so that they are received by the fifteenth (15th) day following the end of each month.	income or with no income, receive expedited issuance in accordance with Sections 4.205 and 4.701. *** E. SNAP Mail Issuance Report Form FNS-259 reports shall be submitted by local offices for each unit using a mail issuance system. Local offices shall submit Form FNS-259 reports so that they are received by the fifteenth (15th) day following the end of each month.		
4.708.1	Non-standardized language	**4.708.1 EBT Card Responsibility and Liability** County offices shall be liable to USDA/FNS for the face value of EBT card loss that occur as a result of thefts, embezzlements, cashier error, unless the investigation was reported directly to USDA/FNS prior to the loss and unexplained causes. The county offices shall not be liable for the value of EBT cards issued for those duplicate issuances in the correct amount that are the result of authorized replacement issuances.	**4.708.1 EBT Card Responsibility and Liability** Local offices shall be liable to USDA/FNS for the face value of EBT card loss that occurs because of thefts, embezzlements, and cashier error, unless the investigation was reported directly to USDA/FNS prior to the loss and unexplained causes. The local offices shall not be liable for the value of EBT cards issued for those duplicate issuances in the correct amount that are the result of authorized replacement issuances.	Standardizing language	
4.708.2	Non-standardized language	**4.708.2 Inventory Reporting to Food Assistance Programs Division** Form FNS-250 (EBT Card Accountability Report) shall be executed monthly by EBT card issuers and bulk storage points, and shall be signed by the EBT card issuer or appropriate official, certifying that the information is true and correct to the best of that person's knowledge and belief. FNS-250 is an automated report available through automated system and needs to be data entered by the 15th of the month. Supporting documentation to Form FNS-	**4.708.2 Inventory Reporting to The State Department** Form FNS-250 (EBT Card Accountability Report) shall be executed monthly by EBT card issuers and bulk storage points. The FNS-250 shall be signed by the EBT card issuer, or appropriate official, certifying that the information is true and correct to the best of that person's knowledge and belief. FNS-250 is an automated report available through automated system and needs to be data entered by the 15th of the month. Supporting documentation to Form FNS-250 (EBT Card Accountability Report) shall be submitted to the state department which will verify the monthly report. Documentation shall consist of documents supporting EBT card shipments (FNS-261), EBT card	Standardizing language	

		250 (EBT Card Accountability Report) shall be submitted to the Food Assistance Programs Division which will verify the monthly report. Documentation shall consist of documents supporting EBT card shipments (FNS-261), EBT card transfers (FNS-300), and destruction of EBT cards (FNS-135 and FNS-471).	transfers (FNS-300), and destruction of EBT cards (FNS-135 and FNS-471).		
4.708.3	Non-standardized language	**4.708.3 State Monthly EBT Card Accountability** The Food Assistance Programs Division shall establish an accounting system to review Form FNS-250 completed by all county offices and determine the propriety and reasonableness of EBT card inventories, issuance activities and reconciliation records. All records of EBT card requisition, EBT card receipt, returned mail EBT card issuances, replacements of EBT cards lost in the mail or improperly manufactured or mutilated as well as the supporting remarks and documentation for monthly over-issuance and under-issuance shall be used by the Division to assure the accuracy of monthly reports.	**4.708.3 State Monthly EBT Card Accountability** The state department shall establish an accounting system to review Form FNS-250 completed by all local offices and determine the propriety and reasonableness of EBT card inventories, issuance activities and reconciliation records. All records of EBT card requisition, EBT card receipt, returned mail EBT card issuances, replacements of EBT cards lost in the mail or improperly manufactured or mutilated as well as the supporting remarks and documentation for monthly over-issuance and under-issuance shall be used to assure the accuracy of monthly reports.	Standardizing language	
4.708.4	Program name update; and non-standardized language	**4.708.4 Issuance Reconciliation Reporting** Form FNS-46 (Issuance Reconciliation Report) shall be submitted by each local office operating an issuance system. The report shall be prepared at the level where the actual reconciliation of the record-for-issuance and master file occurs. Food assistance offices shall identify and report the number and value of all issuances that do not reconcile with the record-for-issuance and master issuance file. In addition to the above requirement, local	**4.708.4 Issuance Reconciliation Reporting** Form FNS-46 (Issuance Reconciliation Report) shall be submitted by each local office operating an issuance system. The report shall be prepared at the level where the actual reconciliation of the record for issuance and master file occurs. Local offices shall identify and report the number and value of all issuances that do not reconcile with the record-for-issuance and master issuance file. In addition to the above requirement, local offices will continue to reconcile inventory levels against issuances each month on Form FNS-250 (SNAP Accountability Report) and attach Form FNS259 (SNAP Mail Issuance Report) for reconciliation.	Standardizing language	

		offices will continue to reconcile inventory levels against issuances each month on Form FNS-250 (Food Assistance Accountability Report) and attach Form FNS-259 (Food Assistance Mail Issuance Report) for reconciliation.			
4.708.5	Non-standardized language	**4.708.5 Destruction of Unusable EBT Cards Returned by Households** Unusable EBT cards shall be destroyed by the county office provided that the destruction is accomplished by burning, shredding or tearing and two (2) persons witness the EBT card destruction. Form FNS-471 (EBT Card and Destruction Report) shall be completed and signed by the required witnesses and mailed to the Food Assistance Programs Division. Form FNS-135 (Affidavit for Return or Exchange of EBT Cards) completed for the return of unusable EBT cards by clients or for claims payments and Form FNS-471 completed on destruction of unusable EBT cards improperly manufactured or mutilated in shipments are supporting documents for necessary EBT card destruction. County offices must report the destruction of improperly manufactured or mutilated EBT cards on Form FNS-471 (EBT Card and Destruction Report) and submit it with Form FNS-250 for the appropriate month. For EBT cards received from recipients, the original copy of Form FNS-135 must be attached to a copy of Form FNS-471 and retained in the office for future review and audit purposes. The destruction of EBT cards received from claims collections that are the result of payment of household claims must be reported on Form FNS-471.	**4.708.5 Destruction of Unusable EBT Cards Returned by Households** Unusable EBT cards shall be destroyed by the local office provided that the destruction is accomplished by burning, shredding, or tearing and two (2) persons witness the EBT card destruction. Form FNS-471 (EBT Card and Destruction Report) shall be completed and signed by the required witnesses and mailed to the state department. Form FNS-135 (Affidavit for Return or Exchange of EBT Cards) completed for the return of unusable EBT cards by clients or for claims payments and Form FNS-471 completed on destruction of unusable EBT cards improperly manufactured or mutilated in shipments are supporting documents for necessary EBT card destruction. Local offices must report the destruction of improperly manufactured or mutilated EBT cards on Form FNS-471 (EBT Card and Destruction Report) and submit it with Form FNS-250 for the appropriate month. For EBT cards received from recipients, the original copy of Form FNS-135 must be attached to a copy of Form FNS-471 and retained in the office for future review and audit purposes. The destruction of EBT cards received from claims collections that are the result of payment of household claims must be reported on Form FNS-471. Form FNS-135 will act as a receipt on exchange of unusable EBT cards returned by clients or returned for claim payments.	Standardizing language	

		Form FNS-135 will act as a receipt on exchange of unusable EBT cards returned by clients or returned for claim payments.			
4.708.6	Non-standardized language	**4.708.6 Undeliverable or Returned EBT Cards** County offices shall exercise the following security and controls for EBT cards that are undeliverable or returned during the valid issuance period. Forms FNS-471 and FNS-135 shall be completed by the office as appropriate. EBT cards shall be returned to inventory and noted as such on the issuance log and Form FNS-250.	**4.708.6 Undeliverable or Returned EBT Cards** Local offices shall exercise the following security and controls for EBT cards that are undeliverable or returned during the valid issuance period. Forms FNS-471 and FNS-135 shall be completed by the office as appropriate. EBT cards shall be returned to inventory and noted as such on the issuance log and Form FNS-250.	Standardizing language	
4.708.8	Non-standardized language; and grammar issue	**4.708.8 State EBT Card Issuance and Participation Reporting** The Food Assistance Programs Division shall make estimations with data from the automated system Benefit Issuance and Participation Estimates.	**4.708.8 State EBT Card Issuance and Participation Reporting** The state department shall make estimations with data from the automated system on Benefit Issuance and Participation Estimates.	Standardizing language; and correcting grammar issue	
4.709	Program name update; and non-standardized acronyms	**4.709 COLORADO ELECTRONIC BENEFIT TRANSFER SYSTEM AND PROCESSING** All issuance systems shall maintain a composite of data for all certified households and provide complete information on participating households for review sampling purposes, statistical summary and reporting requirements. The automated system is a direct-access system that allows online issuance access to the Master Issuance File. The automated system provides for online issuance system. Colorado Electronic Benefit Transfer System (CO/EBTS) will provide access through the use of a plastic debit card to recipients of Food Assistance and public	**4.709 COLORADO ELECTRONIC BENEFIT TRANSFER SYSTEM AND PROCESSING** All issuance systems shall maintain a composite of data for all certified households and provide complete information on participating households for review sampling purposes, statistical summary, and reporting requirements. The automated system is a direct-access system that allows online issuance access to the Master Issuance File. The automated system provides for online issuance system. Colorado Electronic Benefit Transfer System (CO/EBTS) will provide access using a plastic debit card to recipients of SNAP and PA programs. The overall rules for CO/EBTS are in the Special Projects rule manual, Section 12.100, et seq. (12 CCR 2512-2). Eligibility determinations in the automated system will be processed nightly to make SNAP benefits available the following day for initial certification. Ongoing cases will have benefits posted during a ten (10) calendar day cycle	Updating Food Assistance to SNAP; and standardizing acronyms	

		assistance programs. The overall rules for CO/EBTS are in the Special Projects rule manual, Section 12.100, et seq. (12 CCR 2512-2). Eligibility determinations in the automated system will be processed nightly to make Food Assistance benefits available the following day for initial certification. Ongoing cases will have benefits posted during a ten (10) calendar day cycle with the Social Security Number (SSN) as the basis. The ending number of the SSN will indicate the date for the posting of benefits. An SSN ending with one (1) will be posted on the first day of the month, two (2) on the second day of the month, etc. A SSN ending with zero (0) will be posted on the tenth (10th) day of the month.	with the SSN as the basis. The ending number of the SSN will indicate the date for the posting of benefits. An SSN ending with one (1) will be posted on the first day of the month, two (2) on the second day of the month, etc. AN SSN ending with zero (0) will be posted on the tenth (10th) day of the month.		
4.709.1	Non-standardized language	**4.709.1 Card/PIN Issuance Accountability** A. The county department of social/human services will establish procedures for issuance of CO/EBTS debit cards and Personal Identification Numbers (PINs). The household will be issued a debit card within seven (7) calendar days from the date of application for expedited cases and within thirty (30) calendar days for non-expedited cases. B. The county department of social/human services shall maintain debit cards on site at its primary location and satellite offices. The EBTS contractor will provide counties with an initial supply of sequentially numbered cards with pre-embossed primary account numbers. Local offices must reorder cards to ensure an adequate supply at all times. The cards will be secured and accounted for through appropriate inventory and distribution forms.	**4.709.1 Card/PIN Issuance Accountability** A. Local offices will establish procedures for issuance of CO/EBTS debit cards and Personal Identification Numbers (PINs). The household will be issued a debit card within seven (7) calendar days from the date of application for expedited cases and within thirty (30) calendar days for non-expedited cases. B. Local offices shall maintain debit cards on site at its primary location and satellite offices. The EBTS contractor will provide counties with an initial supply of sequentially numbered cards with pre-embossed primary account numbers. Local offices must reorder cards to always ensure an adequate supply. The cards will be secured and accounted for through appropriate inventory and distribution forms. B. Local offices shall maintain debit cards on site at its primary location and satellite offices. The EBTS contractor will provide counties with an initial supply of sequentially numbered cards with pre-embossed primary account numbers. Local offices must reorder cards to always ensure an adequate supply. The cards will be secured and accounted for through appropriate inventory and distribution forms. C. The household PIN will be issued through	Standardizing language	

		C. The household PIN will be issued through encryption devices supplied by the Colorado Department of Human Services, Food Assistance Programs Division.	encryption devices supplied by the state department.		
4.709.2	Non-standardized language	**4.709.2 EBT Card Replacement** A. CO/EBTS debit cards for eligible recipients will be replaced when reported lost, stolen, or non-functioning. Replacement of cards will occur within three (3) business days of notification by the recipient. B. County departments of social/human services may have replacement cards over the counter or through a transmission to the CO/EBTS contractor requesting mail issuance. County departments shall not charge a fee if the replacement is issued by mail or the original card is inoperable due to no fault of the cardholder. County departments shall not charge a fee if the client is being recertified, and if, during the period of non-participation, the client has destroyed, lost, or damaged the original card. C. County departments shall not collect replacement fees by debiting a recipient's Food Assistance account.	**4.709.2 EBT Card Replacement** A. CO/EBTS debit cards for eligible recipients will be replaced when reported lost, stolen, or non-functioning. Replacement of cards will occur within three (3) business days of notification by the recipient. B. Local offices may have replacement cards over the counter or through a transmission to the CO/EBTS contractor requesting mail issuance. Local offices shall not charge a fee if the replacement is issued by mail or the original card is inoperable due to no fault of the cardholder. Local offices shall not charge a fee if the client is being recertified, and if, during the period of non-participation, the client has destroyed, lost, or damaged the original card. C. Local offices shall not collect replacement fees by debiting a recipient's SNAP account.	Standardizing language	
4.800	Program name update; and non-standardized language	**4.800 CLAIMS, APPEAL PROCESS, AND FRAUD** Pursuant to Section 15(d) of the Food Stamp Act, benefits are an obligation of the United States within the meaning of 18 United States Code (USC) 8. The provisions of Title 18 of the United States Code, “Crimes and Criminal Procedure, Relative to Counterfeiting, Misuse and Alteration of Obligations of the United	**4.800 CLAIMS, APPEAL PROCESS, AND FRAUD** Pursuant to Section 15(d) of the Food Stamp Act, benefits are an obligation of the United States within the meaning of 18 United States Code (USC) 8. The provisions of Title 18 of the United States Code, “Crimes and Criminal Procedure, Relative to Counterfeiting, Misuse and Alteration of Obligations of the United States” are applicable to SNAP benefits. Copies of the U.S. Code are available for inspection. No later editions or amendments are incorporated.	Updating Food Assistance to SNAP; and standardizing language	

		States" are applicable to Food Assistance benefits. Copies of the U.S. Code are available for public inspection by contacting the Food Assistance Director during regular business hours at the Colorado Department of Human Services, Food Assistance Program, 1575 Sherman Street, Denver, Colorado 80203; or at a state publications depository library. No later editions or amendments are incorporated. Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of food assistance benefits may subject an individual, partnership, corporation, or other legal entity to prosecution.	Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of SNAP benefits may subject an individual, partnership, corporation, or other legal entity to prosecution.		
4.801	Program name update	**4.801 CLAIMS AGAINST HOUSEHOLDS** A claim shall be established when a household is over- issued benefits. An over-issuance means the amount by which Food Assistance benefits issued to a household exceeds the amount the household was eligible to receive.	**4.801 CLAIMS AGAINST HOUSEHOLDS** A claim shall be established when a household is over-issued benefits. An over-issuance means the amount by which SNAP benefits issued to a household exceeds the amount the household was eligible to receive.	Updating Food Assistance to SNAP	
4.801.1	Program name update; and non-standardized language and acronyms	**4.801.1 Classification of Claims** Claims shall be classified as follows: A. "Agency Error Claims" - A claim shall be handled as an agency error claim if the over-issuance is caused by an error on the part of the local office. Instances that may result in an agency error claim include, but are not limited to, the following: 1. The local office failed to take prompt action on a change reported by the household; 2. The local office incorrectly computed the household's income or deductions, or	**4.801.1 Classification of Claims** Claims shall be classified as follows: A. "Agency Error Claims" - A claim shall be handled as an agency error claim if the over-issuance is caused by an error on the part of the local office. Instances that may result in an agency error claim include, but are not limited to, the following: 1. The local office failed to take prompt action on a change reported by the household; 2. The local office incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment; 3. The local office continued to provide a household SNAP benefits after its certification	Updating Food Assistance to SNAP; and standardizing language and acronyms	

		otherwise assigned an incorrect allotment; 3. The local office continued to provide a household Food Assistance benefits after its certification period expired without a redetermination of eligibility. 4. The local office failed to provide a household a reduced level of Food Assistance benefits when its public assistance grant changed. B. “Inadvertent Household Error Claims” – A claim shall be handled as an inadvertent household error claim if the over-issuance was caused by a misunderstanding or unintentional error on the part of the household. Instances that may result in an inadvertent household error claim include, but are not limited to, the following: 1. The household unintentionally failed to provide the local office with correct or complete information. 2. The household unintentionally failed to report changes in its household circumstances. 3. The household unintentionally received benefits or more benefits than it was entitled to receive pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits. 4. The household was receiving	period expired without a recertification of eligibility. 4. The local office failed to provide a household a reduced level of SNAP benefits when its PA grant changed. B. “Inadvertent Household Error Claims” - A claim shall be handled as an inadvertent household error claim if the over-issuance was caused by a misunderstanding or unintentional error on the part of the household. Instances that may result in an inadvertent household error claim include, but are not limited to, the following: 1. The household unintentionally failed to provide the local office with correct or complete information. 2. The household unintentionally failed to report changes in its household circumstances. 3. The household unintentionally received benefits or more benefits than it was entitled to receive pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits. 4. The household was receiving SNAP solely because of basic categorical eligibility and the household was subsequently determined ineligible for CW or SSI during the time that the benefits were being received. The claim must be based on a change in net income and/or household size. 5. The SSA failed to take action that resulted in the household's basic categorical eligibility and improper receipt of SSI. The claim must be based on change in net income and/or household size. C. “IPV /Fraud Claims” - A claim shall be handled as an IPV/fraud claim only if: 1.An administrative disqualification hearing official or a court of appropriate jurisdiction has found a household member has committed an IPV or fraud; or,		

		Food Assistance solely because of basic categorical eligibility and the household was subsequently determined ineligible for Colorado Works or Supplemental Security Income (SSI) during the time that the benefits were being received. The claim must be based on a change in net income and/or household size. 5. The Social Security Administration failed to take action that resulted in the household's basic categorical eligibility and improper receipt of SSI. The claim must be based on change in net income and/or household size. C. “Intentional Program Violation/Fraud Claims” - A claim shall be handled as an intentional program violation/fraud claim only if: 1. An administrative disqualification hearing official or a court of appropriate jurisdiction has found a household member has committed intentional program violation or fraud; or, 2. A signed waiver of intentional program violation is received; or, 3. A signed disqualification consent agreement has been obtained. Prior to a waiver or consent agreement being signed or the determination of intentional program violation/fraud, the claim against the household shall be handled as an inadvertent household error	2. A signed waiver of IPV is received; or 3. A signed disqualification consent agreement has been obtained. Prior to a waiver or consent agreement being signed or the determination of IPV/fraud, the claim against the household shall be handled as an inadvertent household error claim.		

		claim.			
4.801.2	Updating program name; and non-standardized language and acronyms	**4.801.2 Establishing Claims Against Households** A. Establishing a Claim 1. The local office shall establish claims in accordance with the thresholds outlined below. a. For participating households, the county department shall not establish a claim for overpayment due to Administrative Error (AE) or Inadvertent Household Error (IHE), except in the following circumstances: 1. When the amount of the claim is greater than $200; or, 2. When the overpayment is identified through a federal or state level quality control review; or, 3. When the IHE claim is being pursued as an intentional program violation (IPV), except that if the IHE claim does not result in an IPV, collection shall not be pursued. b. For households not participating in the Food Assistance program, the county department shall not establish a claim for	**4.801.2 Establishing Claims Against Households** A. Establishing a claim 1. The local office shall establish claims in accordance with the thresholds outlined below. a. For participating households, the local office shall not establish a claim for overpayment due to Administrative Error (AE) or Inadvertent Household Error (IHE), except in the following circumstances: 1. When the amount of the claim is greater than $200; or When the over-issuance is identified through a federal or state level quality control review; or, 2. When the IHE claim is being pursued as an IPV, except that if the IHE claim does not result in an IPV, collection shall not be pursued. b. For households not participating in SNAP, the local office shall not establish a claim for over-issuance except in the following circumstances: 1. When the amount of the AE claim is greater than $400; or 2. When the amount of the claim is due to an IHE and is greater than $200; or 3. When the over-issuance is identified through a federal or state level quality control review. 4. When an IHE claim is being pursued as an IPV, except that if the IHE claim does not result in an IPV, collection shall not be pursued. 2. An AE or IHE claim shall not be established for	Updating Food Assistance to SNAP; and standardizing language and acronyms	

		overpayment except in the following circumstances: 1. When the amount of the AE claim is greater than $400; or, 2. When the amount of the claim is due to an IHE and is greater than $200; or, 3. When the overpayment is identified through a federal or state level quality control review. 4. When an IHE claim is being pursued as an IPV, except that if the IHE claim does not result in an IPV, collection shall not be pursued. 2. An AE or IHE claim shall not be established for a period of more than twelve (12) months from the date the local office was notified, in writing or orally, or discovered through the normal course of business that an error occurred which led to the household receiving more benefits than it was entitled to receive. A claim associated with an IPV must be calculated back to the month the act of IPV first occurred and cannot be established for a period more than six (6) years from the date the local office was notified, in writing or orally, or discovered through the normal course of	a period of more than twelve (12) months from the date the local office was notified, in writing or orally, or discovered through the normal course of business that an error occurred which led to the household receiving more benefits than it was entitled to receive. A claim associated with an IPV must be calculated back to the month the act of IPV first occurred and cannot be established for a period more than six (6) years from the date the local office was notified, in writing or orally, or discovered through the normal course of business that an error occurred which led to the household receiving more benefits than it was entitled to receive. 3. Claims shall be established for benefits that are trafficked. The trafficking of benefits means: a. The buying, selling, stealing, or otherwise affecting an exchange of SNAP benefits issued and accessed via EBT cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; or, b. The exchange of SNAP benefits or EBT cards for firearms, ammunition, explosives, or controlled substances; or, C. A SNAP participant, including the participant's designated authorized representative, who knowingly transfers SNAP benefits to another who does not, or does not intend to, use the SNAP benefits for the SNAP household for whom the benefits were intended; or, d. The reselling of food that was purchased with SNAP benefits for cash; or, e. Obtaining a cash deposit when returning water or other containers that were purchased with SNAP benefits. Purchasing water containers is an eligible food item that		

		business that an error occurred which led to the household receiving more benefits than it was entitled to receive. 3. Claims shall be established for benefits that are trafficked. The trafficking of benefits means: a. The buying, selling, stealing, or otherwise affecting an exchange of Food Assistance benefits issued and accessed via Electronic Benefit Transfer cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; or, b. The exchange of Food Assistance benefits or EBT cards for firearms, ammunition, explosives, or controlled substances; or, c. A Food Assistance participant, including the participant's designated authorized representative, who knowingly transfers Food Assistance benefit to another who does not, or does not intend to, use the Food Assistance benefits for the Food Assistance household for whom the Food Assistance benefits were intended; or,	can be paid for with SNAP benefits; however, when the container is returned, the deposit should be returned to the client's EBT card and not given to the client in cash; or, f. Attempting to buy, sell, steal or otherwise affect an exchange of SNAP benefits and accessed via EBT cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone. 4. Claims shall be established against the following individuals: a. All adult household members aged eighteen (18) years of age or older at the time the over-issuance occurred, even if one or more of the adult household members are participating in another SNAP household at the time the claim is established; b. A person connected to the household, such as an authorized representative, who traffics or otherwise causes an over-issuance to occur. B. Timeframe to Establish a Claim Local offices shall establish all claims before the last day of the quarter following the quarter in which the over-issuance or trafficking incident was discovered. 1. The discovery date for AE claims is the date that the local office was notified, in writing or orally, or discovered through the normal course of business that an agency error occurred that caused the household to receive more benefits than it was entitled to receive. 2. The discovery date for IHE and IPV non-trafficking claims shall be the date that verification used to calculate the over-issuance is obtained. 3. The discovery date for claims resulting from		

		d. The reselling of food that was purchased with Food Assistance benefits for cash; or, e. Obtaining a cash deposit when returning water or other containers that were purchased with Food Assistance benefits. Purchasing water containers is an eligible food item that can be paid for with Food Assistance benefits; however, when the container is returned, the deposit should be returned to the client's EBT card and not given to the client in cash; or, f. Attempting to buy, sell, steal or otherwise affect an exchange of Food Assistance benefits and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone. 4. Claims shall be established against the following individuals: a. All adult household members age eighteen (18) years of age or older at the time the over-issuance occurred, even if one or more of the adult household members are participating in another Food Assistance household at the time the claim	trafficking is the date of the court decision or the date the household signed a waiver of administrative disqualification hearing form or a disqualification consent agreement.		

		is established; b. A person connected to the household, such as an authorized representative, who actually traffics or otherwise causes an over-issuance to occur. B. Time Frame to Establish a Claim Local offices shall establish all claims before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered. 1. The discovery date for AE claims is the date that the local office was notified, in writing or orally, or discovered through the normal course of business that an agency error occurred that caused the household to receive more benefits than it was entitled to receive. 2. The discovery date for IHE and IPV non-trafficking claims shall be the date that verification used to calculate the over-issuance is obtained. 3. The discovery date for claims resulting from trafficking is the date of the court decision or the date the household signed a waiver of administrative disqualification hearing form or a disqualification consent agreement.			
4.801.3	Program name update; and non-standardized language and acronyms	**4.801.3 Calculating the Amount of a Claim** A. Compromising Claims If the full amount or remaining amount of an AE or IHE claim cannot	**4.801.3 Calculating the Amount of a Claim** A. Compromising Claims If the full amount or remaining amount of an AE or IHE claim cannot be liquidated in three (3) years, the local office may compromise the claim by reducing it to an	Updating Food Assistance to	

		be liquidated in three (3) years, the local office may compromise the claim by reducing it to an amount that will allow the household to pay the claim in three (3) years. Intentional program violation claims shall not be compromised, unless specified in a court decision. The local office may use the full amount of the claim, including any amount compromised, to offset lost benefits. Decisions regarding compromises shall be documented in the case record. A payment plan on a claim that has been compromised may be renegotiated if necessary. Claims that are already reduced by either an administrative or district court order are considered compromised claims, and thus are not eligible for additional compromise. Local offices shall review the household's circumstances and determine if a compromise would be appropriate. Local offices do not have the option of refusing to consider compromising claims. Local offices cannot institute a policy of never compromising claims. Claims should be compromised if the household demonstrates need, such as the inability to repay the claim within three (3) years, or if the household proves that financial, physical, or mental hardship would exist if forced to pay the full amount of the original claim. Some circumstances include, but are not limited to medical hardships, high shelter costs, loan payments, and other extraordinary expenses. A compromise based on hardship may be applied to a Food Assistance case whether or not the household is still	amount that will allow the household to pay the claim in three (3) years. Intentional program violation claims shall not be compromised, unless specified in a court decision. The local office may use the full amount of the claim, including any amount compromised, to offset lost benefits. Decisions regarding compromises shall be documented in the case record. A payment plan on a claim that has been compromised may be renegotiated if necessary. Claims that are already reduced by either an administrative or district court order are considered compromised claims, and thus are not eligible for additional compromise. Local offices shall review the household's circumstances and determine if a compromise would be appropriate. Local offices do not have the option of refusing to consider compromising claims. Local offices cannot institute a policy of never compromising claims. Claims should be compromised if the household demonstrates need, such as the inability to repay the claim within three (3) years, or if the household proves that financial, physical, or mental hardship would exist if forced to pay the full amount of the original claim. Some circumstances include, but are not limited to medical hardships, high shelter costs, loan payments, and other extraordinary expenses. A compromise based on hardship may be applied to a SNAP case if the household is or is not still receiving SNAP benefits. Consideration should be given to the future earning potential of the household over the next three (3) years to pay back the claim based on age, disability, and other household factors. B. Claims Resulting from Trafficking The value of claims resulting from trafficking related offenses is the value of the trafficked benefits as determined by the individual's admission, through adjudication, or the documentation that forms the basis for the trafficking determination. Documentation could include such items as notarized statements or printouts from the Electronic Benefit Transfer (EBT)	SNAP; and standardizing language and acronyms	

		receiving Food Assistance benefits. Consideration should be given to the future earning potential of the household over the next three (3) years to pay back the claim based on age, disability, and other household factors. B. Claims Resulting from Trafficking The value of claims resulting from trafficking related offenses is the value of the trafficked benefits as determined by the individual's admission, through adjudication, or the documentation that forms the basis for the trafficking determination. Documentation could include such items as notarized statements or printouts from the Electronic Benefit Transfer (EBT) systems. C. Agency Error and Inadvertent Household Error Claims 1. If the household received a larger allotment than it was entitled to receive, the local office shall establish a claim against the household that is equal to the difference between the allotment that the household received and the actual allotment it should have received. Benefits authorized under Colorado Electronic Benefits Transfer System (CO/EBTS) shall be used to calculate the claim. After calculating the amount of a claim and establishing claims, the local office must offset the amount of the claim against any amounts which have not yet been restored to the household.	systems. C. Agency Error and Inadvertent Household Error Claims 1. If the household received a larger allotment than it was entitled to receive, the local office shall establish a claim against the household that is equal to the difference between the allotment that the household received and the actual allotment it should have received. Benefits authorized under Colorado Electronic Benefits Transfer System (CO/EBTS) shall be used to calculate the claim. After calculating the amount of a claim and establishing claims, the local office must offset the amount of the claim against any amounts which have not yet been restored to the household. Expungements and any return of benefits that occur must be used to offset the amount of the claim. 2. The claim must also be offset against restored benefits owed to: a. Any household that contains a member who was an adult member of the original household; b. Any household that contains an authorized representative that caused the over-issuance or trafficking. c. In no circumstance may the local office collect more than the amount of the claim. 3. For households eligible under BCE, a claim shall only be determined when it can be calculated because of changed household net income and/or household size. A claim shall not be established if there was not a change in net income and/or household size. If a household receives both TANF and SNAP and mis-reports information to TANF in accordance with the TANF reporting requirements, and the misreport of information to TANF resulted in the household being over paid TANF or ineligible for		

		Expungements and any return of benefits that occur must be used to offset the amount of the claim. 2. The claim must also be offset against restored benefits owed to: a. Any household that contains a member who was an adult member of the original household; b. Any household that contains an authorized representative that caused the overpayment or trafficking. c. In no circumstance may the local office collect more than the amount of the claim. 3. For households eligible under basic categorical eligibility, a claim shall only be determined when it can be computed on the basis of changed household net income and/or household size. A claim shall not be established if there was not a change in net income and/or household size. If a household receives both Temporary Assistance for Needy Families (TANF) and Food Assistance and mis-reports information to TANF in accordance with the TANF reporting requirements, and the mis-report of information to TANF resulted in the household being over paid TANF or ineligible for TANF, any resulting Food Assistance claim should be based on the actual TANF	TANF, any resulting SNAP claim should be based on the actual TANF issued. 4. The correct allotment shall be calculated using the same methods applied to an actual certification. The twenty percent (20%) earned income deduction shall not be applied to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim; therefore, any portion of the claim that is due to earned income being reported in an untimely manner will be calculated without allowing the twenty percent (20%) earned income deduction. The actual circumstances of the household shall be used to calculate the claim. In instances when a claim is caused by the household's failure to report information as required, the amount of the claim is based on the allotment difference from what the household received compared to what the household would have received if the household would have reported the information as required. For example, if a simplified reporting household did not report income at initial application as required, the income used to calculate the over-issuance would be the income that the household received in the month of application, as this would have been used to determine the household's ongoing monthly amount. Actual income received each subsequent month is not required to calculate each month of the claim, as any fluctuation in monthly income that was received by the household after the initial month of application was not required to be reported by the household. If the household failed to report a change in household circumstances that would have resulted in an increase in benefits during the period of the claim, the local office shall act on the change in information as of the date the change was reported to the local office. 5. When a household certified below 130% FPL fails to report an increase in household income over 130% FPL. The local office shall establish the claim for each month in which an over-issuance of SNAP has occurred.		

		issued. 4. The correct allotment shall be calculated using the same methods applied to an actual certification. The twenty percent (20%) earned income deduction shall not be applied to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim; therefore, any portion of the claim that is due to earned income being reported in an untimely manner will be calculated without allowing the twenty percent (20%) earned income deduction. The actual circumstances of the household shall be used to calculate the claim. In instances when a claim is caused by the household's failure to report information as required, the amount of the claim is based on the allotment difference from what the household actually received compared to what the household would have received if the household would have reported the information as required. For example, if a simplified reporting household did not report income at initial application as required, the income used to calculate the overpayment would be the income that the household actually received in the month of application, as this would have been used to determine the household's ongoing monthly amount. Actual income received each subsequent month is not required to calculate each month of the claim, as any fluctuation in monthly income that was	a. In cases involving household failure to report an increase in income within the required timeframes, the first (1st) month affected by the household's failure to report shall be the first (1st) month in which the change would have been effective had it been timely reported. However, in no event shall the determination of the first (1st) month in which the change would have been effective be any later than two (2) months from the month in which the change occurred. For purposes of calculating the claim, the local office shall assume that the change would have been reported properly and timely acted upon by the local office. b. If the household timely reported an increase in income but the local office failed to act on the change within the required timeframes, the first (1st) month affected by the local office's failure to act shall be the first (1st) month the office would have made the change effective had it acted timely. If a Notice of Adverse Action were required, the local office shall assume, for the purpose of calculating the claim, that the Notice of Adverse Action period would have expired without the household requesting a fair hearing. D. IPV Claims 1. Prior to a waiver or consent agreement being signed or the determination of intentional program violation/fraud, the claim being pursued as an IPV claim shall be pursued as an IHE claim. 2. For each month that a household received an over-issuance due to an act of IPV/fraud, the local office shall determine the correct amount of SNAP benefits, if any, the household was entitled to receive. If the household member is determined to have intentionally failed to report a change in its household's circumstances, the claim shall be established for each month in which the failure to report would have affected the household's SNAP allotment.		

		received by the household after the initial month of application was not required to be reported by the household. If the household failed to report a change in household circumstances that would have resulted in an increase in benefits during the time period of the claim, the local office shall act on the change in information as of the date the change was reported to the local office. 5. When a household certified below 130% FPL fails to report an increase in household income over 130% FPL. The local office shall establish the claim for each month in which an over-issuance of Food Assistance has occurred. a. In cases involving household failure to report an increase in income within the required timeframes, the first (1st) month affected by the household's failure to report shall be the first (1st) month in which the change would have been effective had it been timely reported. However, in no event shall the determination of the first (1st) month in which the change would have been effective be any later than two (2) months from the month in which the change occurred. For purposes of calculating the claim, the local office shall assume that the change would have been reported properly and timely acted upon by the local office.	3. Once the amount of the IPV claim is established, the local office shall offset the claim against any amount of lost benefits that have not yet been restored to the household. E. Court Actions In cases where a household member was found guilty of fraud by a court of appropriate jurisdiction, the local office should request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and individual.		

		b. If the household timely reported an increase in income but the local office failed to act on the change within the required timeframes, the first (1st) month affected by the local office's failure to act shall be the first (1st) month the office would have made the change effective had it acted timely. If a Notice of Adverse Action was required, the local office shall assume, for the purpose of calculating the claim, that the Notice of Adverse Action period would have expired without the household requesting a fair hearing. D. IPV Claims 1. Prior to a waiver or consent agreement being signed or the determination of intentional program violation/fraud, the claim being pursued as an IPV claim shall be pursued as an IHE claim. 2. For each month that a household received an over-issuance due to an act of intentional program violation/fraud, the local office shall determine the correct amount of Food Assistance benefits, if any, the household was entitled to receive. If the household member is determined to have intentionally failed to report a change in its household's circumstances, the claim shall be established for			

		each month in which the failure to report would have affected the household's Food Assistance allotment. 3. Once the amount of the IPV claim is established, the local office shall offset the claim against any amount of lost benefits that have not yet been restored to the household. E. Court Actions In cases where a household member was found guilty of fraud by a court of appropriate jurisdiction, the local office should request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and individual.			
4.801.4	Program name update; and non-standardized language and acronyms	**4.801.4 Collecting Payments on Claims** A. Claim Liability 1. Liable Individuals All adult household members age eighteen (18) years or older at the time the over- issuance occurred, sponsors, or other persons, such as an authorized representative who actually trafficked or otherwise caused an overpayment or trafficking to occur, that are connected with the household shall be jointly and severally liable for the value of any over-issuance of benefits to the household. 2. Initiating Collection Action a. Local offices shall initiate collection action against any	**4.801.4 Collecting Payments on Claims** A. Claim Liability 1. Liable Individuals All adult household members aged eighteen (18) years or older at the time the over-issuance occurred, sponsors, or other persons, such as an authorized representative who trafficked or otherwise caused an overpayment or trafficking to occur, that are connected with the household shall be jointly and severally liable for the value of any over-issuance of benefits to the household. 2. Initiating Collection Action a. Local offices shall initiate collection action against all adult members or persons connected to the household at the time an over-issuance occurred. Under no circumstances shall the office collect more than the amount of the claim.	Updating Food Assistance to SNAP; and standardizing language and acronyms	

		and all of the adult members or persons connected to the household at the time an over-issuance occurred. Under no circumstances shall the office collect more than the amount of the claim. b. The local office may pursue collection action against any household that has a member that was connected to the household that received or created an over- issuance. c. The local office shall initiate collection action for an unpaid or partially paid IPV claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. Collection action shall be initiated unless the household has already repaid the over-issuance as a result of an inadvertent household error demand letter or the local office has documentation that shows the household cannot be located. B. Postponing Collection Action Collection action on inadvertent household error claims may be postponed in cases where an over-issuance is being referred to an administrative disqualification hearing or a court of appropriate jurisdiction, and the local office determines that collection action will prejudice the	b. The local office may pursue collection action against any household that has a member that was connected to the household that received or created an over-issuance. c. The local office shall initiate collection action for an unpaid or partially paid IPV claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. Collection action shall be initiated unless the household has already repaid the over-issuance because of an inadvertent household error demand letter or the local office has documentation that shows the household cannot be located. B. Postponing Collection Action Collection action on inadvertent household error claims may be postponed in cases where an over-issuance is being referred to an administrative disqualification hearing or a court of appropriate jurisdiction, and the local office determines that collection action will prejudice the case. For cases in which the household is appealing an agency error or inadvertent household error claim, collection action shall be suspended pending a final decision. A household's appeal may include, but not be limited to, the establishment of the claim, the amount of the claim, and/or the household's liability to repay the claim. C. Notifying a Household of a Claim 1. Notice of Over-Issuance and Repayment Agreement Local offices shall initiate collection action on agency error and inadvertent household error claims by sending the household a State-prescribed written demand letter for the over-issuance. The letter shall inform the household of its rights and responsibilities concerning repayment of the claim as well as providing information on the availability of free legal		

		case. For cases in which the household is appealing an agency error or inadvertent household error claim, collection action shall be suspended pending a final decision. A household's appeal may include, but not be limited to, the establishment of the claim, the amount of the claim, and/or the household's liability to repay the claim. C. Notifying a Household of a Claim 1. Notice of Over-Issuance and Repayment Agreement Local offices shall initiate collection action on agency error and inadvertent household error claims by sending the household a State-prescribed written demand letter for the over-issuance. The letter shall inform the household of its rights and responsibilities concerning repayment of the claim as well as providing information on the availability of free legal services. All households that owe a claim shall be sent a demand letter. If the claim or the amount of the claim was not established at a fair hearing, the state agency must provide the household with a one-time notice of adverse action. If the hearing official determines that a claim does, in fact, exist against the household, the household must be re-notified of the claim. The demand for payment may be combined with the notice of the hearing decision. Delinquency must be based on the due date of this	services. All households that owe a claim shall be sent a demand letter. If the claim or the amount of the claim was not established at a fair hearing, the state agency must provide the household with a one-time notice of adverse action. If the hearing official determines that a claim does, in fact, exist against the household, the household must be re-notified of the claim. The demand for payment may be combined with the notice of the hearing decision. Delinquency must be based on the due date of this subsequent notice and not on the initial pre-hearing demand letter sent to the household. 2. Calculation of Claim The local office shall mail the household an explanation of how the claim was calculated, showing each individual month and the cause for the claim. The State-prescribed form shall be used to determine and calculate the amount of the claim and to notify the household of the calculation. The form shall be mailed on a schedule that coincides with the mailing of the automated demand letter. D. Negotiating Payment Plans Households participating in the program are subject to allotment reduction in accordance with Section 4.801.41.B, unless the claim is being collected at a higher amount, per agreement with the household. Allotment reduction must begin with the first allotment issued ten (10) calendar days after the demand letter is mailed. When a household is subject to allotment reduction, then a repayment agreement is not necessary unless the household wants to make voluntary payments in addition to the allotment reduction or elects to make monthly payments in amount greater than what would be repaid through allotment reduction. If a household is not participating in the program, then the local office shall negotiate a payment schedule with the household for repayment of any amounts of		

		subsequent notice and not on the initial pre-hearing demand letter sent to the household. 2. Calculation of Claim The local office shall mail the household an explanation of how the claim was calculated, showing each individual month and the cause for the claim. The State-prescribed form shall be used to determine and calculate the amount of the claim and to notify the household of the calculation. The form shall be mailed on a schedule that coincides with the mailing of the automated demand letter. D. Negotiating Payment Plans Households participating in the program are subject to allotment reduction in accordance with Section 4.801.41.B, unless the claim is being collected at a higher amount, per agreement with the household. Allotment reduction must begin with the first allotment issued ten (10) calendar days after the demand letter is mailed. When a household is subject to allotment reduction, then a repayment agreement is not necessary unless the household wants to make voluntary payments in addition to the allotment reduction or elects to make monthly payments in amount greater than what would be repaid through allotment reduction. If a household is not participating in the program, then the local office shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid	the claim not repaid through a lump sum payment. 1. Establishing a Payment Plan The local office shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid through a lump sum payment or through allotment reduction. Payments shall be accepted in regular installments. The household may use SNAP benefits as full or partial payment of any installment. The local office shall ensure that the negotiated amount of any payment schedule to be repaid each month through installment payments is not less than the amount that could be recovered through an allotment reduction. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment. However, both the local office and the household shall have the option to initiate renegotiation of the payment schedule if they believe that the household's economic circumstances have changes enough to warrant such action. 2. Household’s Failure to Respond to the Repayment Agreement If the household is not participating in the program when collection action for claim is initiated or if collection action has been initiated for repayment of a claim and no response is made to the first (1st) demand letter, additional demand letters shall be sent at reasonable Intervals, such as thirty (30) calendar days apart. The demand letters shall be sent until the household responds by paying or agreeing to pay the claim, until the criteria for suspending collection has been met or until the local office initiates ether collection actions. 3. Household’s Failure to Pay in Accordance with Payment Plan a. If the household fails to make a payment in accordance with the established repayment		

		through a lump sum payment. 1. Establishing a Payment Plan The local office shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid through a lump sum payment or through allotment reduction. Payments shall be accepted in regular installments. The household may use Food Assistance benefits as full or partial payment of any installment. The local office shall ensure that the negotiated amount of any payment schedule to be repaid each month through installment payments is not less than the amount that could be recovered through an allotment reduction. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment. However, both the local office and the household shall have the option to initiate renegotiation of the payment schedule if they believe that the household's economic circumstances have changes enough to warrant such action. 2. Household's Failure to Respond to the Repayment Agreement If the household is not participating in the program when collection action for claim is initiated or if collection action has been initiated for repayment	schedule either by making a payment of a lesser amount or by making no payment, the local office shall send the household a notice that: 1) Explains that no payment or an insufficient payment was received; 2) Informs the household that it may contact the local office to discuss renegotiation of the payment schedule; 3) Informs the household that unless the overdue payments are made or the local office is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which a claim has been established shall be reduced. b. If the household responds to the notice, the local office shall take one of the following actions as appropriate: 1) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, the local office shall permit the household to do so, but shall also require the household to sign a new repayment agreement; 2) If the household requests renegotiation and the local office concurs with the request, the local office shall negotiate a new payment schedule. E. Determining Delinquency 1. Claims shall be considered delinquent under the following circumstances: a. If a claim has not been paid by the due date on the demand letter or a satisfactory payment arrangement has not been made. The claim shall remain delinquent until		

		of a claim and no response is made to the first (1st) demand letter, additional demand letters shall be sent at reasonable Intervals, such as thirty (30) calendar days apart. The demand letters shall be sent until the household responds by paying or agreeing to pay the claim, until the criteria for suspending collection has been met or until the local office initiates ether collection actions. 3. Household's Failure to Pay in Accordance with Payment Plan a. If the household fails to make a payment in accordance with the established repayment schedule either by making a payment of a lesser amount or by making no payment, the local office shall send the household a notice that: 1) Explains that no payment or an insufficient payment was received; 2) Informs the household that it may contact the local office to discuss renegotiation of the payment schedule; 3) Informs the household that unless the overdue payments are made or the local office is contacted to discuss renegotiation of the payment schedule, the allotment of a	payment is received in full, an allotment reduction is invoked, or a new repayment schedule is negotiated. The date of delinquency for such claims is the due date on the initial demand letter. b. If a satisfactory payment arrangement has been made for a claim and payment has not been received by the due date specified in the established repayment schedule, the date of delinquency for such claims is the due date of the missed installment payment, unless the claim was delinquent prior to entering into a repayment agreement, in which case the due date will be the due date on the initial demand letter. The claim will remain delinquent until payment is received in full, allotment reduction is invoked, or once the local office resumes or re- negotiates the repayment schedule. c. For purposes of the Federal Treasury Offset Program (TOP), a delinquent claim is one which is past due more than one hundred twenty (120) calendar days. 2. Claims shall not be considered delinquent under the following circumstances: a. If another SNAP claim for the same household is currently being paid, either through an installment agreement or an allotment reduction, and the local office expects to begin collection on the claim once the prior claim(s) is settled; b. If collection is coordinated through the court system and the local office has limited control over collection action; c. If a household timely requests a fair hearing on the existence or amount of the claim and the local office suspends collection action pending a final agency decision. A claim awaiting a fair hearing decision shall not be considered delinquent.		

		currently participating household against which a claim has been established shall be reduced. b. If the household responds to the notice, the local office shall take one of the following actions as appropriate: 1) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, the local office shall permit the household to do so, but shall also require the household to sign a new repayment agreement; 2) If the household requests renegotiation and the local office concurs with the request, the local office shall negotiate a new payment schedule. E. Determining Delinquency 1. Claims shall be considered delinquent under the following circumstances: a. If a claim has not been paid by the due date on the demand letter or a satisfactory payment arrangement has not been made. The claim shall remain delinquent until payment is received in full,	If the hearing officer determines that a claim does in fact exist against the household, the household shall be sent another demand letter. Delinquency shall be based on the due date of this subsequent demand letter and not on the initial pre-hearing demand letter sent to the household. If the hearing officer determines that a claim does not exist, the claim is deleted shall be terminated and all collection activity ceased. F. Joint Collections Received for a Combination SNAP and PA Claim An unspecified joint collection is when funds are received in response to correspondence or a referral that contained both the SNAP and other program claims, and the debtor does not specify to which program to apply the payment. The local office shall ensure that unspecified joint collections are pro-rated among the programs involved. When an unspecified joint collection is received for a combined public assistance and SNAP claim, each program shall receive its pro-rated share of the amount collected.		

		an allotment reduction is invoked, or a new repayment schedule is negotiated. The date of delinquency for such claims is the due date on the initial demand letter. b. If a satisfactory payment arrangement has been made for a claim and payment has not been received by the due date specified in the established repayment schedule, the date of delinquency for such claims is the due date of the missed installment payment, unless the claim was delinquent prior to entering into a repayment agreement, in which case the due date will be the due date on the initial demand letter. The claim will remain delinquent until payment is received in full, allotment reduction is invoked, or once the local office resumes or re- negotiates the repayment schedule. c. For purposes of the Federal Treasury Offset Program (TOP), a delinquent claim is one which is past due more than one hundred twenty (120) calendar days. 2. Claims shall not be considered delinquent under the following circumstances: a. If another Food Assistance claim for the same household is currently			

		being paid, either through an installment agreement or an allotment reduction, and the local office expects to begin collection on the claim once the prior claim(s) is settled; b. If collection is coordinated through the court system and the local office has limited control over collection action; c. If a household timely requests a fair hearing on the existence or amount of the claim and the local office suspends collection action pending a final agency decision. A claim awaiting a fair hearing decision shall not be considered delinquent. If the hearing officer determines that a claim does in fact exist against the household, the household shall be sent another demand letter. Delinquency shall be based on the due date of this subsequent demand letter and not on the initial pre-hearing demand letter sent to the household. If the hearing officer determines that a claim does not exist, the claim is deleted shall be terminated and all collection activity ceased. F. Joint Collections Received for a Combination Food Assistance and Public Assistance Claim		

		An unspecified joint collection is when funds are received in response to correspondence or a referral that contained both the Food Assistance and other program claims, and the debtor does not specify to which program to apply the payment. The local office shall ensure that unspecified joint collections are pro-rated among the programs involved. When an unspecified joint collection is received for a combined public assistance and Food Assistance claim, each program shall receive its pro-rated share of the amount collected.			
4.801.41	Program name update; and non-standardized language	**4.801.41 Methods of Collecting Payment on Claims** The local office shall collect claims through one of the following methods: A. Lump Sum The local office shall collect payments for total or partial payments of a claim in one lump sum if the household is financially able to pay the claim; however, the household shall not be required to liquidate all of its resources to make this repayment. If the household requests to make a lump sum cash and/or food benefit payment as full or partial payment of the claim, the local office shall accept this method of payment. B. Food Assistance Allotment Reduction	**4.801.41 Methods of Collecting Payment on Claims** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section F here, including A, B, C, D and E.] The local office shall collect claims through one of the following methods: A. Lump Sum The local office shall collect payments for total or partial payments of a claim in one lump sum if the household is financially able to pay the claim; however, the household shall not be required to liquidate all of its resources to make this repayment. If the household requests to make a lump sum cash and/or food benefit payment as full or partial payment of the claim, the local office shall accept this method of payment. B. SNAP Allotment Reduction 1. The local office shall collect payments for claims from households currently participating in the Program by reducing the household's SNAP	Updating Food Assistance to SNAP; and standardizing language	

		1. The local office shall collect payments for claims from households currently participating in the Program by reducing the household's Food Assistance allotment. For claims where there is a court-ordered judgment for repayment, allotment reduction shall not occur. Prior to reduction, the local office shall inform the household of: a. The appropriate formula for determining the amount of Food Assistance to be recovered each month; and, b. The amount of Food Assistance the local office expects will be recovered each month; and, c. The availability of other methods of repayment. 2. The household's allotment will be reduced based on the recoupment amounts for each type of claim, unless a payment schedule has been negotiated with the household. The local office may collect on a claim by invoking benefit allotment reduction on two (2) separate households for the same claim. However, the local office is not required to perform this simultaneous reduction. 3. The amount of Food Assistance to be recovered each month through allotment reduction shall be determined as follows:	allotment. For claims where there is a court-ordered judgment for repayment, allotment reduction shall not occur. Prior to reduction, the local office shall inform the household of: a. The appropriate formula for determining the amount of SNAP to be recovered each month; and, b. The amount of SNAP the local office expects will be recovered each month; and, c. The availability of other methods of repayment. 2. The household's allotment will be reduced based on the recoupment amounts for each type of claim unless a payment schedule has been negotiated with the household. The local office may collect on a claim by invoking benefit allotment reduction on two (2) separate households for the same claim. However, the local office is not required to perform this simultaneous reduction. 3. The amount of SNAP to be recovered each month through allotment reduction shall be determined as follows: a. For AE claims and IHE claims, the amount of SNAP to be recovered each month from a household shall either be ten percent (10%) of the household's monthly allotment or ten dollars ($10) each month, whichever is greater. b. For IPV claims, the amount of SNAP benefit reduction shall either be twenty percent (20%) of the household's monthly allotment or twenty dollars ($20) per month, whichever is greater. 4. Benefits authorized for an initial month will not be reduced to offset a claim. Ongoing benefits will		

		a. For AE claims and IHE claims, the amount of Food Assistance to be recovered each month from a household shall either be ten percent (10%) of the household's monthly allotment or ten dollars ($10) each month, whichever is greater. b. For IPV claims, the amount of Food Assistance benefit reduction shall either be twenty percent (20%) of the household's monthly allotment or twenty dollars ($20) per month, whichever is greater. 4. Benefits authorized for an initial month will not be reduced to offset a claim. Ongoing benefits will be recouped based on the above criteria. C. Benefits From an EBT Account 1. A household may pay all or a portion of the claim by using benefits from its EBT account. The office shall obtain written permission from the household to deduct benefits from the EBT account to pay a claim. The written agreement shall be obtained prior to removing benefits from the EBT account and shall include: a. A statement that this collection activity is strictly voluntary; b. The amount of the	be recouped based on the above criteria. C. Benefits from an EBT Account 1. A household may pay all or a portion of the claim by using benefits from its EBT account. The office shall obtain written permission from the household to deduct benefits from the EBT account to pay a claim. The written agreement shall be obtained prior to removing benefits from the EBT account and shall include: a. A statement that this collection activity is strictly voluntary; b. The amount of the payment; c. The frequency of the payments (i.e., whether monthly or one (1) time); d. The length of the agreement; e. A statement that the household may revoke this agreement at any time. 2. If the household provides oral permission, the local office can make a one-time deduction from an active EBT account for a one (1)-time reduction. The county shall provide the household with a written receipt within ten (10) business days. The receipt shall contain the information used for an active EBT account and indicate that this is a one-time reduction. 3. When a local office pursues payment on a claim by applying SNAP benefits from the household’s stale EBT account, prior written notice shall be given to the household of the existing stale EBT account that may be applied to an outstanding claim. The county shall notify the household that the benefits will be applied to the claim unless the household objects to this offset. The household must be given ten (10) calendar days to object before the benefits can be applied as a payment to the claim. A stale EBT account means an account that has benefits but has not		

		payment; c. The frequency of the payments (i.e., whether monthly or one (1) time); d. The length of the agreement; e. A statement that the household may revoke this agreement at any time. 2. If the household provides oral permission, the local office can make a one- time deduction from an active EBT account for a one (1)-time reduction. The county shall provide the household with a written receipt within ten (10) business days. The receipt shall contain the information used for an active EBT account and indicate that this is a one-time reduction. 3. When a local office pursues payment on a claim by applying Food Assistance benefits from the household's stale EBT account, prior written notice shall be given to the household of the existing stale EBT account that may be applied to an outstanding claim. The county shall notify the household that the benefits will be applied to the claim unless the household objects to this offset. The household must be given ten (10) calendar days to object before the benefits can be applied as a payment to the claim. A stale EBT account means an account that has benefits but has not been accessed for at least three (3)	been accessed for at least three (3) consecutive calendar months. D. Offset Against Taxpayer's State Income Tax Refund 1. The state department and local office may recover over-issuances of PA benefits through the offset (intercept) of a taxpayer's state income tax refund. Rent rebates are subject to the offset procedure. This method may be used to recover over-issuances that have been: a. Determined by final agency action, or, b. Ordered by a court as restitution, or, c. Reduced to judgment. 2. Pre-Offset Notice Prior to certifying the taxpayer's name and other information to the Department of Revenue, the state department shall notify the taxpayer in writing at his or her last known address that the state intends to use the tax refund offset to recover the over-issuance. The pre-offset notice shall include the name of the local office claiming the over-issuance, a reference to SNAP as the source of the over-issuance, and the current balance owed. 3. Household Objection to Pre-Offset Notice The taxpayer is entitled to object to the offset by filing a request for a local-level conference or state-level hearing within thirty (30) calendar days from the date that the state department mails its pre-offset notice to the taxpayer. At the hearing on the offset, the local office or ALJ shall not consider whether an over-issuance has occurred, but may consider, if raised by the taxpayer in his or her request for a hearing, whether: a. The taxpayer was properly notified of the over-issuance ; b. The taxpayer is the person who owes the		

		consecutive calendar months. D. Offset Against Taxpayer's State Income Tax Refund 1. The state and county departments may recover overpayments of public assistance benefits through the offset (intercept) of a taxpayer's state income tax refund. Rent rebates are subject to the offset procedure. This method may be used to recover overpayments that have been: a. Determined by final agency action, or, b. Ordered by a court as restitution, or, c. Reduced to judgment. 2. Pre-Offset Notice Prior to certifying the taxpayer's name and other information to the Department of Revenue, the Colorado Department of Human Services shall notify the taxpayer in writing at his or her last known address that the state intends to use the tax refund offset to recover the overpayment. The pre-offset notice shall include the name of the local office claiming the overpayment, a reference to Food Assistance as the source of the overpayment, and the current balance owed. 3. Household Objection to Pre-Offset Notice The taxpayer is entitled to object to the offset by filing a request	over-issuance ; c. The amount of the over-issuance has been paid or is incorrect; d. The debt created by the over-issuance has been discharged through bankruptcy; e. Other special circumstances exist as described in Section 4.801.42. E. Federal Treasury Offset Program (TOP) The Treasury Offset Program, including the Federal Salary Offset Program (FSOP), is a mandatory government-wide delinquent debt matching and payment offset system in which Colorado SNAP participates. The Treasury Offset Program allows collection of delinquent debts by intercepting any allowable payment from the federal government. Federal payments eligible for offset include federal income tax refunds, federal employee salary, federal retirement payments (including military), contractor or vendor payments, and federal benefits such as Social Security and railroad retirement. 1. Claims Submitted for Offset a. A delinquent claim may be submitted to the USDA, Food and Nutrition Service (FNS) for the Treasury Offset Program (TOP). To submit a claim to the Federal TOP, the claim must be determined to be past due and legally enforceable. To determine that a claim is past due and legally enforceable, it must be determined that notification and collection attempts have taken place. b. For purposes of the TOP, a delinquent claim is one which is past due more than one hundred twenty (120) calendar days, as set forth in the United States Code regarding delinquent claims. c. A claim is not considered delinquent if a fair hearing is pending concerning the claim; or		

		for a local-level conference or state-level hearing within thirty (30) calendar days from the date that the state department mails its pre-offset notice to the taxpayer. At the hearing on the offset, the county department or Administrative Law Judge shall not consider whether an overpayment has occurred, but may consider, if raised by the taxpayer in his or her request for a hearing, whether: a. The taxpayer was properly notified of the overpayment; b. The taxpayer is the person who owes the overpayment; c. The amount of the overpayment has been paid or is incorrect; d. The debt created by the overpayment has been discharged through bankruptcy; e. Other special circumstances exist as described in Section 4.801.42. E. Federal Treasury Offset Program (TOP) The Treasury Offset Program, including the Federal Salary Offset Program (FSOP), is a mandatory government-wide delinquent debt matching and payment offset system in which the Colorado Food Assistance Program participates.	the claim has either been discharged by bankruptcy or is subject to the automatic stay of the bankruptcy; or the claim is not considered delinquent as described within Section 4.801.4, E, 2. 2. Processing Fee TOP, including the Federal Salary Offset Program (FSOP), is authorized to apply a processing fee each time a successful offset for collection occurs. Federal payroll offices participating in the TOP process may add another separate processing fee. The delinquent SNAP debtor is responsible for the fee each time it is applied. A TOP offset taken in error and later refunded will have the processing fee refunded, except for partially refunded offsets. 3. Notifying a Household of the Treasury Offset Program At the time delinquent debts are sent to be certified to the FNS for the intercept by the Federal TOP, all delinquent debts for each individual are sent at one time. Prior to a claim being certified to the FNS as a debt owed the local office, the individual shall be mailed an offset notice. The notice shall provide the following information: a. The local office has documentation that the individual identified with his or her Social Security Number (SSN) is liable for the specified unpaid balance of the claim; and, b. The individual has been notified about the claim and prior collection efforts have been made. The claim is past due and legally enforceable. All adults are liable for the over-issuance of SNAP if they were household members when the SNAP benefits were over-issued. False statements concerning such liability may subject individuals to legal action (see Section 4.801.4, A); and, c. Debts over one hundred twenty (120) days		

		The Treasury Offset Program allows collection of delinquent debts by intercepting any allowable payment from the federal government. Federal payments eligible for offset include federal income tax refunds, federal employee salary, federal retirement payments (including military), contractor or vendor payments, and federal benefits such as Social Security and railroad retirement. 1. Claims Submitted for Offset a. A delinquent claim may be submitted to the USDA, Food and Nutrition Service (FNS) for the Treasury Offset Program (TOP). In order to submit a claim to the Federal Treasury Offset Program, the claim must be determined to be past due and legally enforceable. To determine that a claim is past due and legally enforceable, it must be determined that notification and collection attempts have taken place. b. For purposes of the Federal Treasury Offset Program (TOP), a delinquent claim is one which is past due more than one hundred twenty (120) calendar days, as set forth in the United States Code regarding delinquent claims. c. A claim is not considered delinquent if a fair hearing is pending concerning the claim; or the claim has either been discharged by bankruptcy or is subject to the automatic stay of the	delinquent to be referred to the Treasury for an administrative offset. The local office intends to refer the claim within sixty (60) days of the date of the notice unless the individual makes other repayment arrangements acceptable to the local office; and, d. Instructions on how to pay the claim, including the name, address, and telephone number of a person in the county who can discuss the claim and the intended offset with the individual; and, e. The individual is entitled to request a review of the debt's eligibility for referral to TOP. Individual review requests must be honored, regardless of whether they are received after the deadline requested. Claims that are currently under review will not be referred for the tax intercept. f. The notice shall include all claims for the household that are to be certified to TOP. 4. The individual may document any legitimate reason that the claim is not past due or legally enforceable. 5. The individual should contact the local office if he or she believes that a bankruptcy proceeding prevents collection of the claim or if the claim has been discharged in bankruptcy. 6. In some circumstances, the married individual may want to contact IRS before filing his/her income tax return. This is true if the individual is filing a joint return and his or her spouse is not responsible for the SNAP claim and has income and withholding and/or estimated federal income tax payments. In such cases, the spouse may receive his or her portion of any joint return based on procedures prescribed by the IRS. 7. A federal employee may have his or her net disposable pay subject to garnishment under the offset. The Treasury may garnish up to fifteen		

		bankruptcy; or the claim is not considered delinquent as described within Section 4.801.4, E, 2. 2. Processing Fee TOP, including the Federal Salary Offset Program (FSOP), is authorized to apply a processing fee each time a successful offset for collection occurs. Federal payroll offices participating in the TOP process may add another separate processing fee. The delinquent Food Assistance debtor is responsible for the fee each time it is applied. A TOP offset taken in error and later refunded will have the processing fee refunded, except for partially refunded offsets. 3. Notifying a Household of the Treasury Offset Program At the time delinquent debts are sent to be certified to the FNS for the intercept by the Federal Treasury Offset Program, all delinquent debts for each individual are sent at one time. Prior to a claim being certified to the Food and Nutrition Service as a debt owed the local office, the individual shall be mailed an offset notice. The notice shall provide the following information: a. The local office has documentation that the individual identified with his or her Social Security	percent (15%) of the net disposable pay. A federal employee may petition for a hearing only at the federal level to dispute the existence or the amount of the claim. The hearing occurs after the review period at the state-level and the subsequent submission to the Treasury as a valid offset. 8. The OOA within CDHS will review the proposed offset. The OOA shall find that the claim is past due and legally enforceable unless the household can provide documentation to show: a. The claim is not delinquent or was already paid, and the individual provides proof of payment. b. The individual is not the person that is liable for the claim. c. A bankruptcy action prohibits collection of the claim because the automatic stay under Section 362 of the Bankruptcy Code is in effect with respect to the individual or his or her spouse, or that the claim was discharged by a bankruptcy proceeding. d. There is some other reason that the claim is not delinquent or is not legally enforceable. 9. The decision by the OOA will be issued by means of written findings regarding the review. The written findings shall include notice to the individual who requested the review regarding the following: a. If the OOA determines that the claim is past due and legally enforceable: 1) The individual shall be notified that the claim will continue to be referred for the offset; and, 2) The individual is entitled to have the Food and Nutrition Service (FNS) review the OOA's decision. FNS must receive a request to do so within thirty (30)		

		Number (SSN) is liable for the specified unpaid balance of the claim; and, b. The individual has been notified about the claim and prior collection efforts have been made. The claim is past due and legally enforceable. All adults are liable for the overpayment of Food Assistance if they were household members when the Food Assistance benefits were over-issued. False statements concerning such liability may subject individuals to legal action (see Section 4.801.4, A); and, c. Debts over one hundred twenty (120) days delinquent to be referred to the Treasury for an administrative offset. The local office intends to refer the claim within sixty (60) days of the date of the notice unless the individual makes other repayment arrangements acceptable to the local office; and, d. Instructions on how to pay the claim, including the name, address, and telephone number of a person in the county who can discuss the claim and the intended offset with the individual; and, e. The individual is entitled to request a review of the debt's eligibility for referral to TOP. Individual review requests must be honored,	***	calendar days after the date of the state agency's notice of review decision. A request for FNS review shall include the individual's SSN. The notice shall also provide the address of the regional office including the phrase "Tax Offset Review" in the address. b. If the OOA determines that the claim is not past due or legally enforceable, it shall notify the individual and the local office that the claim will not be referred for the offset. c. While the OOA or FNS is conducting a review of the debt, the debt is not eligible for the referral to TOP.		

		regardless of whether they are received after the deadline requested. Claims that are currently under review will not be referred for the tax intercept. f. The notice shall include all claims for the household that are to be certified to TOP. 4. The individual may document any legitimate reason that the claim is not past due or legally enforceable. 5. The individual should contact the local office if he or she believes that a bankruptcy proceeding prevents collection of the claim or if the claim has been discharged in bankruptcy. 6. In some circumstances, the married individual may want to contact IRS before filing his/her income tax return. This is true if the individual is filing a joint return and his or her spouse is not responsible for the Food Assistance claim, and has income and withholding and/or estimated federal income tax payments. In such cases, the spouse may receive his or her portion of any joint return based on procedures prescribed by the IRS. 7. A federal employee may have his or her net disposable pay subject to garnishment under the offset. The Treasury may garnish up to fifteen percent (15%) of the net disposable pay. A federal employee may petition for a		

		hearing only at the federal level to dispute the existence or the amount of the claim. The hearing occurs after the review period at the state-level and the subsequent submission to the Treasury as a valid offset. 8. The Office of Appeals within the Colorado Department of Human Services will review the proposed offset. The Office of Appeals shall find that the claim is past due and legally enforceable unless the household can provide documentation to show: a. The claim is not delinquent or was already paid, and the individual provides proof of payment. b. The individual is not the person that is liable for the claim. c. A bankruptcy action prohibits collection of the claim because the automatic stay under Section 362 of the Bankruptcy Code is in effect with respect to the individual or his or her spouse, or that the claim was discharged by a bankruptcy proceeding. d. There is some other reason that the claim is not delinquent or is not legally enforceable. 9. The decision by the Office of Appeals will be issued by means of written findings regarding the review. The written findings shall			

		include notice to the individual who requested the review regarding the following: a. If the Office of Appeals determines that the claim is past due and legally enforceable: 1) The individual shall be notified that the claim will continue to be referred for the offset; and, 2) The individual is entitled to have the Food and Nutrition Service (FNS) review the Office of Appeal's decision. FNS must receive a request to do so within thirty (30) calendar days after the date of the state agency's notice of review decision. A request for FNS review shall include the individual's SSN. The notice shall also provide the address of the regional office including the phrase “Tax Offset Review” in the address. b. If the Office of Appeals determines that the claim is not past due or legally enforceable, it shall notify the individual and the local office that the claim will not be referred for the offset. c. While the Office of Appeals or FNS is			

		conducting a review of the debt, the debt is not eligible for the referral to TOP. ***			
4.801.5(B)	Program name update	**4.801.5 Claims Discharged Through Bankruptcy** *** B. Local offices shall act on behalf of, and as an agent of, FNS in any bankruptcy proceedings against bankrupt households owing Food Assistance claims. Local offices shall possess any rights, priorities, liens, and privileges and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, local offices shall have the power and authority to file objections to discharge proof of claims, exceptions to discharge, petition for revocation of discharge, and any other documents, motions, or objections which FNS might have filed.	**4.801.5 Claims Discharged Through Bankruptcy** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section A here, and including section B.] *** B. Local offices shall act on behalf of, and as an agent of, FNS in any bankruptcy proceedings against bankrupt households owing SNAP claims. Local offices shall possess any rights, priorities, liens, and privileges and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, local offices shall have the power and authority to file objections to discharge proof of claims, exceptions to discharge, petition for revocation of discharge, and any other documents, motions, or objections which FNS might have filed.	Updating Food Assistance to SNAP	
4.801.6	Non-standardized language	**4.801.6 Interstate Claims Collection** In cases where a household moves out of the state, the local office that last handled the case involving a claim may initiate or continue collection action against the household for any over-issuance that occurred while the household was under that local office's jurisdiction. Counties may transfer a claim to another state or Colorado county department if the other state or Colorado county department accepts the transfer. Counties are not obligated to accept the transfer of a claim from another state or Colorado county department, but have the option of accepting the claim and pursuing collection on that claim. Counties that accept the transfer of a claim shall pursue collection activities and retain appropriate incentives for the	**4.801.6 Interstate Claims Collection** In cases where a household moves out of the state, the local office that last handled the case involving a claim may initiate or continue collection action against the household for any over-issuance that occurred while the household was under that local office's jurisdiction. Counties may transfer a claim to another state or Colorado county if the other state or Colorado county accepts the transfer. Counties are not obligated to accept the transfer of a claim from another state or Colorado county, but have the option of accepting the claim and pursuing collection on that claim. Counties that accept the transfer of a claim shall pursue collection activities and retain appropriate incentives for the collection.	Standardizing language	

		collection.			
4.801.8	Program name update	**4.801.8 Submission of Claim Payment Activity to USDA, FNS** The FS-209 Report (Status of Claims against Households) is an automated report and is run quarterly. The report is utilized to reflect all claims activities during a quarter and reflects all the payments made during the quarter. Food Assistance benefits received as a claim payment shall be recorded in the automated system and any corrections that need to be made to payments are made through the automated system. The report is available for review from the first of the month immediately following the end of the quarter and continues to be available through the last working day of the quarter. A consolidated final report is available to be printed by local offices following the last working day of the quarter. This FS-209 report is run quarterly even if the local office has not collected any payments or other claims activities. The local office shall not be required to submit Form FS-209 if the material on the automated system FS-209 is accurate and complete for that local office.	**4.801.8 Submission of Claim Payment Activity to USDA, FNS** The FS-209 Report (Status of Claims against Households) is an automated report and is run quarterly. The report is utilized to reflect all claims activities during a quarter and reflects all the payments made during the quarter. SNAP benefits received as a claim payment shall be recorded in the automated system and any corrections that need to be made to payments are made through the automated system. The report is available for review from the first of the month immediately following the end of the quarter and continues to be available through the last working day of the quarter. A consolidated final report is available to be printed by local offices following the last working day of the quarter. This FS-209 report is run quarterly even if the local office has not collected any payments or other claims activities. The local office shall not be required to submit Form FS-209 if the material on the automated system FS-209 is accurate and complete for that local office.	Updating Food Assistance to SNAP	
4.802.1(A)	Program name update	**4.802.1 Time Period for Requesting an Appeal** A. A household shall be allowed to request a local-level dispute resolution conference or state-level fair hearing on the following: 1. Any action by the local office that occurred in the previous ninety (90) calendar days. 2. A loss of benefits that occurred in the previous ninety	**4.802.1 Time Period for Requesting an Appeal** A. A household shall be allowed to request a local-level dispute resolution conference or state-level fair hearing on the following: 1. Any action by the local office that occurred in the previous ninety (90) calendar days. 2. A loss of benefits that occurred in the previous ninety (90) calendar days. Such SNAP action shall include a denial of a request for restoration of benefits lost more than ninety (90) calendar days but less than a year prior to the request.	Updating Food Assistance to SNAP	

		(90) calendar days. Such Food Assistance action shall include a denial of a request for restoration of benefits lost more than ninety (90) calendar days but less than a year prior to the request. 3. At any time during a certification period a household may request a fair hearing to dispute its current level of benefits.	3. At any time during a certification period a household may request a fair hearing to dispute its current level of benefits.		
4.802.2(A)	Program name update	**4.802.2 Continuation of Benefits Pending Final Agency Decision** A. Eligibility for Continuation of Benefits 1. If a household requests a state-level fair hearing or local-level dispute resolution conference any time prior to the effective date of the Notice of Adverse Action and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action unless the household specifically waives continuation of benefits. Households which were not given a ten (10) day advance notice period plus one (1) additional calendar day for mailing time, or five (5) additional calendar days for mailing for households participating in the address confidentiality program (ACP), prior to the effective date of the Notice of Adverse Action shall be given ten (10) calendar days after the date the notice is mailed to appeal and receive	**4.802.2 Continuation of Benefits Pending Final Agency Decision** A. Eligibility for Continuation of Benefits 1. If a household requests a state-level fair hearing or local-level dispute resolution conference any time prior to the effective date of the Notice of Adverse Action and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action unless the household specifically waives continuation of benefits. Households which were not given a ten (10) day advance notice period plus one (1) additional calendar day for mailing time, or five (5) additional calendar days for mailing for households participating in the address confidentiality program (ACP), prior to the effective date of the Notice of Adverse Action shall be given ten (10) calendar days after the date the notice is mailed to appeal and receive continued benefits unless the household specifically waives continuation of benefits. 2. If a request for an appeal is not made within the times specified above, benefits shall be reduced or terminated as provided in the Notice of Adverse Action. However, if the household established that its failure to make the request within the established timeframe was for good cause, the local office shall reinstate the household’s benefits	Updating Food Assistance to SNAP	

		continued benefits unless the household specifically waives continuation of benefits. 2. If a request for an appeal is not made within the times specified above, benefits shall be reduced or terminated as provided in the Notice of Adverse Action. However, if the household established that its failure to make the request within the established timeframe was for good cause, the local office shall reinstate the household's benefits on the basis authorized immediately prior to the Notice of Adverse Action, unless the household indicates it has waived continuation of benefits. 3. When benefits are reduced or terminated as a result of a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that Food Assistance eligibility or benefits were improperly computed or that federal regulations or state rules were misapplied or misinterpreted by the local office. 4. Households appealing a decision based on information reported as part of the redetermination process are not eligible for continued benefits. The benefit allotment that a household is certified to receive shall not be issued beyond the end of the household's assigned certification period without a new determination of eligibility. The household's benefit allotment beginning with the new	on the basis authorized immediately prior to the Notice of Adverse Action, unless the household indicates it has waived continuation of benefits. 3. When benefits are reduced or terminated as a result of a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that SNAP eligibility or benefits were improperly computed or that federal regulations or state rules were misapplied or misinterpreted by the local office. 4. Households appealing a decision based on information reported as part of the redetermination process are not eligible for continued benefits. The benefit allotment that a household is certified to receive shall not be issued beyond the end of the household's assigned certification period without a new determination of eligibility. The household's benefit allotment beginning with the new review of eligibility.		

		certification period shall be based on the new review of eligibility.			
4.802.21(C)	Program name update	**4.802.21 Households Disputing Restoration of Lost Benefits** C. To be eligible for restored benefits, the household shall have had its Food Assistance benefits wrongfully delayed, denied, or terminated. The term denial shall include the situation where, through certification office error, the net income was larger than required under proper determination, and because of this improperly set net income, the household was unable to get the proper allotment. Delay shall mean that eligibility determination was not accomplished within the prescribed time limits set forth in Section 4.205.2.	**4.802.21 Households Disputing Restoration of Lost Benefits** C. To be eligible for restored benefits, the household shall have had its SNAP benefits wrongfully delayed, denied, or terminated. The term denial shall include the situation where, through certification office error, the net income was larger than required under proper determination, and because of this improperly set net income, the household was unable to get the proper allotment. Delay shall mean that eligibility determination was not accomplished within the prescribed time limits set forth in Section 4.205.2.	Updating Food Assistance to SNAP	
4.802.3(A)	Non-standardized language	**4.802.3 Rights During an Appeal** A. A household is entitled to the following: 1. Be represented by an authorized representative, such as legal counsel, relative, friend, or other spokesman, or s/he may represent her/himself at the conference. 2. Adequate opportunity to examine the case file and all documents and records used by the local office in making its decision and all documents and records that are to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form	**4.802.3 Rights During an Appeal** A. A household is entitled to the following: 1. Be represented by an authorized representative, such as legal counsel, relative, friend, or other spokesman, or s/he may represent her/himself at the conference. 2. Adequate opportunity to examine the case file and all documents and records used by the local office in making its decision and all documents and records that are to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the local office to establish the household's ineligibility or eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge; or the nature or status of pending criminal prosecutions; or confidential	Standardizing language	

		and documents of verification used by the local office to establish the household's ineligibility or eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge; or the nature or status of pending criminal prosecutions; or confidential informants; or privileged communications between the county department and its attorney is protected from disclosure. If requested by the household or its representative, the local office shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing nor affect the hearing officer's decision. 3. Present new information or documentation to support reversal or modification of the proposed adverse action.	informants; or privileged communications between the local office and its attorney is protected from disclosure. If requested by the household or its representative, the local office shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing nor affect the hearing officer's decision. 3. Present new information or documentation to support reversal or modification of the proposed adverse		
4.802.5	Program name update	**4.802.5 Local-Level Dispute Resolution Conferences** A. The local office, prior to taking action to deny, terminate, reduce, or recover Food Assistance benefits, shall, at a minimum, provide the household an opportunity for a dispute resolution conference. The	**4.802.5 Local-Level Dispute Resolution Conferences** A. Before taking action to deny, terminate, reduce, or recover SNAP benefits, the local office shall provide the household an opportunity for a DRC. The individual may choose to bypass the dispute resolution process and appeal directly to the office of administrative courts for a state-level fair hearing.	Updating Food Assistance to SNAP	

		individual may choose to bypass the dispute resolution process and appeal directly to the office of administrative courts for a state-level fair hearing. B. If the household requests a conference, the certification office shall arrange such a conference to attempt to resolve the disputed action. The participant household may be represented by legal counsel or have other persons present to aid the household in the conference. C. Failure of the applicant or participant to request a local conference within the prior notice period or failure to appear at the time of the scheduled conference without making a timely request for postponement shall constitute abandonment of the right to a conference, unless the applicant/participant can show good cause for his/her failure to appear. "Good cause" includes, but is not limited to: 1. Death or incapacity of an applicant or participant, or a member of his or her immediate family, or the representative; 2. Any other health or medical condition of an emergency nature; 3. Other circumstances beyond the control of the applicant or participant, and which would prevent a reasonable person from making a timely request for a conference or postponement of a scheduled conference. D. The local office may consolidate	B. If the household requests a conference, the certification office shall arrange such a conference to attempt to resolve the disputed action. The participant household may be represented by legal counsel or have other persons present to aid the household in the conference. C. Failure of the applicant or participant to request a local conference within the prior notice period or failure to appear at the time of the scheduled conference without making a timely request for postponement shall constitute abandonment of the right to a conference, unless the applicant/participant can show good cause for his/her failure to appear. "Good cause" includes, but is not limited to: 1. Death or incapacity of an applicant or participant, or a member of his or her immediate family, or the representative; 2. Any other health or medical condition of an emergency nature; 3. Other circumstances beyond the control of the applicant or participant, and which would prevent a reasonable person from making a timely request for a conference or postponement of a scheduled conference. D. The local office may consolidate the SNAP conference with disputes regarding other assistance payments programs, the Colorado Works Program, or disputes concerning Medicaid eligibility, if the facts are similar and consolidation will facilitate resolution of all disputes.		

		the Food Assistance conference with disputes regarding other assistance payments programs, the Colorado Works Program, or disputes concerning Medicaid eligibility, if the facts are similar and consolidation will facilitate resolution of all disputes.			
4.802.51(F)	Non-standardized language	**4.802.51 Management of Local-Level Dispute Resolution Conference** *** C. Location The local dispute resolution conference shall be held in the county department or agency where the proposed decision is pending and before a person who was not directly involved in the initial determination of the action in question. The local-level conference may be conducted either in person or by telephone. If a telephonic conference is requested, it shall be agreed upon by the applicant or participant. In the event the household does not speak English or is visually or hearing impaired, an interpreter or translator shall be provided by the local office. *** E. Joint Dispute Resolution Processes Two (2) or more county departments may establish a joint dispute resolution process. If two or more counties establish a joint process, the location of the conference need not be held in the county or agency taking the action, but the conference location shall be convenient to the applicant or participant. F. Notice of Dispute Resolution Conference Decision	**4.802.51 Management of Local-Level Dispute Resolution Conference** [PUBLISHER NOTE FOR PUBLICATION: We are omitting sections A, B, and D here, including C, E, and F.] *** C. Location The local dispute resolution conference shall be held in the local office where the proposed decision is pending and before a person who was not directly involved in the initial determination of the action in question. The local-level conference may be conducted either in person or by telephone. If a telephonic conference is requested, it shall be agreed upon by the applicant or participant. In the event the household does not speak English or is visually or hearing impaired, an interpreter or translator shall be provided by the local office. *** E. Joint Dispute Resolution Processes Two (2) or more local offices may establish a joint dispute resolution process. If two or more counties establish a joint process, the location of the conference need not be held in the county or agency taking the action, but the conference location shall be convenient to the applicant or participant. F. Notice of Dispute Resolution Conference Decision 1. If the additional information presented in the conference proves that the adverse action is not warranted, the case record shall be documented, and the Notice of Adverse Action cancelled. 2. At the conclusion of the conference, the person presiding shall reduce to writing the agreement	Standardizing language	

		1. If the additional information presented in the conference proves that the adverse action is not warranted, the case record shall be documented and the Notice of Adverse Action cancelled. 2. At the conclusion of the conference, the person presiding shall reduce to writing the agreement entered into by the parties. Such agreement shall be signed by the parties and/or their representatives and shall be binding upon the parties. A copy of the written decision shall immediately be provided to the applicant or participant and/or his or her representative. The local office shall also forward a copy of the decision to the Colorado Department of Human Services, Food Assistance Program, within five (5) working days of the hearing, regardless of whether or not the client was in agreement with the outcome.	entered into by the parties. Such agreement shall be signed by the parties and/or their representatives and shall be binding upon the parties. A copy of the written decision shall immediately be provided to the applicant or participant and/or his or her representative. The local office shall also forward a copy of the decision to the state department, within five (5) working days of the hearing, regardless of whether or not the client was in agreement with the outcome.		
4.802.63(G)	Program name update; and non-standardized language	**4.802.63 State-Level Hearing Decisions** *** G. Acting on Decisions 1. Initial decisions shall not be implemented pending review by the Office of Appeals and entry of a final agency decision. 2. The state or county department shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The department shall comply with the decision, even if reconsideration is requested, unless the effective	**4.802.63 State-Level Hearing Decisions** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, C, D, E and F here, including G.] *** G. Acting on Decisions 1. Initial decisions shall not be implemented pending review by the Office of Appeals and entry of a final agency decision. 2. The state department or local office shall initiate action to comply with the final agency decision within three (3) working days after the effective	Updating Food Assistance to SNAP; standardizing language	

		date of the agency decision is postponed by order of the Office of Appeals or a reviewing court. 3. If the State Department rules that the household had its Food Assistance benefits wrongfully delayed, denied or terminated, the local office shall provide retroactive benefits. If the State Department decides that benefits were over-issued previous to and during the pendency of the determination of final agency action, a claim for over-issued benefits will be prepared. 4. Final agency decisions which result in an increase in household benefits shall be reflected in the benefit allotment within ten (10) days of the receipt of the decision, even if the local office is obligated to provide a supplementary allotment or otherwise provide the household with the opportunity to obtain the allotment outside of the normal cycle. However, the local office may take longer than ten (10) days if it elects to make the decision effective in the household's normal issuance cycle, provided that the issuance will occur within sixty (60) days from the household's request for the hearing. 5. Final agency decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the decision, unless the decision is stayed by the Office of Appeals	date. The acting department/office shall comply with the decision, even if reconsideration is requested, unless the effective date of the agency decision is postponed by order of the Office of Appeals or a reviewing court. 3. If it is ruled that the household had its SNAP benefits wrongfully delayed, denied or terminated, the local office shall provide retroactive benefits. If it is decided that benefits were over-issued before and during the pendency of the determination of final agency action, a claim for over-issued benefits will be prepared. 4. Final agency decisions which result in an increase in household benefits shall be reflected in the benefit allotment within ten (10) days of the receipt of the decision, even if the local office is obligated to provide a supplementary allotment or otherwise provide the household with the opportunity to obtain the allotment outside of the normal cycle. However, the local office may take longer than ten (10) days if it elects to make the decision effective in the household's normal issuance cycle, provided that the issuance will occur within sixty (60) days from the household's request for the hearing. 5. Final agency decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the decision unless the decision is stayed by the Office of Appeals upon a showing of irreparable harm.		

		upon a showing of irreparable harm.			
4.803(E)	Program name update	**4.803 INTENTIONAL PROGRAM VIOLATIONS AND FRAUD [Rev. eff. 1/1/16]** *** E. The local office shall inform the household in writing of disqualification penalties for intentional program violation each time it applies for Program benefits. The penalty warning will appear in clear, boldface lettering on the Food Assistance application forms and shall serve as notification to the household.	**4.803 INTENTIONAL PROGRAM VIOLATIONS AND FRAUD [Rev. eff. 1/1/16]** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, C, and D here, and including E.] *** E. The local office shall inform the household in writing of disqualification penalties for IPV each time it applies for Program benefits. The penalty warning will appear in clear, boldface lettering on the SNAP application forms and shall serve as notification to the household.	Updating Food Assistance to SNAP	
4.803.2	Program name update; and non-standardized language and acronyms	**4.803.2 Determination of an Intentional Program Violation/Fraud [Rev. eff. 1/1/16]** *** B. For purposes of determining, through administrative disqualification hearings, whether or not a person has committed an intentional program violation, the determination shall be based upon whether the person intentionally: 1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or, 2. Committed any act that constitutes a violation of the Food and Nutrition Act of 2008, as amended, these Food Assistance Program rules, Federal Food Assistance Program regulations, or any state statute for the purpose of	**4.803.2 Determination of an Intentional Program Violation/Fraud [Rev. eff. 1/1/16]** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, C, D, and E here, and including F.] ** B. For purposes of determining, through administrative disqualification hearings, whether or not a person has committed an IPV, the determination shall be based upon whether the person intentionally: 1. Made a false or misleading statement, or misrepresented, concealed, or withheld facts; or, 2.Committed any act that constitutes a violation of the Food and Nutrition Act of 2008, as amended, these SNAP rules, Federal SNAP regulations, or any state statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking of SNAP benefits, authorization cards or reusable documents as part of an automated benefit delivery system access device.	Updating Food Assistance to SNAP; and standardizing language and acronyms	

		using, presenting, transferring, acquiring, receiving, possessing or trafficking of Food Assistance benefits, authorization cards or reusable documents as part of an automated benefit delivery system access device. "Intentionally" means a false representation of a material fact with knowledge of that falsity, or omission of a material fact with knowledge of that omission. *** F. Disqualification periods shall be imposed based on the following: 1. Administrative Disqualification Hearing (ADH) If an IPV/fraud is determined through an ADH, the individual must be notified in writing once it is determined that he/she is to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. 2. Waiver of an Administrative Disqualification Hearing If an IPV/fraud is determined through the client signing a waiver of an administrative disqualification hearing form, then the period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification.	"Intentionally" means a false representation of a material fact with knowledge of that falsity, or omission of a material fact with knowledge of that omission. *** F. Disqualification periods shall be imposed based on the following: 1. Administrative Disqualification Hearing (ADH) If an IPV/fraud is determined through an ADH, the individual must be notified in writing once it is determined that he/she is to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. 2. Waiver of an Administrative Disqualification Hearing If an IPV/fraud is determined through the client signing a waiver of an administrative disqualification hearing form, then the period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification. 3. Court Decisions If an individual is determined through a court to be disqualified for an IPV/fraud, but the date for initiating the disqualification period is not specified, the local office shall initiate the disqualification period for currently eligible individuals within forty-five (45) calendar days of the date the disqualification was ordered. Any other court-imposed disqualification shall begin within forty-five (45) calendar days of the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud. 4. Disqualification Consent Agreements Unless contrary to the court order, the period of disqualification shall begin within forty-five (45)		

		3. Court Decisions If an individual is determined through a court to be disqualified for an IPV/fraud, but the date for initiating the disqualification period is not specified, the county department shall initiate the disqualification period for currently eligible individuals within forty five (45) calendar days of the date the disqualification was ordered. Any other court imposed disqualification shall begin within forty five (45) calendar days of the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud. 4. Disqualification Consent Agreements Unless contrary to the court order, the period of disqualification shall begin within forty-five (45) calendar days from the date the household member signed the disqualification consent agreement. However, if the court imposes a disqualification period or specifies the date for initiating the disqualification period, the state agency shall disqualify the household member in accordance with the court order.	calendar days from the date the household member signed the disqualification consent agreement. However, if the court imposes a disqualification period or specifies the date for initiating the disqualification period, the state agency shall disqualify the household member in accordance with the court order.		
4.803.3	Program name update; and non-standardized acronyms	**4.803.3 Time Period and Types of Disqualifications [Rev. eff. 1/1/16]** A. Intentional Program Violations Individuals who have waived a hearing for intentional program	**4.803.3 Time Period and Types of Disqualifications [Rev. eff. 1/1/16]** A. IPV Individuals who have waived a hearing for IPV or who have been found to have committed an IPV through a	Updating Food Assistance to	

		violation or who have been found to have committed an intentional program violation through a local-level or state administrative intentional program violation decision shall be ineligible to participate in the Food Assistance Program for twelve (12) months for the first (1st) intentional program violation; twenty-four (24) months for the second (2nd) intentional program violation; and permanently for the third (3rd) intentional program violation/fraud. B. Receiving Duplicate Benefits Individuals who misrepresent their identity or residency to receive duplicate benefits shall be ineligible to participate in the Food Assistance Program for a period of ten (10) years. Receiving duplicate benefits is considered an attempt to receive or the receipt of more than one original allotment of benefits during a calendar month. A permanent disqualification for a third (3rd) offense would override the disqualification period for duplicate benefits. C. Trafficking Benefits 1. The penalties for trafficking Food Assistance benefits are outlined in Section 26-2-306(2), C.R.S. 2. An individual convicted through a court of law of trafficking in Food Assistance of five hundred dollars ($500) or more will be disqualified permanently. D. An individual found guilty of purchasing controlled substances, as defined in Section 18-18-102 (5),	local-level or state administrative IPV decision shall be ineligible to participate in SNAP for twelve (12) months for the first (1st) IPV; twenty-four (24) months for the second (2nd) IPV; and permanently for the third (3rd) IPV/fraud. B. Receiving Duplicate Benefits Individuals who misrepresent their identity or residency to receive duplicate benefits shall be ineligible to participate in SNAP for a period of ten (10) years. Receiving duplicate benefits is considered an attempt to receive or the receipt of more than one original allotment of benefits during a calendar month. A permanent disqualification for a third (3rd) offense would override the disqualification period for duplicate benefits. C. Trafficking Benefits 1. The penalties for trafficking SNAP benefits are outlined in Section 26-2-306(2), C.R.S. 2. An individual convicted through a court of law of trafficking in SNAP of five hundred dollars ($500) or more will be disqualified permanently. D. An individual found guilty of purchasing controlled substances, as defined in Section 18-18-102 (5), C.R.S., with SNAP benefits will be disqualified for twenty-four (24) months on the first (1st) conviction by a court of law and permanently disqualified on a second (2nd) conviction by a court of law. The disqualification periods shall apply also to individuals with a felony conviction entered on or after July 1, 1997, for possession, use, or distribution of controlled substance only if the conviction is directly related to the misuse of SNAP benefits. An individual shall not be ineligible due to a drug conviction unless misuse of SNAP benefits is part of the court findings. E. An individual found guilty of trading or purchasing firearms, ammunition, or explosives with SNAP benefits will be permanently disqualified on the first (1st) conviction by a court of law. An individual will be disqualified for controlled substances and firearms, if the court finds that the individual has engaged in the	SNAP; and standardizing acronyms	

		C.R.S., with Food Assistance benefits will be disqualified for twenty-four (24) months on the first (1st) conviction by a court of law and permanently disqualified on a second (2nd) conviction by a court of law. The disqualification periods shall apply also to individuals with a felony conviction entered on or after July 1, 1997, for possession, use, or distribution of controlled substance only if the conviction is directly related to the misuse of Food Assistance benefits. An individual shall not be ineligible due to a drug conviction unless misuse of Food Assistance benefits is part of the court findings. E. An individual found guilty of trading or purchasing firearms, ammunition, or explosives with Food Assistance benefits will be permanently disqualified on the first (1st) conviction by a court of law. An individual will be disqualified for controlled substances and firearms, if the court finds that the individual has engaged in the activity, even in the cases of deferred adjudication.	activity, even in the cases of deferred adjudication.		
4.803.4(C)	Program name update; and non-standardized acronyms	**4.803.4 Pursuing Disqualifications for IPV/Fraud [Rev. eff. 1/1/16]** *** C. If the local office determines that there is evidence to substantiate that a person has committed intentional program violation, the local office shall, prior to initiating an administrative disqualification hearing, allow that person the opportunity to waive his or her right to an administrative disqualification hearing or, for cases referred to a court of appropriate jurisdiction, to sign a disqualification consent	**4.803.4 Pursuing Disqualifications for IPV/Fraud [Rev. eff. 1/1/16]** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, D, E, F, and G here, including C.] *** C. If the local office determines that there is evidence to substantiate that a person has committed an IPV, the local office shall, prior to initiating an administrative disqualification hearing, allow that person the opportunity to waive his or her right to an administrative disqualification hearing or, for cases referred to a court of appropriate jurisdiction, to sign a disqualification consent agreement for plea bargained cases or cases of deferred adjudication. However,	Updating Food Assistance to SNAP; and standardizing acronyms	

		agreement for plea bargained cases or cases of deferred adjudication. However, prior to providing the request for waiver, there shall be a review of the evidence against the household member by a staff member who was not involved in the investigation of the household and who has a thorough enough understanding of Food Assistance policy to ensure that policy is being correctly applied and that the evidence meets the "clear and convincing" criteria (see Section 4.803.2, C) necessary to warrant the pursuit of an intentional program violation. ***	prior to providing the request for waiver, there shall be a review of the evidence against the household member by a staff member who was not involved in the investigation of the household and who has a thorough enough understanding of SNAP policy to ensure that policy is being correctly applied and that the evidence meets the "clear and convincing" criteria (see Section 4.803.2, C) necessary to warrant the pursuit of an IPV. ***		
4.803.43(B)	Program name update; and non-standardized language	**4.803.43 Notifying a Household of an IPV Administrative Disqualification Hearing [Rev. eff. 1/1/16]** *** B. The notice shall be mailed Certified Mail, Return Receipt Requested, or by first class mail or the notice may be served on the individual by any other reliable method, such as personal delivery by a Food Assistance worker or other employee, affidavit of service, Federal Express, etc. If no proof of receipt is obtained, a statement of non-receipt by the household member shall be considered good cause for not appearing at the hearing. The notice shall contain at a minimum: 1. The date, time, and place of the hearing; 2. The charge(s) against the household member;	**4.803.43 Notifying a Household of an IPV Administrative Disqualification Hearing [Rev. eff. 1/1/16]** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, C, and D here, including B.] *** B. The notice shall be mailed Certified Mail, Return Receipt Requested, or by first class mail or the notice may be served on the individual by any other reliable method, such as personal delivery by a SNAP worker or other employee, affidavit of service, Federal Express, etc. If no proof of receipt is obtained, a statement of non-receipt by the household member shall be considered good cause for not appearing at the hearing. The notice shall contain at a minimum: 1. The date, time, and place of the hearing; 2. The charge(s) against the household member; 3. A summary of the evidence and how and where the evidence can be examined; 4. A warning that the decision will be based solely on information provided by the local office if the	Updating Food Assistance to SNAP; and standardizing language	

		3. A summary of the evidence and how and where the evidence can be examined; 4. A warning that the decision will be based solely on information provided by the local office if the household member fails to appear at the hearing; 5. A statement that the household member or representative will have ten (10) calendar days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing; 6. A warning that the disqualification penalties for fraud under the Food Assistance Program that could be imposed and a statement of which penalty the hearing officer believes is applicable to the case scheduled for hearing. The disqualification penalties for fraud are as follows: a. Twelve month disqualification for the first (1st) violation, twenty-four month disqualification for the second (2nd) violation, and permanently for the third (3rd) violation, except as provided for in paragraphs b, c, d, and e, of this section; b. Individuals found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive	household member fails to appear at the hearing; 5. A statement that the household member or representative will have ten (10) calendar days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing; 6. A warning that the disqualification penalties for fraud under SNAP that could be imposed and a statement of which penalty the hearing officer believes is applicable to the case scheduled for hearing. The disqualification penalties for fraud are as follows: a. Twelve-month disqualification for the first (1st) violation, twenty-four month disqualification for the second (2nd) violation, and permanently for the third (3rd) violation, except as provided for in paragraphs b, c, d, and e, of this section; b. Individuals found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple food stamp benefits simultaneously shall be ineligible to participate in the Program for a period of ten (10) years, except if the client has received his/her 3rd violation. In such cases, the individual shall be disqualified permanently. c. Individuals found by a federal, state, or local court to have used or received benefits in a transaction involving the sale of a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)) shall be ineligible to participate in the program: 1) For a period of twenty-four months upon the first occasion of such violation; and, 2) Permanently upon the second occasion of such violation. Copies of		

		multiple food stamp benefits simultaneously shall be ineligible to participate in the Program for a period of ten (10) years, except if the client has received his/her 3rd violation. In such cases, the individual shall be disqualified permanently. c. Individuals found by a federal, state or local court to have used or received benefits in a transaction involving the sale of a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)) shall be ineligible to participate in the program: 1) For a period of twenty four months upon the first occasion of such violation; and, 2) Permanently upon the second occasion of such violation. Copies of the Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended, is available for inspection during normal business hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository	Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended, are available for inspection. No further amendments or editions are incorporated. d. Individuals found by a federal, state, or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition or explosives shall be permanently ineligible to participate in the program upon the first occasion of such violation. e. An individual convicted by a federal, state, or local court of having trafficked benefits for an aggregate amount of five hundred dollars ($500) or more shall be permanently ineligible to participate in the program upon the first occasion of such violation. f. The penalties in paragraphs c and d of this section shall also apply in cases of deferred adjudication as described in Section 4.804, where the court makes a finding that the individual engaged in the conduct described in paragraph c and d, of this section. g. If a court fails to impose a disqualification or a disqualification period for any intentional program violation, the state agency shall impose the appropriate disqualification penalty specified within this section, unless it is contrary to the court order. 7. A statement of which penalty the hearing officer believes is applicable to the case scheduled for the hearing. 8. A statement that the hearing does not preclude the state or federal government from prosecuting the household member for fraud in a civil or criminal court action or from collecting the over-issuance. 9. The name and telephone number of the agency that the individual can call to obtain free legal		

		library. No further amendments or editions are incorporated. d. Individuals found by a federal, state or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition or explosives shall be permanently ineligible to participate in the program upon the first occasion of such violation. e. An individual convicted by a federal, state or local court of having trafficked benefits for an aggregate amount of five hundred dollars ($500) or more shall be permanently ineligible to participate in the program upon the first occasion of such violation. f. The penalties in paragraphs c and d of this section shall also apply in cases of deferred adjudication as described in Section 4.804, where the court makes a finding that the individual engaged in the conduct described in paragraph c and d, of this section. g. If a court fails to impose a disqualification or a disqualification period for any intentional program violation, the state agency shall impose the appropriate disqualification penalty	advice. 10. For local offices conducting local-level ADH, the notice shall inform the client that he/she may request to have a state-level ADH rather than a local-level ADH. ***		

		specified within this section, unless it is contrary to the court order. 7. A statement of which penalty the hearing officer believes is applicable to the case scheduled for the hearing. 8. A statement that the hearing does not preclude the state or federal government from prosecuting the household member for fraud in a civil or criminal court action or from collecting the over-issuance. 9. The name and telephone number of the agency that the individual can call to obtain free legal advice. 10. For county departments conducting local-level ADH, the notice shall inform the client that he/she may request to have a state-level ADH rather than a local-level ADH. ***			
4.803.45(D)	Non-standardized language	**4.803.45 Administrative Disqualification Hearing Procedures** *** D. A local-level hearing officer shall meet the ninety (90) calendar day timeframe, issue the decision to the client, and forward a copy to the Colorado Department of Human Services, Food Assistance Division. ***	**4.803.45 Administrative Disqualification Hearing Procedures** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, C, E, F and G here, including D.] *** D. A local-level hearing officer shall meet the ninety (90) calendar day timeframe, issue the decision to the client, and forward a copy to the state department. ***	Standardizing language	

4.803.5	Non-standardized language and acronyms	**4.803.5 Local-Level IPV Hearings [Rev. eff. 1/1/16]** A. Local-Level Hearing Official 1. The individual who acts as a local-level hearing officer for the local office shall meet the following requirements: a. He/she shall be an impartial individual who does not have a personal stake or involvement in the case; b. He/she cannot have been directly involved in the initial determination of the action which is being contested and was not the immediate supervisor of the eligibility worker who initiated the intentional program violation action; c. The individual shall be: 1. An employee of the county; or 2. An individual under contract with the county; or, 3. An employee of another public agency, statutory board or other legal entity designated by the county to conduct hearings. 2. The individual who acts as a local-level hearing officer is required to carefully consider the evidence and determine, based on clear and convincing	**4.803.5 Local-Level IPV Hearings [Rev. eff. 1/1/16]** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section C here, including A and B.] A. Local-Level Hearing Official 1. The individual who acts as a local-level hearing officer for the local office shall meet the following requirements: a. He/she shall be an impartial individual who does not have a personal stake or involvement in the case; b. He/she cannot have been directly involved in the initial determination of the action which is being contested and was not the immediate supervisor of the eligibility technician who initiated the IPV action; c. The individual shall be: 1. An employee of the county; or 2. An individual under contract with the county; or, 3. An employee of another public agency, statutory board or other legal entity designated by the county to conduct hearings. 2. The individual who acts as a local-level hearing officer is required to carefully consider the evidence and determine, based on clear and convincing evidence, if the individual intended to commit an intentional program violation. B. Notice of Local-Level Hearing Decision 1. If the local-level administrative disqualification hearing finds the household member did not commit an IPV, the local-level hearing officer shall provide a written notice that informs the household, the local office, and the State department of the decision.	Standardizing language and acronyms	

		evidence, if the individual intended to commit an intentional program violation. B. Notice of Local-Level Hearing Decision 1. If the local-level administrative disqualification hearing finds the household member did not commit an intentional program violation, the local-level hearing officer shall provide a written notice that informs the household, the local office, and the State Food Assistance Programs Division of the decision. 2. The decision shall contain the reasons for the hearing officer's decision and a response to client presented arguments and identify the evidence presented by both client and the local office. 3. If a local-level hearing officer determines that an intentional program violation occurred, the household shall be notified in accordance with Section 4.803.7, and accompanying the decision shall be an Appeal Request for the household to appeal the decision to a state-level administrative disqualification hearing. 4. If mailed, the notice shall be sent by either first class mail or certified mail (return receipt requested), or the notice may be served on the individual(s) by any other reliable method. If no proof of receipt is obtained, a statement of non-receipt by the	2. The decision shall contain the reasons for the hearing officer's decision and a response to client presented arguments and identify the evidence presented by both client and the local office. 3. If a local-level hearing officer determines that an intentional program violation occurred, the household shall be notified in accordance with Section 4.803.7 and accompanying the decision shall be an Appeal Request for the household to appeal the decision to a state-level administrative disqualification hearing. 4. If mailed, the notice shall be sent by either first class mail or certified mail (return receipt requested), or the notice may be served on the individual(s) by any other reliable method. If no proof of receipt is obtained, a statement of non-receipt by the household member shall be considered good cause for not appearing at the hearing. 5. A copy of the local-level hearing decision shall be forwarded to the state department for review at the same time the decision is mailed to the client. ***		

		household member shall be considered good cause for not appearing at the hearing. 5. A copy of the local-level hearing decision shall be forwarded to the State Food Assistance Programs Division for review at the same time the decision is mailed to the client. ***			
4.803.6	Non-standardized language	**4.803.6 State-Level Administrative Disqualification Hearing** *** B. Final Decisions 1. The Office of Appeals shall review the initial decision of the Administrative Law Judge and shall enter a final agency decision affirming, modifying, reversing, or remanding the initial decision, pursuant to Section 4.802.63, E. 2. For purposes of requesting judicial review, the effective date of the final agency decision shall be the third (3rd) day after the date the decision is mailed to the parties, even if the third (3rd) day falls on Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the agency decision. 3. The state or county department shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The department shall comply with the decision even if reconsideration is requested, unless the effective date of the agency decision is	**4.803.6 State-Level Administrative Disqualification Hearing** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting section A here and including B.] *** B. Final Decisions 1. The Office of Appeals shall review the initial decision of the Administrative Law Judge and shall enter a final agency decision affirming, modifying, reversing, or remanding the initial decision, pursuant to Section 4.802.63, E. 2. For purposes of requesting judicial review, the effective date of the final agency decision shall be the third (3rd) day after the date the decision is mailed to the parties, even if the third (3rd) day falls on Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the agency decision. 3. The state department or local office shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The department shall comply with the decision even if reconsideration is requested unless the effective date of the agency decision is postponed by order of the Office of Appeals or a reviewing court.	Standardizing language	

		postponed by order of the Office of Appeals or a reviewing court.			
4.803.7	Program name update	**4.803.7 Notification of Final Administrative Disqualification Hearing Decision [Rev. eff. 1/1/16]** Once the local-level hearing decision or a final state-level decision has been made, written notice, prior to disqualification, will be provided to the household member, to the local office, and to the state Food Assistance office containing: A. The decision. B. The reason for the decision including pertinent regulations and a response to client presented arguments. C. The disqualification period, including the date the disqualification will take effect. For local-level hearing decisions, the decision shall notify the individual that the disqualification period will take effect, unless a state-level hearing is requested. If the individual is no longer participating, the notice shall inform him/her that the period of disqualification shall take effect in accordance with Section 4.803.2, F. D. For local-level administrative hearings, if the household member is not satisfied with the decision given in a local-level administrative disqualification hearing (see Section 4.803.5, C), he/she may request a hearing through the Office of Administrative Courts. E. For state-level administrative hearings, if the household member is not satisfied with the final state agency decision of a state-level	**4.803.7 Notification of Final Administrative Disqualification Hearing Decision [Rev. eff. 1/1/16]** Once the local-level hearing decision or a final state-level decision has been made, written notice, prior to disqualification, will be provided to the household member, to the local office, and to the state department containing: A. The decision. B. The reason for the decision including pertinent regulations and a response to client presented arguments. C. The disqualification period, including the date the disqualification will take effect. For local-level hearing decisions, the decision shall notify the individual that the disqualification period will take effect, unless a state-level hearing is requested. If the individual is no longer participating, the notice shall inform him/her that the period of disqualification shall take effect in accordance with Section 4.803.2, F. D. For local-level administrative hearings, if the household member is not satisfied with the decision given in a local-level administrative disqualification hearing (see Section 4.803.5, C), he/she may request a hearing through the Office of Administrative Courts. E. For state-level administrative hearings, if the household member is not satisfied with the final state agency decision of a state-level administrative hearing, he/she may seek judicial review pursuant to Section 24-4-106, C.R.S.	Updating Food Assistance to SNAP	

		administrative hearing, he/she may seek judicial review pursuant to Section 24-4-106, C.R.S.			
4.804	Non-standardized language	**4.804 COURT ACTION** *** C.A summary or copy of a referral for prosecution shall, together with the date of the referral, be forwarded to the State Food Assistance Division.	**4.804 COURT ACTION** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A, B, D, E, F and G here, including C.] *** C. A summary or copy of a referral for prosecution shall, together with the date of the referral, be forwarded to the state department.	Standardizing language	
4.804.1(A)	Program name update	**4.804.1 Disqualification Consent Agreement [Rev. eff. 1/1/16]** A. Criteria for Consent Agreement If county prosecutors pursue a consent agreement, the agreement shall provide the household advance notification of the consequences of consenting to the disqualification. The consent agreement shall contain the following: 1. A statement for the accused individual to sign that he or she understands the consequences of consenting to disqualification. 2. A signature block for the accused individual. 3. A statement that the head of household must also sign the consent agreement if the accused individual is not the head of household. 4. A signature block for the head of household. 5. A statement that consenting to disqualification will result in disqualification and a reduction in benefits for the period of	**4.804.1 Disqualification Consent Agreement [Rev. eff. 1/1/16]** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting B and C here, including A.] A. Criteria for Consent Agreement If county prosecutors pursue a consent agreement, the agreement shall provide the household advance notification of the consequences of consenting to the disqualification. The consent agreement shall contain the following: 1. A statement for the accused individual to sign that he or she understands the consequences of consenting to disqualification. 2. A signature block for the accused individual. 3. A statement that the head of household must also sign the consent agreement if the accused individual is not the head of household. 4. A signature block for the head of household. 5. A statement that consenting to disqualification will result in disqualification and a reduction in benefits for the period of disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud. 6. A warning that the disqualification penalties for fraud under SNAP that could be imposed and a	Updating Food Assistance to SNAP	

		disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud. 6. A warning that the disqualification penalties for fraud under the Food Assistance Program that could be imposed and a statement of which penalty the hearing office believes is applicable to the case scheduled for the hearing. ***	statement of which penalty the hearing office believes is applicable to the case scheduled for the hearing. ***		
4.901	Program name update; non-standardized language and acronyms	**4.901 ADMINISTRATION OF THE FOOD ASSISTANCE PROGRAM** A. The Food Assistance Program shall be administered in every county of the State in accordance with the Colorado Human Services Code and these rules. B. The program shall be administered by the county departments of social/human services unless the State Department enters into a written agreement with a particular county to have a State-administered program in that county. As a condition for receiving grant-in-aid from the State for public assistance and welfare activities, each county must bear the proportion of the total administrative and program costs for all assistance payments and social services activities as required by Section 26-1-122, C.R.S. C. County departments of social/human services shall comply with all requirements concerning security and case processing for the automated system.	**4.901 ADMINISTRATION OF SNAP** A. SNAP shall be administered in every county of the State in accordance with the Colorado Human Services Code and these rules. B. The program shall be administered by the local offices of social/human services unless the State Department enters into a written agreement with a particular county to have a State-administered program in that county. As a condition for receiving grant-in-aid from the State for PA and welfare activities, each county must bear the proportion of the total administrative and program costs for all assistance payments and social services activities as required by Section 26-1-122, C.R.S. C. Local offices of social/human services shall comply with all requirements concerning security and case processing for the automated system. D. Counties shall receive approval from the state department, prior to using any county-developed forms in the administration of the Program.	Updating Food Assistance to SNAP; standardizing language; and standardizing acronyms	

		D. Counties shall receive approval from the Colorado Department of Human Services, Food Assistance Programs Division, prior to using any county-developed forms in the administration of the Program.			
4.901.1	Program name update; and non-standardized acronyms	**4.901.1 Compliance with State Department** If a county does not comply with the rules of the State Department that govern the administration of the program, which require the establishment of a Food Assistance Program in each county and the payment of the county's share of the cost of the program, the State Department may do one or more of the following: A. Utilize the remedies described in Section 26-1-109(4) (a-e), C.R.S. B. Recover all or part of the county share of the cost of the Food Assistance Program by reducing any other grant-in-aid to the county for public assistance or welfare purposes by a corresponding amount. C. If the county does not comply, judicial enforcement of the order may be pursued under Section 24-4-106(3) C.R.S. D. Take any other appropriate action to enforce compliance with the rules governing the Food Assistance Program.	**4.901.1 Compliance with State Department** If a county does not comply with the rules of the State Department that govern the administration of the program, which require the establishment of a SNAP Program in each county and the payment of the county's share of the cost of the program, the State Department may do one or more of the following: A. Utilize the remedies described in Section 26-1-109(4) (a-e), C.R.S. B. Recover all or part of the county share of the cost of SNAP by reducing any other grant-in-aid to the county for PA or welfare purposes by a corresponding amount. C. If the county does not comply, judicial enforcement of the order may be pursued under Section 24-4-106(3) C.R.S. D. Take any other appropriate action to enforce compliance with the rules governing SNAP.	Updating Food Assistance to SNAP; and standardizing acronyms	
4.902.1	Program name update; non-standardized language; non-standardized acronyms	**4.902.1 County Food Assistance Office** Local offices shall ensure that adequate locations and hours of operation exist to meet the needs of Food Assistance applicants and participants in their areas. Each location shall have ample availability for parking and shall be	**4.902.1 County SNAP Office** Local offices shall ensure that adequate locations and hours of operation exist to meet the needs of SNAP applicants and participants in their areas. Each location shall have ample availability for parking and shall be accessible to persons with disabilities. Hours of operation shall be sufficient to ensure the timely processing of	Updating Food Assistance to SNAP; standardizing	

		accessible to persons with disabilities. Hours of operation shall be sufficient to ensure the timely processing of applications and issuance of Electronic Benefits Transfer (EBT) cards according to existing guidelines. Counties must establish procedures for the operation of the local office that best serve households within that county. The county shall establish procedures to assist households with special needs including, but not limited to, households containing persons who are elderly or persons with disabilities, households in rural areas with low-income members, homeless households, households containing adult members who are not proficient in English, and households containing working persons. A household must apply for the Food Assistance Program in its county of residence. A county that receives an application that belongs to another county may secure the application date, process the application to completion, issue the household an EBT card, and then transfer the case to the correct county once the final eligibility decision is made. If a household is determined eligible for participation, it may request and be designated to receive food benefits from an issuance office that is more accessible. It is possible for an issuance unit in one county office to determine eligibility, authorize food benefits and issue EBT cards to an eligible household that resides in another county in Colorado. Counties may also transfer certification and/or EBT card issuance duties for those households only receiving Food Assistance that live closer to the local office in a neighboring county than the county of residence.	applications and issuance of EBT cards according to existing guidelines. Counties must establish procedures for the operation of the local office that best serve households within that county. The county shall establish procedures to assist households with special needs including, but not limited to, households containing persons who are aged 60 and older or persons with disabilities, households in rural areas with low-income members, homeless households, households containing adult members who are not proficient in English, and households containing working persons. A household must apply for SNAP in its county of residence. A county that receives an application that belongs to another county may secure the application date, process the application to completion, issue the household an EBT card, and then transfer the case to the correct county once the final eligibility decision is made. If a household is determined eligible for participation, it may request and be designated to receive food benefits from an issuance office that is more accessible. It is possible for an issuance unit in one local office to determine eligibility, authorize food benefits and issue EBT cards to an eligible household that resides in another county in Colorado. Counties may also transfer certification and/or EBT card issuance duties for those households only receiving SNAP that live closer to the local office in a neighboring county than the county of residence.	language; standardizing acronyms	

4.902.2	Program name update; and non-standardized language	**4.902.2 Phone Directory Listings** A. Each local office telephone number available to the public shall be listed under each of the following two alphabetical listings: 1. Food assistance certification and issuance office, street address, phone number. If there are separate certification and issuance offices in the county, they may be listed in this manner: County office (certification only) or (issuance only), street address, phone number. 2. (Name of the county) Department of Human/Social Services, county office (certification only) or (issuance only), street address, phone number. B. Each local office shall provide a toll free number or a number where collect calls will be accepted for households outside the local calling area. C. The listings above are not to restrict any other listings that may be provided within the telephone directory, but only to standardize the availability of the Food Assistance Program to the public.	**4.902.2 Phone Directory Listings** A. Each local office telephone number available to the public shall be listed under each of the following two alphabetical listings: 1. SNAP certification and issuance office, street address, phone number. If there are separate certification and issuance offices in the county, they may be listed in this manner: local office (certification only) or (issuance only), street address, phone number. 2. (Name of the county) Department of Human/Social Services, local office (certification only) or (issuance only), street address, phone number. B. Each local office shall provide a toll-free number or a number where collect calls will be accepted for households outside the local calling area. C. The listings above are not to restrict any other listings that may be provided within the telephone directory, but only to standardize the availability of SNAP to the public.	Updating Food Assistance to SNAP; and standardizing language	
4.902.3	Program name update; and non-standardized language	**4.902.3 Certification Personnel and Facilities Requirements** A. County employees assigned to certify households for participation in the Food Assistance Program shall be employed in accordance with the current standards for a merit system personnel administration that is guided by a set of six broad merit	**4.902.3 Certification Personnel and Facilities Requirements** A. County employees assigned to certify households for participation in SNAP shall be employed in accordance with the current standards for a merit system personnel administration that is guided by a set of six broad merit principles outlined in the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728), as amended. The principles cover recruiting,	Updating Food Assistance to SNAP; and standardizing language	

		principles outlined in the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728), as amended. The principles cover recruiting, compensation, training, retention, equal employment opportunity and guidance on political activity. Only such qualified employees shall conduct the interview of applicant households and determine household eligibility or ineligibility and the level of benefits. Copies of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728), as amended, is available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository library. No further amendments or editions are incorporated. B. Every county department must utilize an appropriate amount of the staff allocated to that county department and utilize effective and efficient practices in administering its Food Assistance Program. Facilities must, within available state legislative appropriations and federal and required county matching funds, be of adequate size and layout to assure the privacy necessary to allow workers to conduct confidential interviews and perform other office duties efficiently and effectively.	compensation, training, retention, equal employment opportunity and guidance on political activity. Only such qualified employees shall conduct the interview of applicant households and determine household eligibility or ineligibility and the level of benefits. Copies of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728), as amended, are available for inspection. No further amendments or editions are incorporated. B. Every local office must utilize an appropriate amount of the staff allocated to it and utilize effective and efficient practices in administering SNAP. Facilities must, within available state legislative appropriations and federal and required county matching funds, be of adequate size and layout to assure the privacy necessary to allow workers to conduct confidential interviews and perform other office duties efficiently and effectively.		
4.902.31(A)	Non-standardized language	**4.902.31 Bilingual Staff, Interpreter, and Translator Requirements** A. County departments determined by the State Department to have a significant population of non-English speaking households or households with adult members not fluent in	**4.902.31 Bilingual Staff, Interpreter, and Translator Requirements** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting B and C here, including A] A. Local offices determined by the State Department to have a significant population of non-English speaking	Standardizing language	

		English, shall provide sufficient bilingual staff and/or translators for the timely processing of applications. County staff shall be trained and familiar with these procedures.	households or households with adult members not fluent in English, shall provide sufficient bilingual staff and/or translators for the timely processing of applications. County staff shall be trained and familiar with these procedures.		
4.902.32	Non-standardized language	**4.902.32 Restrictions on Staff** *** C. Any persons or organizations who are parties to a strike or lockout shall not be permitted to interview or certify households or to secure verification required of such households. However, such individuals may be used as a source of verification for information provided by applicant households if, under normal circumstances, they could be expected to be the best verification source. An eligibility worker who is the spouse of a striker is not considered party to a strike, but shall not certify his or her own household. The facilities of persons or organizations who are parties to a strike or lockout may not be used in the certification process or as a site for certification interviews.	**4.902.32 Restrictions on Staff** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections A and B here, including C] *** C. Any persons or organizations who are parties to a strike or lockout shall not be permitted to interview or certify households or to secure verification required of such households. However, such individuals may be used as a source of verification for information provided by applicant households if, under normal circumstances, they could be expected to be the best verification source. An eligibility technician who is the spouse of a striker is not considered party to a strike but shall not certify his or her own household. The facilities of persons or organizations who are parties to a strike or lockout may not be used in the certification process or as a site for certification interviews.	Standardizing language	
4.902.4	Program name update; and non-standardized language	**4.902.4 Supervisory Responsibilities** Supervisory personnel shall review a random sample of current Food Assistance determinations (certifications, denials, and terminations) to determine the correctness of eligibility determinations accomplished. A record of the cases reviewed must be kept for management evaluation/audit purposes. The county must be able to demonstrate to the satisfaction of the State Food Assistance Program that the frequency and scope of the reviews are adequate enough to ensure the integrity of both the	**4.902.4 Supervisory Responsibilities** Supervisory personnel shall review a random sample of current SNAP determinations (certifications, denials, and terminations) to determine the correctness of eligibility determinations accomplished. A record of the cases reviewed must be kept for management evaluation/audit purposes. The county must be able to demonstrate to the satisfaction of the State department that the frequency and scope of the reviews are adequate to ensure the integrity of both the program and recipients. Additionally, the county must demonstrate a consistent process for tracking error trends, correcting case records timely, and providing eligibility technicians an opportunity to improve their program knowledge.	Updating Food Assistance to SNAP; and standardizing language	

		program and recipients. Additionally, the county must demonstrate a consistent process for tracking error trends, correcting case records timely, and providing eligibility technicians an opportunity to improve their program knowledge.			
4.903.1	Program name update; and non-standardized language	**4.903.1 Information Available to the Public** A. Federal regulations, federal procedures embodied in Food and Nutrition Service (FNS) notices and policy memos, the Food Assistance rules, and State Plans of Operation (including specific planning documents such as corrective action plans) shall be available upon request for examination by members of the public during office hours at the State office. Copies of materials are available to recipient organizations, action centers, and other individuals for a minimal printing charge. B. The Food Assistance rules shall be available for examination upon request at each local office within each county. They are also available online through the Secretary of State's official publication of State Agency rules in the Code of Colorado Regulations, accessible at: https://www.sos.state.co.us/CCR/Welcome.do.	**4.903.1 Information Available to the Public** A. Federal regulations, federal procedures embodied in Food and Nutrition Service (FNS) notices and policy memos, the SNAP rules, and State Plans of Operation (including specific planning documents such as corrective action plans) shall be available upon request for examination by members of the public during office hours at the State department. Copies of materials are available to recipient organizations, action centers, and other individuals for a minimal printing charge. B. The SNAP rules shall be available for examination upon request at each local office within each county. They are also available online through the Secretary of State's official publication of State Agency rules in the Code of Colorado Regulations, accessible at: https://www.sos.state.co.us/CCR/Welcome.do.	Updating Food Assistance to SNAP; and standardizing language	
4.903.2	Program name update; and non-standardized language	**4.903.2 Reporting Lawsuits** FNS regulations require prompt notification from the State Department of any lawsuits involving the administration of the Food Assistance Program. As all county Food Assistance Programs are administered under the supervision of the State Department, it is mandatory that	**4.903.2 Reporting Lawsuits** FNS regulations require prompt notification from the State Department of any lawsuits involving the administration of SNAP. As all county SNAP is administered under the supervision of the State Department, it is mandatory that all legal proceedings involving SNAP be brought to the attention of the State department immediately for notification to the	Updating Food Assistance to SNAP; standardizing language	

		all legal proceedings involving the Food Assistance Program be brought to the attention of the State Office immediately for notification to the United States Department of Agriculture, Food and Nutrition Service (USDA, FNS).	United States Department of Agriculture, Food and Nutrition Service (USDA, FNS).		
4.903.3	Program name update; non-standardized language	**4.903.3 Management Evaluations** The Colorado Department of Human Services is responsible for the supervising of the administration of the Food Assistance Program. To ensure compliance with program requirements, the State Office is responsible for conducting Management Evaluation (ME) reviews to measure compliance with the provisions of these rules. The objectives of the ME review system are to: A. Provide a systematic method of monitoring and assessing program operations in the counties; B. Provide a basis for counties to improve and strengthen program operations by identifying and correcting deficiencies; C. Provide a continuing flow of information between the counties, the State Department, and FNS to develop solutions to problems in Program policy and procedures; and, D. Provide a review of target program areas as identified by USDA, FNS.	**4.903.3 Management Evaluations** The state department is responsible for the supervising of the administration of SNAP. To ensure compliance with program requirements, the State department is responsible for conducting Management Evaluation (ME) reviews to measure compliance with the provisions of these rules. The objectives of the ME review system are to: A. Provide a systematic method of monitoring and assessing program operations in the counties; B. Provide a basis for counties to improve and strengthen program operations by identifying and correcting deficiencies; C. Provide a continuing flow of information between the counties, the State Department, and FNS to develop solutions to problems in Program policy and procedures; and, D. Provide a review of target program areas as identified by USDA, FNS.	Updating Food Assistance to SNAP; and standardizing language	
4.903.31	Program name update; and non-standardized language	**4.903.31 Frequency of Reviews** The State Office shall conduct an ME review of all Food Assistance Program operations: A. At least once annually on each large project area containing more	**4.903.31 Frequency of Reviews** The State department shall conduct an ME review of all SNAP operations: A. At least once annually on each large project area containing more than twenty-five thousand and one (25,001) participating households;	Updating Food Assistance to SNAP; and standardizing	

		than twenty-five thousand and one (25,001) participating households; B. At least once every two (2) years on each medium project area containing five thousand (5,000) to twenty-five thousand (25,000) participating households; and, C. At least once every three (3) years on each small project area containing four thousand nine hundred and ninety-nine (4,999) or fewer participating households. The State Office may conduct Management Evaluation reviews on an alternative schedule with the written approval of the USDA, FNS. The State Office may also perform reviews of specific county offices or program elements. The USDA, FNS or the State Office, may identify the need of a special review, or the county department may request a special review. Reviews will generally include all aspects of program administration in the large counties. The reviews may be more limited in scope in the medium and small counties. The USDA, FNS, generally identifies target program areas that it requires for review each fiscal year. The State Office will complete the Management Evaluation report for all counties that are reviewed. The Colorado Department of Human Services, Food Assistance Program, will be responsible for monitoring the county responses to any finding. The county shall be responsible for submitting any factual corrections to the management evaluation review within twenty (20) state working days, and shall submit a final plan to correct all other cited deficiencies within twenty (20) state	B. At least once every two (2) years on each medium project area containing five thousand (5,000) to twenty-five thousand (25,000) participating households; and, C. At least once every three (3) years on each small project area containing four thousand nine hundred and ninety-nine (4,999) or fewer participating households. The State department may conduct Management Evaluation reviews on an alternative schedule with the written approval of the USDA, FNS. The State department may also perform reviews of specific local offices or program elements. The USDA, FNS or the State department, may identify the need of a special review, or the local office may request a special review. Reviews will generally include all aspects of program administration in the large counties. The reviews may be more limited in scope in the medium and small counties. The USDA, FNS, generally identifies target program areas that it requires for review each fiscal year. The State department will complete the Management Evaluation report for all counties that are reviewed and will be responsible for monitoring the county responses to any finding. The county shall be responsible for submitting any factual corrections to the management evaluation review within twenty (20) state working days and shall submit a final plan to correct all other cited deficiencies within twenty (20) state working days of receiving the review. The response shall include specific actions, persons responsible for implementation, and date for completion. When the review identifies ongoing problems in critical areas, the county response shall also include a method for monitoring implementation of the plan and reporting progress to the State department on at least a quarterly basis.	language	

		working days of receiving the review. The response shall include specific actions, persons responsible for implementation, and date for completion. When the review identifies ongoing problems in critical areas, the county response shall also include a method for monitoring implementation of the plan and reporting progress to the State Office on at least a quarterly basis.			
4.903.32	Non-standardized language	**4.903.32 Compliance Action for Management Evaluation Reviews** The State Office is the designated entity responsible for ensuring that corrective action is taken at the state and/or county level on the deficiencies found by the Management Evaluation (ME) Reviews. The State may impose fiscal sanctions on counties that do not make good-faith efforts to address ongoing problems in critical areas. Fiscal sanctions may be imposed in accordance with Section 4.901.1, which requires local offices to operate the program in accordance with state rules.	**4.903.32 Compliance Action for Management Evaluation Reviews** The State department is the designated entity responsible for ensuring that corrective action is taken at the state and/or county level on the deficiencies found by the Management Evaluation (ME) Reviews. The State may impose fiscal sanctions on counties that do not make good-faith efforts to address ongoing problems in critical areas. Fiscal sanctions may be imposed in accordance with Section 4.901.1, which requires local offices to operate the program in accordance with state rules.	Standardizing language	
4.903.4	Program name update	**4.903.4 Quality Assurance Reviews** Quality assurance reviews are conducted during the annual federal quality assurance review period, which is the twelve (12) month period from October 1 of each calendar year through September 30 of the following calendar year. A statistically random sample of households is selected from two (2) different categories: households that were participating in the Food Assistance Program (active cases) and households for which participation was suspended, denied, or terminated (negative cases). A. Quality Assurance reviews are federally mandated to provide:	**4.903.4 Quality Assurance Reviews** Quality assurance reviews are conducted during the annual federal quality assurance review period, which is the twelve (12) month period from October 1 of each calendar year through September 30 of the following calendar year. A statistically random sample of households is selected from two (2) different categories: households that were participating in SNAP (active cases) and households for which participation was suspended, denied, or terminated (negative cases). A. Quality Assurance reviews are federally mandated to provide: 1.A systematic method of measuring the validity of the SNAP caseload; 2. A basis for determining error rates;	Updating Food Assistance to SNAP	

		1. A systematic method of measuring the validity of the Food Assistance Program caseload; 2. A basis for determining error rates; 3. A timely and continuous flow of information on which to base corrective action at all levels of administration; and, 4. A basis for establishing liability for errors that exceed the federal error rate target and the State's eligibility for an increased share of federal administrative funding and/or federal high performance bonuses. B. Reviews are conducted on: 1. Active cases to determine if the household is eligible and, if eligible, whether the household is receiving the correct Food Assistance benefits. 2. Negative cases to determine if households that were suspended, denied, or terminated were, in fact, not eligible to participate in the Food Assistance Program and that the household received an accurate, timely notice. For initial applications, the notice shall be considered timely if the household is notified of the negative action within the application processing timeframes outlined in Section 4.205.2. For recertification applications, the notice shall be considered timely if the household is notified of the	3. A timely and continuous flow of information on which to base corrective action at all levels of administration; and, 4. A basis for establishing liability for errors that exceed the federal error rate target and the State's eligibility for an increased share of federal administrative funding and/or federal high-performance bonuses. B. Reviews are conducted on: 1. Active cases to determine if the household is eligible and, if eligible, whether the household is receiving the correct SNAP benefits. 2. Negative cases to determine if households that were suspended, denied, or terminated were, in fact, not eligible to participate in SNAP and that the household received an accurate, timely notice. For initial applications, the notice shall be considered timely if the household is notified of the negative action within the application processing timeframes outlined in Section 4.205.2. For recertification applications, the notice shall be considered timely if the household is notified of the negative action in accordance with the processing timeframes outlined in Section 4.209.1. When notifying a household of a change in its benefits, the notice shall be considered timely if the household is notified of the negative action in accordance with the timeframes outlined in Section 4.608. C. Definitions 1. An “active case” means a household that was certified prior to or during the sample month and issued SNAP benefits for the sample month. The review of an active case includes: a household case record review, a field investigation, an error analysis, and the reporting of review findings. 2. A “negative case” means a household which was denied certification to receive SNAP benefits in the sample month or which had its participation		

		negative action in accordance with the processing timeframes outlined in Section 4.209.1. When notifying a household of a change in its benefits, the notice shall be considered timely if the household is notified of the negative action in accordance with the timeframes outlined in Section 4.608. C. Definitions 1. An “active case” means a household that was certified prior to or during the sample month and issued Food Assistance Program benefits for the sample month. The review of an active case includes: a household case record review, a field investigation, an error analysis, and the reporting of review findings. 2. A “negative case” means a household which was denied certification to receive Food Assistance Program benefits in the sample month or which had its participation in the Food Assistance Program suspended, denied, or terminated effective for the sample month. The review of a negative case includes: a. A household case record review; b. An error analysis; c. Client notification; and, d. The reporting of review findings.	in SNAP suspended, denied, or terminated effective for the sample month. The review of a negative case includes: a. A household case record review; b. An error analysis; c. Client notification; and, d. The reporting of review findings.		

4.903.42	Program name update	**4.903.42 Refusal to Cooperate with Quality Assurance Review** Households selected for review are required to cooperate with federal and state Quality Assurance review processes. Households that refuse to cooperate in a Quality Assurance review shall be declared ineligible for Food Assistance Program benefits. The State Quality Assurance reviewer shall notify the local office of the household's refusal to cooperate in the review process, including each individual who refused, on the State-prescribed Quality Assurance reporting form(s), and the local office shall document the refusal to cooperate in the statewide automated system. A. Within ten (10) calendar days from the date of receipt of Quality Assurance's notification of the household's refusal to cooperate, the local office shall take action to disqualify or terminate the entire household from participation in the Food Assistance Program and each household member who refused to cooperate shall be entered into the automated system to initiate a period of ineligibility. The period of ineligibility is as follows: 1. For refusal to cooperate with a State Quality Assurance review, the period of ineligibility shall exist for the remainder of the current federal fiscal year plus one hundred twenty five (125) days, and shall expire on February 2 of that federal fiscal year. 2. For refusal to cooperate with a Federal Quality Assurance review, the period of ineligibility	**4.903.42 Refusal to Cooperate with Quality Assurance Review** [PUBLISHER NOTE NOT FOR PUBLICATION: We are omitting sections B and C here, including A] Households selected for review are required to cooperate with federal and state Quality Assurance review processes. Households that refuse to cooperate in a Quality Assurance review shall be declared ineligible for SNAP benefits. The State Quality Assurance reviewer shall notify the local office of the household's refusal to cooperate in the review process, including everyone who refused, on the State-prescribed Quality Assurance reporting form(s), and the local office shall document the refusal to cooperate in the statewide automated system. A. Within ten (10) calendar days from the date of receipt of Quality Assurance's notification of the household's refusal to cooperate, the local office shall take action to disqualify or terminate the entire household from participation in SNAP and each household member who refused to cooperate shall be entered into the automated system to initiate a period of ineligibility. The period of ineligibility is as follows: 1. For refusal to cooperate with a State Quality Assurance review, the period of ineligibility shall exist for the remainder of the current federal fiscal year plus one hundred twenty-five (125) days, and shall expire on February 2 of that federal fiscal year. 2. For refusal to cooperate with a Federal Quality Assurance review, the period of ineligibility shall exist for the remainder of the current federal fiscal year plus nine (9) months and shall expire on June 30 of that federal fiscal year. ***	Updating Food Assistance to SNAP	

		shall exist for the remainder of the current federal fiscal year plus nine (9) months, and shall expire on June 30 of that federal fiscal year. ***			
4.903.43	Non-standardized language	**4.903.43 Quality Assurance Findings and Required Responses** Quality Assurance shall notify local offices on State-prescribed forms of the review findings for each sampled active and negative case. Brief descriptions of the review findings shall be given with references to applicable rule sections. A. When the review findings document no error and/or only other observations have been noted, a response is not required by the local office; however, any observation that affects the payment accuracy must be corrected and a claim or restoration established in accordance with Sections 4.801.2 and 4.702. The report of review findings shall be retained in the case record. B. When the review findings document that an error resulted in ineligibility over-issuance, under-issuance, or an incorrect negative action, the local office shall respond to the review findings by completing the State-prescribed form documenting the corrective action taken or rebutting the amount or finding of error. The response shall be forwarded to the State Food Assistance Program Division within ten (10) calendar days from receipt of the Quality Assurance review finding notification. C. Upon receiving the local office's response to the Quality Assurance	**4.903.43 Quality Assurance Findings and Required Responses** Quality Assurance shall notify local offices on State-prescribed forms of the review findings for each sampled active and negative case. Brief descriptions of the review findings shall be given with references to applicable rule sections. A. When the review findings document no error and/or only other observations have been noted, a response is not required by the local office; however, any observation that affects the payment accuracy must be corrected and a claim or restoration established in accordance with Sections 4.801.2 and 4.702. The report of review findings shall be retained in the case record. B. When the review findings document that an error resulted in ineligibility over-issuance, under-issuance, or an incorrect negative action, the local office shall respond to the review findings by completing the State-prescribed form documenting the corrective action taken or rebutting the amount or finding of error. The response shall be forwarded to the state department within ten (10) calendar days from receipt of the quality assurance review finding notification. C. Upon receiving the local office's response to the Quality Assurance review findings, the State department shall review the action taken by the local office and either concur with the Quality Assurance findings; concur with the local office rebuttal; or concur/disagree with the corrective action taken by the local office.	Standardizing language	

		review findings, the State Office shall review the action taken by the local office and either concur with the Quality Assurance findings; concur with the local office rebuttal; or concur/disagree with the corrective action taken by the local office.			
4.904	Section of rule irrelevant to administration of program in Colorado **4.904.1** **4.904.**	**4.904 FEDERAL ADMINISTRATION AND RESPONSIBILITIES** **4.904.1 Federal Sanctions** If FNS determines that there has been negligence or fraud involved in the certification of applicant households on the part of the state or local office, the State agency shall, on demand, following exhaustion of its appellate rights, pay to FNS, a sum equal to the amount of benefits issued as a result of such negligence or fraud. FNS claims against state agencies may be a result of financial losses involved in the acceptance, storage, and issuance of benefits, charges of negligence, and disallowance of federal funds for state agency failure of operation. The provisions for determining and establishing a claim against state agencies or the disallowance of federal funds are outlined within Section 3 of Title 7, Part 276, Chapter II, Sub-chapter C, Code of Federal Regulations, as of February 5, 2014; no later amendments or editions of this section are incorporated. Copies of these federal laws are available from the Colorado Department of Human Services, Food Assistance Program, 1575 Sherman Street, Denver, Colorado 80203. If county administration has resulted in the FNS finding of negligence or fraud, a claim for the amount of loss will subsequently be made against the responsible Food Assistance agency. **4.904.2 Civil Rights Reviews Retailer Authorization**		Removal of irrelevant section of rule	

		The FNS field office located in the Denver area conducts statewide civil rights reviews of local offices. Both state and local offices shall ensure that all staff responsible for the administration, issuance, review, and eligibility determination of the Food Assistance Program are knowledgeable about civil rights procedures and able to assist program recipients with the filing of civil rights complaints. These procedures must be reviewed with staff annually.			
	4.904.	**4.904.3 Retailer Authorization** The Food and Nutrition Service (FNS) field office is responsible for authorizing retailers to accept Food Assistance benefits and enforcing retailer compliance of Program rules. Retailers must be authorized by USDA, FNS to be eligible to accept Food Assistance benefits for eligible food purchases. All FNS-authorized retailers must comply with USDA, FNS regulations regarding acceptance and deposit of Food Assistance benefits.			
	4.904.	**4.904.4 Program Reduction, Suspension, or Cancellation** The Food and Nutrition Act of 2008 directs the Secretary of Agriculture to reduce, suspend, or cancel Food Assistance benefits if it is necessary to keep Program spending within the limits set by Congress. Upon notification from FNS, the State office shall instruct local offices to reduce, suspend, or cancel Food Assistance benefits for one or more months. Local offices shall take immediate action in accordance with the following procedures:			

		A. Reduction of Benefits If the State office instructs the local offices to reduce monthly Food Assistance allotments, the State shall notify the local offices of the date the reduction is to take effect. If an allotment reduction is necessary, allotments shall be reduced for each household size by the same percentage. If a benefit reduction is necessary, all households shall be guaranteed a minimum allotment allowed for one- and two-person households, unless the reduction is ninety percent (90%) or more. Revised issuance tables reflecting the percentage of reduction shall be provided to all local offices. B. Suspension and Cancellation If the State Office instructs the county local offices to suspend or cancel Food Assistance Program benefits, the county local offices shall be informed of the date that the suspension or cancellation shall take effect. Upon receipt of this date, the counties shall take immediate action to affect the suspension or cancellation. This action shall include notification of certification and issuance personnel, as well as eligible households. In the event that cancellation or suspension of benefits is necessary, the provision for the minimum benefit level shall be disregarded and all households shall have their benefits suspended or cancelled. If allotments are cancelled or suspended, local offices shall			

		record the monthly allotment the household was entitled to receive prior to cancellation or suspension.			
	4.904.	**4.904.41 Affected Allotments** Whenever suspension or cancellation of allotments is ordered for a particular month, it shall affect all households. If a reduction is ordered, reduced benefits shall be calculated for all households for the designated month. However, all one- or two-person households shall be guaranteed a minimum allotment, as outlined in Section 4.207.3, unless the reduction is ninety percent (90%) or more. Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month would not be reduced, suspended, or cancelled, even though they are issued during a month in which cancellation, suspension, or reduction is in effect.			
	4.904.	**4.904.42 Notification to Households** Reduction, cancellation, or suspension shall be considered a mass change and shall not require advance notice of adverse action; however, the household shall be notified by announcements through the news media or a general notice may be handed out or mailed to affected participant households.			
	4.904.	**4.904.43 Restoration of Cancelled or Reduced Benefits** Households whose allotments are reduced or cancelled as a result of the enactment of these procedures are not entitled to the restoration of the lost benefits at a later date unless surplus funds are remaining after the reduction or cancellation. These surplus funds may be re-			

		stored to affected households if a directive is issued by the Secretary of Agriculture. In the event of the issuance of a directive to issue restored benefits, the local office must work promptly to issue them. In any event, the local office shall have issuance services to serve households receiving restored or retroactive benefits for a prior, unaffected month.			
	4.904.	**4.904.44 Effects of Reduction, Suspension, and Cancellation on the Certification of Eligible Households** In the event that cancellation, suspension, or reduction is ordered by the State, the following shall apply: A. Determinations of eligibility of applicant households shall not be affected. B. Local offices shall continue to accept and process applications in accordance with standard certification procedures. C. If a reduction of program benefits is in effect, and an applicant is found to be eligible, the amount of benefits will be determined by using the revised issuance tables, and shall be recorded in accordance with provisions in Section 4.904.4. If reduction or suspension of program benefits is in effect, and a household is found to be eligible for expedited service application processing, the application will be processed in accordance with procedures in Section 4.205.1. If a cancellation of program benefits is in effect, households shall receive expedited service; however, the deadlines for completing the processing shall be the end of the month of application or five (5) calendar days, whichever date is later.			

		E. If an applicant household is found to be eligible for benefits while a suspension or cancellation is in effect, no benefits shall be issued to the applicant household. However allotment levels shall be calculated and recorded accordance with Section 4.904.4. F. Reduction, suspension or cancellation of allotments shall have no effect on certification periods assigned to households prior to the reduction, suspension, or cancellation of the program. G. Participating households whose certification periods expire during a month in which allotments have been reduced, suspended, or cancelled shall be recertified in accordance with normal procedures. H. Households found eligible to participate during a month in which allotments have been reduced, suspended, or cancelled shall have certification periods assigned in accordance with Section 4.208.1.			
	4.904	**4.904.45 Fair Hearings When Program Reductions, Suspensions, or Cancellations Occur** Any household that had its allotment reduced, suspended, or cancelled as a result of implementation of the procedures for reduction, suspension, or cancellation may request a fair hearing if it disagrees with the action; however, the household does not have a right to continuation of benefits. A household may receive retroactive benefits if it is determined that its benefits were reduced by more than the amount the local offices were directed to reduce benefits. The Colorado Department of Human Services, Office of Appeals, may deny fair			

		hearings to those households that are disputing the fact that a statewide reduction, cancellation, or suspension was ordered. The Office of Appeals is not required to hold a fair hearing unless the request is based on a household's belief that its benefit level was computed incorrectly under these rules or that the rules were misapplied.			
4.905	Program name update; and incorrect numbering	**4.905 OUTREACH** Outreach activities performed by state and local personnel shall be ineligible for federal matching funds. Although activities to recruit participation in the Food Assistance Program are prohibited, all local offices shall perform program informational activities. Program informational activities are those activities that convey information about the Food Assistance Program, including household rights and responsibilities to applicant and participant households through means such as publications, telephone hotlines and face-to-face contacts. All program informational material shall be available in languages other than English and shall include a statement that the program is available to all without regard to race, color, sex, age, mental or physical disability, religious creed, national origin, or political belief.	**4.904 OUTREACH** Outreach activities performed by state and local personnel shall be ineligible for federal matching funds. Although activities to recruit participation in SNAP are prohibited, all local offices shall perform program informational activities. Program informational activities are those activities that convey information about SNAP, including household rights and responsibilities to applicant and participant households through means such as publications, telephone hotlines and face-to-face contacts. All program informational material shall be available in languages other than English and shall include a statement that the program is available to all without regard to race, color, sex, age, mental or physical disability, religious creed, national origin, or political belief.	Updating Food Assistance to SNAP; and updating numbering due to deletion of previous section	
4.906	Program name update; incorrect numbering; and non-standardized language	**4.906 D-SNAP** D-SNAP, or the Disaster Supplemental Nutritional Assistance Program, may be implemented as a result of a “major disaster” or “temporary emergency” to provide temporary assistance to households affected by these misfortunes. A Presidential disaster declaration for individual assistance must be declared for the affected areas to be	**4.906 D-SNAP** D-SNAP, or the Disaster Supplemental Nutritional Assistance Program, may be implemented as a result of a “major disaster” or “temporary emergency” to provide temporary assistance to households affected by these misfortunes. A Presidential disaster declaration for individual assistance must be declared for the affected areas to be eligible for D-SNAP. A “major disaster” is any hurricane, tornado, storm, flood,	Updating Food Assistance to SNAP; standardizing language; and renumbering due to deletion of previous section	

		eligible for D-SNAP. A “major disaster” is any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe that is determined to be a major disaster by the President pursuant to the Disaster Relief Act of 1974, Section 302(a). A similar definition is provided under State law in 24-33.5-703, C.R.S. A “temporary emergency” means an emergency caused by any disaster, resulting from either natural or human causes, other than a major disaster as declared by the President under the Disaster Relief Act of 1974, Section 302(a), which is determined by FNS to have disrupted commercial channels of food distribution. In such Presidentially-declared disasters, emergency Food Assistance allotments can be authorized by the USDA, FNS. In Colorado, the Governor can accept such federal assistance on behalf of the state if he/she determines and declares a major disaster. When authorized by the Governor and FNS, the Colorado Department of Human Services may authorize those counties, within which all or part of the disaster area lies, to distribute emergency Food Assistance allotments in those areas. The state shall provide special certification material and forms designed for certification of disaster victims. Certification shall be done for households that are victims of a disaster that disrupts commercial channels of food distribution; if such households are in need of temporary Food Assistance and if commercial channels of food distribution have again become available to meet the temporary food needs of those	high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe that is determined to be a major disaster by the President pursuant to the Disaster Relief Act of 1974, Section 302(a). A similar definition is provided under State law in 24-33.5-703, C.R.S. A “temporary emergency” means an emergency caused by any disaster, resulting from either natural or human causes, other than a major disaster as declared by the President under the Disaster Relief Act of 1974, Section 302(a), which is determined by FNS to have disrupted commercial channels of food distribution. In such Presidentially declared disasters, emergency SNAP allotments can be authorized by the USDA, FNS. In Colorado, the Governor can accept such federal assistance on behalf of the state if he/she determines and declares a major disaster. When authorized by the Governor and FNS, the state department may authorize those counties, within which all or part of the disaster area lies, to distribute emergency SNAP allotments in those areas. The state shall provide special certification material and forms designed for certification of disaster victims. Certification shall be done for households that are victims of a disaster that disrupts commercial channels of food distribution; if such households need temporary SNAP and if commercial channels of food distribution have again become available to meet the temporary food needs of those households.		

		households.			

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):

SNAP Regulation Workgroup including stakeholders from local offices and advocacy partners including Hunger Free Colorado and Colorado Center on Law and Policy.

This Rule-Making Package

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

Other State Agencies

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

☐ Yes ☐ No

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

Sub-PAC

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

☐ Yes ☐ No

Name of Sub-PAC			
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

☐ Yes ☐ No

Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

☐ Yes ☐ No

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

DEPARTMENT OF HUMAN SERVICES

SUPPLEMENTAL NUTRITION ~~Food~~ Assistance Program (SNAP)

RULE MANUAL VOLUME 4,~~B, FOOD ASSISTANCE~~ SNAP

10 CCR 2506-1

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

~~**HISTORICAL RECORD OF STATEMENT OF BASIS AND PURPOSE, FISCAL IMPACT/REGULATORY ANALYSIS AND SPECIFIC STATUTORY AUTHORITY OF REVISIONS MADE TO STAFF MANUAL VOLUME 4B FOOD STAMPS**~~

~~Revisions to sections B-4223.1, B-4223.4, B-4223.5, B-4230 and B-4515.1 were adopted on an emergency and final basis at the 11/1/85 State Board meeting, with an effective date of 11/1/85 (Document 9). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4216.4, B-4216.41, B-4220.6, B-4223.5, B-4240, and B-4242.12 were finally adopted at the 11/1/85 State Board meeting, with an effective date of 1/1/86 (Document 8). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4225.4 and B-4225.5 were adopted on an emergency basis at the 12/6/85 meeting, with an effective date of 12/6/85 (Document 6). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4213, B-4213.2, and B-4213.32 were adopted at the 12/6/85 meeting, with an effective date of 2/1/86 (Document 5). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4217, B-4217.1, B-4217.2, B-4221.11, B-4221.21, B-4221.24, B-4221.25, B-4222.6, B-4222.7, and B-4310 were finally adopted at the 1/3/86 meeting, with an effective date of 3/1/86 (Document 6). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4225.4 and B-4225.5 were extended as permanent rules at the 1/3/86 meeting, with an effective date of 3/6/86 (Document 5). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are~~

~~available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to Sections B-4014, B-4014.66, B-4220.4, were finally adopted following publication at the 2/7/86 meeting, with an effective date of 4/1/86 (Document 1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to Sections B-4311.5 - Cont., B-4311.51 - Concl. B-4317, B-4317.1, B-4317.6 - Concl., were emergency adopted at the 4/11/86 meeting, with an effective date of 4/11/86 (Document 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4014 - B-4014.3, B-4014.66 - B-4015.5, B-4220.4 - B-4220.6, were finally adopted following publication at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 8). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4216.4 - Cont. - B-4216.4 - Cont., were emergency adopted at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 12). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4222.7 - B-4223.2, B-4223.31 - B-4223.5, B-4224 - B-4224.3, B-4225.9 - B-4230.1, B-4242 - B-4242.2, B-4311.51 - Concl., were emergency adopted at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4713.1 - B-4714-Concl., B-4742.11 - B-4742.15-Concl., were finally adopted following publication at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 6). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4225.4, B-4242, B-4242.1, B-4242.12, B-4242.13, B-4242.2, B-4242.21, B-4242.3, B-4242.31, B-4242.32, B-4430.1, B-4430.2, B-4515.1, were finally adopted following publication at the 6/6/86 meeting, with an effective date of 8/1/86 (Documents 4, 6, 10, 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4110; B-4220.11 - B-4220.12; were emergency adopted at the 7/11/86 meeting, with an effective date of 7/11/86 (Document 2). Statement of Basis and Purpose, Fiscal Impact, and spe-~~

cific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4011.1, B-4011.6, B-4012, B-4015.2, B-4110.1, B-4221, B-4225, B-4243.3, B-4311.5, B-4317, and B-4321, were finally adopted following publication at the 9/5/86 meeting, with an effective date of 11/1/86 (Document 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4110, B-4211, B-4217, B-4220, B-4223.51, B-4223.52, B-4240.1, and B-4311.5, were finally emergency adopted at the 9/5/86 meeting, with an effective date of 9/5/86 (Document 15). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4011.1, B-4011.2, B-4011.3, B-4209, B-4211.1, B-4213, B-4220, B-4223, B-4224, B-4230, and B-4242.2 were emergency adopted at the 10/3/86 meeting, with an effective date of 10/3/86 (Documents 12 and 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4011.1, B-4011.22, B-4011.3, B-4209, B-4211.1, B-4213, B-4220, B-4220.1, B-4223.31, B-4223.1, B-4223.4, B-4223.5, B-4224, B-4230, and B-4242.2, were finally adopted emergency at the 11/7/86 meeting, with an effective date of 10/3/86 (Documents 9, 10). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions, additions, and deletions to sections B-4217, B-4221.24, B-4222.6, B-4242.2, B-4242.3, B-4430.1, B-4430.22, B-4430.25, B-4714, and B-4742.11, were finally adopted at the 12/5/86 State Board meeting, with an effective date of 2/1/87 (Document 4). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4213 and B-4223.4 were emergency adopted at the 1/21/87 State Board meeting, with an effective date of 1/21/87 (Document 2). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4014.2, B-4014.3, B-4220.6, B-4220.7, B-4222.6, B-4242.2, B-4311.4, B-4317.3, and B-4515.1 were finally adopted following publication at the 2/6/87 State Board meeting, with an effective date of 4/1/87 (Documents 10, 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are

~~available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4213 and B-4223.4 were finally adopted emergency at the 2/6/87 State Board meeting, with an effective date of 1/21/87 (Document 12). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4212, B-4216.2 and B-4222.6 were adopted emergency at the 3/6/87 State Board meeting, with an effective date of 3/6/87 (Documents 6 and 16). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4212, B-4216.2 and B-4222.6 were finally adopted emergency at the 4/3/87 State Board meeting, with an effective date of 3/6/87 (Document 14). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4500, B-4511 and applicable forms were finally adopted following publication at the 4/3/87 State Board meeting, with an effective date of 6/1/87 (Document 12). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to section B-4316 were emergency adopted at the 4/3/87 State Board meeting, with an effective date of 4/3/87 (Document 15). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4216 and B-4316 were finally adopted emergency at the 5/1/87 State Board meeting, with an effective date of 3/6/87 (Document 15) and 4/3/87 (Document 14). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4215 through B-4216 were finally adopted following publication at the 6/5/87 State Board meeting, with an effective date of 8/1/87 (Document 1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4110, B-4220, and B-4223.5 were emergency adopted at the 6/5/87 State Board meeting, with an effective date of 6/5/87 (Documents 5 and 7). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule.~~

~~These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4110, B-4220, and B-4223.5 were finally adopted emergency at the 7/10/87 State Board meeting, with an effective date of 6/5/87 (Documents 14 and 16). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4010, B-4011, B-4013, B-4014, B-4214, B-4215 through B-4216, B-4220 through B-4221, B-4430, and B-4821 through B-4832 were finally adopted following publication at the 7/10/87 State Board meeting, with an effective date of 9/1/87 (Documents 12 and 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to section B-4212 were adopted emergency at the 7/10/87 State Board meeting, with an effective date of 7/10/87 (Document 17). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to section B-4212 were finally adopted emergency at the 8/7/87 State Board meeting, with an effective date of 7/10/87 (Document 17). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to section B-4010, B-4011, B-4213, B-4220, B-4221, B-4222, and B-4225 were finally adopted following publication at the 9/11/87 State Board meeting, with an effective date of 11/1/87 (Document 8 and 17). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to section B-4212, B-4222, B-4223, and B-4225 were emergency adopted at the 9/11/87 State Board meeting, with an effective date of 9/11/87 (Documents 12 and 27). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4223 and B-4230 were finally adopted emergency at the 10/2/87 State Board meeting, with an effective date of 10/1/87 (Document 3). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4111 through B-4121, B-4216 through B-4217, B-4224, B-4400 through B-4410, B-4514 through B-4515, and B-4723 through B-4740 were finally adopted following publication at the~~

~~10/2/87 State Board meeting, with an effective date of 12/1/87 (Documents 1 and 2). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4100 through B-4110.2 were adopted emergency at the 10/2/87 State Board meeting, with an effective date of 10/1/87 (Document 4). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4100 through B-4110.2 were finally adopted emergency at the 11/6/87 State Board meeting, with an effective date of 10/1/87 (Document 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4212 were emergency and final adopted at the 11/6/87 State Board meeting, with an effective date of 11/6/87 (Document 15). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4013, B-4111 through B-4121, B-4224, B-4318 through B-4319, B-4321 through B-4322, B-4410 through B-4425, B-4430, and B-4524 were finally adopted following publication at the 11/6/87 State Board meeting, with an effective date of 1/1/88 (Document 10). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4011 and B-4220 were emergency adopted at the 11/6/87 State Board meeting, with an effective date of 11/6/87 (Documents 16 and 23). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4011 and B-4220 were finally adopted emergency at the 12/4/87 State Board meeting, with an effective date of 11/6/87 (Documents 8 and 9). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4212, B-4221, B-4222 and B-4223 were finally adopted following publication at the 12/4/87 State Board meeting, with an effective date of 2/1/88 (Document 6). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4011, B-4014, B-4200, B-4220 - B-4221, B-4223, B-4242, B-4425, B-4427 - B-4428, B-4430, and B-4540 were finally adopted following publication at the 1/8/88 State Board meeting, with an effective date of 3/1/88 (Documents 6 and 7). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4222.7 through B-4223.2 were adopted emergency at the 2/5/88 State Board meeting (CSPR# 87-12-21-1), with an effective date of 2/5/88. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4222.7 through B-4223.2 were finally adopted emergency at the 3/4/88 State Board meeting (CSPR# 87-12-21-1), with an effective date of 2/5/88. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to section B-4222.7 through B-4223 were adopted emergency at the 3/4/88 State Board meeting (CSPR# 88-1-20-1), with an effective date of 3/4/88. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4222.7 through B-4223 were final adoption of emergency at the 4/1/88 State Board meeting, with an effective date of 3/4/88 (CSPR# 88-1-20-1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.~~

~~Revisions to sections B-4014, B-4015, B-4215, B-4216, B-4220, B-4221, B-4222, B-4225 and B-4319 were finally adopted following publication at the 5/6/88 State Board meeting, with an effective date of 7/1/88 (CSPR# 88-2-12-1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4713 - B-4714 and B-4742 were finally adopted following publication at the 6/3/88 State Board meeting, with an effective date of 8/1/88 (CSPR# 88-3-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4316 were adopted emergency at the 6/3/88 State Board meeting, with an effective date of 6/3/88 (CSPR# 88-4-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4316 were final adoption of emergency at the 7/8/88 State Board meeting, with an effective date of 6/3/88 (CSPR# 88-4-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4011 were finally adopted following publication at the 7/8/88 State Board meeting, with an effective date of 9/1/88 (CSPR# 88-4-20-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4212, B-4215, and B-4222 were final adoption following publication at the 8/5/88 State Board meeting, with an effective date of 10/1/88 (CSPR#'s 88-1-15-2, 88-3-8-1 and 88-5-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services~~

~~Revisions to sections B-4100 - B-4110, B-4220, B-4222, B-4223, and B-4225 - B-4230 were emergency adopted at the 9/9/88 State Board meeting, with an effective date of 9/1/88 (CSPR# 88-8-12-2) and effective date of 10/1/88 (CSPR# 88-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 - B-4110, B-4220, B-4222, B-4223, and B-4225 - B-4230 were final adoption of emergency at the 10/7/88 State Board meeting, with an effective date of 9/1/88 (CSPR# 88-8-12-2) and effective date of 10/1/88 (CSPR# 88-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections Table of Contents, B-4215, B-4216 and Form. FS-4J were final adoption following publication at the 11/4/88 State Board meeting, with an effective date of 1/1/89 (CSPR#'s 88-6-28-2 and 88-8-24-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4013, B-4215, and B-4216 were emergency adopted at the 12/2/88 State Board meeting, with an effective date of 12/2/88 (CSPR# 88-9-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4013, B-4215, and B-4216 were final adoption of emergency at the 1/6/89 State Board meeting, with an effective date of 12/2/88 (CSPR# 88-9-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4014 and B-4220 - B-4221 were adopted emergency at the 1/6/89 State Board meeting, with an effective date of 1/6/89 (CSPR# 88-11-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4014 and B-4220 - B-4221 were final adoption of emergency at the 2/3/89 State Board meeting, with an effective date of 1/6/89 (CSPR# 88-11-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4110 - B-4121 and B-4221 were adopted emergency at the 2/3/89 State Board meeting, with an effective date of 2/1/89 (CSPR# 88-12-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4110 - B-4121 and B-4221 were final adoption of emergency at the 3/3/89 State Board meeting, with an effective date of 2/1/89 (CSPR# 88-12-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4010, B-4011, B-4111 - B-4121, B-4212, B-4222, B-4223, B-4318 - B-4319, and forms following section B-4515 were adopted emergency at the 3/3/89 State Board meeting, with an effective date of 3/3/89 (CSPR#'s 88-12-5-1 and 89-1-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4010, B-4011, B-4111 - B-4121, B-4212, B-4222, B-4223, B-4318 - B-4319, and forms following section B-4515 were final adoption of emergency at the 4/7/89 State Board meeting, with an effective date of 3/3/89 (CSPR#'s 88-12-5-1 and 89-1-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011, B-4230, and B-4410 were adopted emergency at the 4/7/89 State Board meeting, with an effective date of 5/1/89 (CSPR# 89-3-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011, B-4230, and B-4410 were final adoption of emergency at the 5/5/89 State Board meeting, with an effective date of 5/1/89 (CSPR# 89-3-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4642 through B-4644, B-4713 through B-4716, and B-4812 through B-4820 were adopted emergency at the 6/2/89 State Board meeting, with an effective date of 6/2/89 (CSPR# 89-5-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4642 through B-4644, B-4713 through B-4716, and B-4812 through B-4820 were final adoption of emergency at the 7/7/89 State Board meeting, with an effective date of 6/2/89 (CSPR# 89-5-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4400 through B-4428 and B-4430 were adopted emergency at the 7/7/89 State Board meeting, with an effective date of 7/1/89 (CSPR# 89-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4400 through B-4428 and B-4430 were adopted emergency and final at the 8/4/89 State Board meeting, with an effective date of 7/1/89 (CSPR# 89-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4010, B-4011, B-4100 - B-4110, B-4222 - B-4223, B-4225, B-4242 and B-4518 - B-4519 were adopted emergency at the 8/4/89 State Board meeting, with an effective date of 8/4/89 (CSPR#'s 89-7-14-1 and 89-7-19-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4010, B-4011, B-4100 - B-4110, B-4222 - B-4223, B-4225, B-4242 and B-4518 - B-4519 were final adoption of emergency at the 9/8/89 State Board meeting, with an effective date of 8/4/89 (CSPR#'s 89-7-14-1 and 89-7-19-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 - B-4110, B-4220, B-4222 - B-4223, and B-4225 - B-4230 were adopted emergency at the 9/8/89 State Board meeting, with an effective date of 10/1/89 (CSPR# 89-8-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 - B-4110, B-4220, B-4222 - B-4223, and B-4225 - B-4230 were final adoption of emergency at the 10/6/89 State Board meeting, with an effective date of 10/1/89 (CSPR# 89-8-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4740 - B-4742 were adopted emergency at the 10/6/89 State Board meeting, with an effective date of 10/6/89 (CSPR# 89-8-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4330 - B-4331 and B-4740 - B-4742 were adopted emergency and final at the 11/3/89 State Board meeting, with effective dates of 10/6/89 and 11/3/89 (CSPR# 89-8-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011, B-4012, B-4014, B-4015, B-4218 - B-4220 - B-4221, B-4222 - B-4223, B-4230 - B-4242, B-4243 - B-4311, B-4330, B-4331, B-4410, B-4430, and B-4600 - B-4834 were final adoption following publication at the 12/1/89 State Board meeting, with effective dates of 2/1/90 (CSPR#'s 89-7-20-1, 89-9-8-1, and 89-9-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4110 through B-4111, B-4213, and B-4311 were adopted emergency at the 1/5/90 State Board meeting, with effective dates of 1/5/90 (CSPR#'s 89-11-7-1 and 89-12-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4110 through B-4111, B-4213, and B-4311 were final adoption of emergency at the 2/2/90 State Board meeting, with effective dates of 1/5/90 (CSPR#'s 89-11-7-1 and 89-12-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4010 - B-4011, B-4221 - B-4223, B-4225, B-4230 - B-4240, B-4242 - B-4311, B-4317, B-4430, and B-4625 - B-4651 were final adoption following publication at the 7/6/90 State Board meeting, with an effective date of 9/1/90 (CSPR# 90-4-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4222 and B-4225 were final adoption following publication at the 8/3/90 State Board meeting, with an effective date of 10/1/90 (CSPR# 90-5-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 - B-4110, B-4220, B-4222 - B-4223, and B-4225 - B-4230 were adopted emergency at the 10/5/90 State Board meeting, with an effective date of 10/5/90 (CSPR# 90-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by~~

~~reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 through B-4110, B-4220, B-4222 through B-4223, and B-4225 through B-4230 were final adoption of emergency at the 11/2/90 State Board meeting, with an effective date of 10/5/90 (CSPR# 90-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4013, B-4111 through B-4121, B-4215, and B-4318 through B-4319 were adopted emergency at the 12/7/90 State Board meeting, with an effective date of 12/7/90 (CSPR# 90-10-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4013, B-4111 through B-4121, B-4215, and B-4318 through B-4319 were final adoption of emergency at the 1/4/91 State Board meeting, with an effective date of 12/7/90 (CSPR# 90-10-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4430 were adopted emergency at the 1/4/91 State Board meeting, with an effective date of 1/4/91 (CSPR# 90-12-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4430 were final adoption of emergency at the 2/1/91 State Board meeting, with an effective date of 1/4/91 (CSPR# 90-12-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4213, B-4222, B-4223, B-4225, B-4242, B-4425, and B-4712 through B-4760 were final adoption following publication at the 2/1/91 State Board meeting, with an effective date of 4/1/91 (CSPR# 90-11-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4223.61 were adopted emergency at the 2/1/91 State Board meeting, with an effective date of 3/1/91 (CSPR# 90-12-28-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4223.61 were final adoption of emergency at the 3/8/91 State Board meeting, with an effective date of 3/1/91 (CSPR# 90-12-28-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available~~

~~for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4222, B-4225, and B-4430 were adopted emergency at the 5/3/91 State Board meeting, with an effective date of 5/3/91 (CSPR# 91-3-26-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4222, B-4225, and B-4430 were final adoption of emergency at the 6/7/91 State Board meeting, with an effective date of 5/3/91 (CSPR# 91-3-26-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4430 were final adoption following publication at the 7/12/91 State Board meeting, with an effective date of 9/1/91 (CSPR# 91-4-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4222 were adopted emergency at the 7/12/91 State Board meeting, with an effective date of 7/12/91 (CSPR# 91-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4222 were final adoption of emergency at the 8/2/91 State Board meeting, with an effective date of 7/12/91 (CSPR# 91-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4430 were final adoption following publication at the 8/2/91 State Board meeting, with an effective date of 10/1/91 (CSPR# 91-6-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011, B-4221, B-4223, and B-4318 through B-4319 were adopted emergency at the 8/2/91 State Board meeting, with an effective date of 8/2/91 (CSPR# 91-6-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011, B-4221, B-4223, and B-4318 through B-4319 were final adoption of emergency at the 9/6/91 State Board meeting, with an effective date of 8/2/91 (CSPR# 91-6-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference~~

~~into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 through B-4110, B-4220, B-4222, B-4223, and B-4225 through B-4230 were adopted emergency at the 9/6/91 State Board meeting, with an effective date of 10/1/91 (CSPR# 91-8-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 through B-4110, B-4220, B-4222, B-4223, and B-4225 through B-4230 were final adoption of emergency at the 10/4/91 State Board meeting, with an effective date of 10/1/91 (CSPR# 91-8-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4215 were final adoption following publication at the 10/4/91 State Board meeting, with an effective date of 12/1/91 (CSPR# 91-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4240 were adopted emergency at the 11/1/91 State Board meeting, with an effective date of 11/1/91 (CSPR# 91-8-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4240 were final adoption of emergency at the 12/6/91 State Board meeting, with an effective date of 11/1/91 (CSPR# 91-8-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4420 were final adoption following publication at the 2/7/92 State Board meeting, with an effective date of 4/1/92 (CSPR# 91-11-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011, B-4212, B-4213 - B-4214, B-4221, B-4222, B-4223, B-4225 - B-4230 and B-4318 were adopted emergency at the 2/7/92 State Board meeting, with an effective date of 2/1/92 (CSPR# 91-12-17-1); to sections B-4215 and B-4222, with an effective date of 2/7/92 (CSPR# 91-12-10-1); and, to section B-4223, with an effective date of 3/1/92 (CSPR# 91-12-30-3). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4215 and B-4222 were final adoption of emergency at the 3/6/92 State Board meeting, with an effective date of 2/7/92 (CSPR# 91-12-10-1); and, to section B-4223, with an effective~~

~~date of 3/1/92 (CSPR# 91-12-30-3). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4430 were final adoption following publication at the 3/6/92 State Board meeting, with an effective date of 5/1/92 (CSPR# 91-12-16-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4111 through B-4121, B-4216 through B-4217, B-4222, B-4225, and B-4430 were adopted emergency at the 3/6/92 State Board meeting, with an effective date of 3/6/92 (CSPR# 92-1-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011, B-4212, B-4214, B-4221, B-4222, B-4223, B-4230 and B-4318 were adopted emergency and final at the 4/3/92 State Board meeting, with an effective date of 2/1/92 and 4/3/92 (CSPR# 91-12-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4111 through B-4121, B-4216 through B-4217, B-4222, B-4225, and B-4430 were final adoption of emergency at the 4/3/92 State Board meeting, with an effective date of 3/6/92 (CSPR# 92-1-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4013, B-4222 through B-4223, and B-4225 were adopted emergency at the 6/5/92 State Board meeting, with an effective date of 6/5/92 (CSPR#'s 92-4-9-1 and 92-4-29-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4013, were final adoption of emergency at the 7/10/92 State Board meeting, with an effective date of 6/5/92 (CSPR# 92-4-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4430 were final adoption following publication at the 8/7/92 State Board meeting, with an effective date of 10/1/92 (CSPR# 92-5-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4215 and B-4222 were final adoption following publication at the 9/4/92 State Board meeting, with an effective date of 11/1/92 (CSPR# 92-6-18-1). Statement of Basis and Purpose~~

~~and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 through B-4110, B-4220, and B-4222 through B-4223 were adopted emergency at the 10/2/92 State Board meeting, with an effective date of 10/1/92 (CSPR# 92-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 through B-4110, B-4220, and B-4222 through B-4223 were final adoption of emergency at the 11/6/92 State Board meeting, with an effective date of 10/1/92 (CSPR# 92-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4010, B-4213, B-4215, B-4222, and B-4223 were final adoption following publication at the 3/5/93 State Board meeting, with an effective date of 5/1/93 (CSPR# 92-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4240.1 were adopted emergency at the 4/2/93 State Board meeting, with an effective date of 4/2/93 (CSPR# 93-2-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4240.1 were final adoption of emergency at the 5/7/93 State Board meeting, with an effective date of 4/2/93 (CSPR# 93-2-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4215 through B-4216 were final adoption following publication at the 5/7/93 State Board meeting, with an effective date of 7/1/93 (CSPR# 93-2-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011 and B-4220 were adopted emergency at the 6/4/93 State Board meeting, with an effective date of 6/4/93 (CSPR# 93-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011 and B-4220 were final adoption of emergency at the 7/9/93 State Board meeting, with an effective date of 6/4/93 (CSPR# 93-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials~~

~~are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4011 were final adoption following publication at the 7/9/93 State Board meeting, with an effective date of 9/1/93 (CSPR# 93-3-25-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4222 were adopted emergency at the 7/9/93 State Board meeting, with an effective date of 7/1/93 (CSPR# 93-6-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4222 were final adoption of emergency at the 8/6/93 State Board meeting, with an effective date of 7/1/93 (CSPR# 93-6-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4010, B-4013, B-4213, B-4215, B-4216, B-4221, B-4223, B-4230 - B-4240, B-4242, B-4318 - B-4319, B-4410, B-4430, B-4612 - B-4651, B-4660 - B-4662, and B-4712 - B-4760 were final adoption following publication at the 8/6/93 State Board meeting, with an effective date of 10/1/93 (CSPR# 93-5-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011 and B-4632 were adopted emergency at the 9/10/93 State Board meeting, with an effective date of 9/10/93 (CSPR# 93-7-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4011 and B-4632 were final adoption of emergency at the 10/1/93 State Board meeting, with an effective date of 9/10/93 (CSPR# 93-7-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4218 through B-4220 were final adoption following publication at the 10/1/93 State Board meeting, with an effective date of 12/1/93 (CSPR# 93-8-18-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4400 through B-4410 and B-4425 were adopted emergency and final at the 10/1/93 State Board meeting, with an effective date of 10/1/93 (CSPR# 93-6-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule.~~

~~These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 through B-4110, B-4220, B-4222 through B-4223, and B-4225 through B-4230 were adopted emergency at the 10/1/93 State Board meeting, with an effective date of 10/1/93 (CSPR# 93-8-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4100 through B-4110, B-4220, B-4222 through B-4223, and B-4225 through B-4230 were adopted emergency and final at the 11/5/93 State Board meeting, with effectives date of 10/1/93 and 11/5/93 (CSPR# 93-8-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to section B-4430 were final adoption following publication at the 2/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-11-16-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4222, B-4224, B-4672 through B-4676, B-4694, and B-4704 through B-4760 were adopted emergency at the 2/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4222, B-4224, B-4672 through B-4676, B-4694, and B-4704 through B-4760 were adopted emergency and final at the 3/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4000 - B-4010, B-4011, B-4013, B-4216 - B-4218, B-4220, B-4221, B-4222, B-4230 - B-4240, and B-4242 were final adoption following publication at the 3/4/94 State Board meeting, with an effective date of 5/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4010 and B-4223 were final adoption following publication at the 5/6/94 State Board meeting, with an effective date of 7/1/94 (CSPR#'s 94-1-20-1 and 94-3-3-3). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections B-4215, B-4222 - B-4223, B-4225, and B-4430 were final adoption following publication at the 6/3/94 State Board meeting, with an effective date of 8/1/94 (CSPR# 94-2-23-1). Statement~~

~~of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Deletion of forms, including sections B-4500 and B-4900, were final adoption following publication at the 7/8/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-3-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4011, B-4012, B-4100 - B-4110, B-4213 - B-4214, B-4215, B-4222, B-4223, B-4225, B-4317, and B-4427 were adopted emergency at the 8/5/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-6-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4011, B-4012, B-4100 - B-4110, B-4213 - B-4214, B-4215, B-4222, B-4223, B-4225, B-4317, and B-4427 were adopted emergency and final at the 9/9/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-6-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4110, B-4220, B-4222, and B-4225 through B-4230 were adopted emergency at the 9/9/94 State Board meeting, with an effective date of 10/1/94 (CSPR# 94-7-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4110, B-4220, B-4222, and B-4225 through B-4230 were final adoption of emergency at the 10/7/94 State Board meeting, with an effective date of 10/1/94 (CSPR# 94-7-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4010, B-4011, B-4222, B-4225, B-4318 - B-4319, B-4425, B-4430, and B-4695 - B-4711 were final adoption following publication at the 11/4/94 State Board meeting, with an effective date of 1/1/95 (CSPR#'s 94-7-21-1, and 94-8-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4010 - B-4214, B-4216 - B-4220, B-4222, B-4223 - B-4225, B-4230 - B-4240, B-4242, B-4314 - B-4316, B-4318 - B-4410, B-4425 - B-4428, and B-4430 - B-4770 were final adoption following publication at the 3/3/95 State Board meeting, with an effective date of 5/1/95 (CSPR# 94-12-1-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to section B-4223 were final adoption following publication at the 5/5/95 State Board meeting, with an effective date of 7/1/95 (CSPR# 95-2-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to section B-4100 - B-4110, B-4220, and B-4223 - B-4230 were adopted emergency at the 10/6/95 State Board meeting, with an effective date of 10/1/95 (CSPR# 95-8-31-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4100 - B-4110, B-4220, and B-4223 - B-4230 were adopted emergency and final at the 11/3/95 State Board meeting, with effective dates of 10/1/95 and 12/1/95 (CSPR# 95-8-31-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4215 through B-4220, B-4240 through B-4242, B-4321 through B-4322, B-4410, B-4425, B-4633 through B-4640, B-4660 through B-4662, and B-4695 through B-4698 were final adoption following publication at the 1/5/96 State Board meeting, with an effective date of 3/1/96 (CSPR# 95-10-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4425 through B-4427 were final adoption following publication at the 2/2/96 State Board meeting, with an effective date of 4/1/96 (CSPR# 95-11-29-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4222 and B-4225 were final adoption following publication at the 7/12/96 State Board meeting, with an effective date of 9/1/96 (CSPR# 96-4-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4011, B-4100 through B-4110, B-4214, B-4220, B-4222 through B-4230, and B-4317 through B-4318 were adopted emergency at the 10/4/96 State Board meeting, with an effective date of 10/1/96 (CSPR# 96-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4011, B-4100 through B-4110, B-4214, B-4220, B-4222 through B-4230, and B-4317 through B-4318 were final adoption of emergency at the 11/8/96 State Board meeting, with an effective date of 10/1/96 (CSPR# 96-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions/additions to sections B-4010, B-4430, B-4600 through B-4612, B-4625 through B-4651, and B-4800 were final adoption following publication at the 12/6/96 State Board meeting, with an effective date of 2/1/97 (CSPR# 96-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to section B-4215 were adopted emergency at the 12/6/96 State Board meeting, with an effective date of 12/6/96 (CSPR# 96-10-21-1) and sections B-4010, B-4012, B-4111 through B-4121, B-4212, B-4222 through B-4223, B-4321 through B-4322, B-4425, and B-4430 were adopted emergency at the 12/6/96 State Board meeting, with an effective date of 1/1/97 (CSPR#'s 96-10-7-1 and 96-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to section B-4215 were adopted emergency and final at the 1/3/97 State Board meeting, with an effective date of 12/6/96 (CSPR# 96-10-21-1) and sections B-4010, B-4012, B-4111 through B-4121, B-4212, B-4222 through B-4223, B-4321 through B-4322, B-4425, and B-4430 were adopted emergency and final at the 1/3/97 State Board meeting, with an effective date of 1/1/97 (CSPR#'s 96-10-7-1 and 96-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4010, B-4430, B-4600 to B-4612, B-4625 through B-4651, and B-4800 were repromulgated as final adoption following publication at the 3/7/97 State Board meeting, with an effective date of 5/1/97 (CSPR# 96-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4011, B-4013, B-4215, B-4216, B-4223 through B-4225, and B-4430 were final adoption following publication at the 6/6/97 State Board meeting, with an effective date of 8/1/97 (CSPR# 97-4-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4400 through B-4410 were adopted emergency at the 6/20/97 State Board meeting, with an effective date of 7/1/97 (CSPR# 97-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4400 through B-4410 were adopted emergency and final at the 8/1/97 State Board meeting, with effective dates of 7/1/97 and 8/1/97 (CSPR# 97-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.~~

~~Revisions to sections B-4010, B-4215, B-4222, B-4225, and B-4427 through B-4430 were final adoption following publication at the 10/3/97 State Board meeting, with an effective date of 12/1/97 (CSPR# 97-7-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorpo-~~

rated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100 through B-4111, B-4220, and B-4225 through B-4230 were adopted emergency at the 10/3/97 State Board meeting, with an effective date of 10/1/97 (CSPR# 97-9-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100 through B-4111, B-4220, and B-4225 through B-4230 were final adoption of emergency at the 11/7/97 State Board meeting, with an effective date of 10/1/97 (CSPR# 97-9-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4212 and B-4321 were adopted emergency at the 11/7/97 State Board meeting, with an effective date of 11/7/97 (CSPR# 97-9-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4212 and B-4321 were final adoption of emergency at the 12/5/97 State Board meeting, with an effective date of 11/7/97 (CSPR# 97-9-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4111 - B-4121, B-4212 - B-4213, B-4215, B-4222, B-4225, B-4321 through B-4322, and B-4430 were final adoption following publication at the 2/6/98 State Board meeting, with an effective date of 4/1/98 (CSPR# 97-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4430 were final adoption following publication at the 5/1/98 State Board meeting, with an effective date of 7/1/98 (CSPR# 98-1-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, B-4223 and B-4230 were adopted emergency at the 10/2/98 State Board meeting, with an effective date of 10/1/98 (CSPR# 98-8-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4212 were adopted emergency at the 10/2/98 State Board meeting, with an effective date of 11/1/98 (CSPR# 98-8-24-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review

by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, B-4223 and B-4230 were final adoption of emergency at the 11/6/98 State Board meeting, with an effective date of 10/1/98 (CSPR# 98-8-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4212 were final adoption of emergency at the 11/6/98 State Board meeting, with an effective date of 11/1/98 (CSPR# 98-8-24-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4011, B-4111, B-4212, B-4215 through B-4217, B-4220, B-4222 - B-4225, and B-4240 were final adoption following publication at the 11/6/98 State Board meeting, with an effective date of 1/1/99 (CSPR# 98-8-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, and B-4230 were adopted emergency at the 9/3/99 State Board meeting, with an effective date of 10/1/99 (CSPR# 99-8-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, and B-4230 were final adoption of emergency at the 10/1/99 State Board meeting, with an effective date of 10/1/99 (CSPR# 99-8-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4011, B-4214, B-4220, B-4221, B-4223, B-4240, B-4242, B-4321 B-4672, B-4694, B-4704, B-4733, and B-4770 were final adoption following publication at the 4/7/2000 State Board meeting, with an effective date of 6/1/2000 (CSPR# 99-12-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of Public Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, B-4223, and B-4230 were adopted emergency at the 9/8/2000 State Board meeting, with an effective date of 10/1/2000 (CSPR# 00-8-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to sections B-4100, B-4220, B-4223, and B-4230 were final adoption of emergency at the 10/6/2000 State Board meeting, with an effective date of 10/1/2000 (CSPR# 00-8-4-1). Statement of Ba-

~~sis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to sections B-4242.11 to B-4242.12 were final adoption following publication at the 11/3/2000 State Board meeting, with an effective date of 1/1/2001 (CSPR# 00-8-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to sections B-4224.4 and B-4225 were final adoption following publication at the 12/1/2000 State Board meeting, with an effective date of 2/1/2001 (CSPR# 00-9-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revision to section B-4223.5 was adopted as emergency at the 2/2/2001 State Board meeting, with an effective date of 3/1/2001 (CSPR# 01-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revision to section B-4223.5 was final adoption of emergency rule at the 3/2/2001 State Board meeting, with an effective date of 3/1/2001 (CSPR# 01-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4224.4 through B-4225.6 were final adoption following publication at the 4/6/2001 State Board meeting, with an effective date of 6/1/2001 (CSPR# 01-1-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4011.2, B-4242.11, B-4242.21 and B-4242.33 were final adoption following publication at the 5/4/2001 State Board meeting, with an effective date of 7/1/2001 (CSPR# 01-2-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4224, B-4225 and B-4430 were final adoption following publication at the 7/6/2001 State Board meeting, with an effective date of 9/1/2001 (CSPR# 01-4-16-1 and 01-4-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by~~

~~reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Section B-4223.51 were adopted emergency at the 7/6/2001 State Board meeting, with an effective date of 7/6/2001 (CSPR# 01-5-22-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Section B-4223.51 were final adoption of emergency rule at the 8/3/2001 State Board meeting, with an effective date of 7/6/2001 (CSPR# 01-5-22-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4010 - B-4012, B-4100 - B-4112, B-4212 - B-4213, B-4221 - B-4223, B-4230 - B-4240, B-4243 - B-4316, and B-4321 - B-4322 were final adoption following publication at the 9/7/2001 State Board meeting, with an effective date of 11/1/2001 (CSPR# 01-2-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4100, B-4220, B-4223.5, and B-4230 were adopted on an emergency basis at the 9/7/2001 State Board meeting, with an effective date of 10/1/2001 (CSPR# 01-8-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4100, B-4220, B-4223.5, and B-4230 were adopted on as emergency and final at the 10/5/2001 State Board meeting, with an effective date of 10/5/2001 (CSPR# 01-8-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4224.2, B-4224.4, Br4225.11, B-4225.4 through B-4225.63, B-4225.9, and addition of B-4242.34 through B-4242.343 were final adoption following publication at the 4/5/2002 State Board meeting, with an effective date of 6/1/2002 (CSPR#s 01-12-20-1 and 01-12-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4011.3, B-4011.4, B-4011.52, B-4215.45, B-4215.6, B-4217.1, B-4221.13, B-4222.7, B-4240.1, B-4242.2, B-4314.1, B-4318, B-4318.4, B-4319.1, B-4330.1, 3-4430.21, and B-4430.22~~

~~were adopted following publication at the 7/12/2002 State Board meeting, with an effective date of 9/1/2002 (CSPR# 01-12-28-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, and B-4230 were adopted as emergency at the 9/6/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR#01-8-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4212.3, B-4223.1, B-4223.6, B-4224, B-4242.342, and B-4242.343 were adopted as emergency at the 10/4/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR# 01-7-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, and B-4230 were final adoption of emergency rules at the 11/1/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR# 01-8-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4212.3, B-4223.1, B-4223.6, B-4224, B-4242.342, and B-4242.343 were adopted as emergency and final at the 11/1/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR# 01-7-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4215.42, B-4215.72, B-4215.73, and B-4242.11 were adopted following publication at the 2/7/2003 State Board meeting, with an effective date of 4/1/2003 (Rule-making #02-11-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4111.2, B-4111.6, B4212.3, B-4215.2, B-4222.3, B-4240, B-4240.1, B-4242.11, B-4314.1, B-4319, B-4319.1, and B-4321.1 were adopted following publication at the 6/6/2003 State Board meeting, with an effective date of 8/1/2003 (Rule-making #03-2-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4215.45, B-4242, and B-4242.11 were adopted following publication at the 9/5/2003 State Board meeting, with an effective date of 11/1/2003 (Rule-making# 03-6-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, and B-4230 were adopted as emergency at the 10/3/2003 State Board meeting, with an effective date of 10/1/2003 (Rule-making# 03-8-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement Boards and Commissions Division, State Board Administration.~~

~~Revisions to Section B-4223.51 were final adoption of emergency at the 1/9/2004 State Board meeting, with an effective date of 1/1/2004 (Rule-making# 03-11-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Section B-4230.1 were adopted following publication at the 3/5/2004 State Board meeting, with an effective date of 5/1/2004 (Rule-making# 03-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, B-4223.51, and B-4230 were adopted as emergency at the 10/1/2004 State Board meeting, with an effective date of 10/1/2004 (Rule-making# 04-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, B-4223.51, and B-4230 were adopted as final emergency rules at the 11/5/2004 State Board meeting, with an effective date of 10/1/2004 (Rule-making# 04-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Section B-4223.51 were adopted as emergency at the 2/3/2006 State Board meeting, with an effective date of 3/1/2006 (Rule-making# 06-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Section B-4223.51 were final (permanent) adoption of emergency rules at the 3/3/2006 State Board meeting, with an effective date of 3/1/2006 (Rule-making# 06-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4010, B-4010.1, B-4010.11, B-4011.21, B-4100, B-4220.11, B-4220.12, B-4222.7, B-4223, B-4223.1, B-4223.4, B-4223.5, B-4223.51, B-4224.1, B-4224.2, B-4224.3, B-4225.5, B-4230, and B-4242.11 were adopted as emergency at the 9/5/2008 State Board meeting, with an effective date of 10/1/2008 (Rule-making# 08-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4010, B-4010.1, B-4010.11, B-4011.21, B-4100, B-4220.11, B-4220.12, B-4222.7, B-4223, B-4223.1, B-4223.4, B-4223.5, B-4223.51, B-4224.1, B-4224.2, B-4224.3, B-4225.5, B-4230, and B-4242.11 were final (permanent) adoption of emergency rules at the at the 10/3/2008 State Board meeting, with an effective date of 12/1/2008 (Rule-making# 08-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration.~~

~~Revisions to Sections B-4010.11 and B-4230 were adopted on an emergency basis at the 3/6/2009 State Board meeting, with an effective date of 4/1/2009 (Rule-making# 09-3-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections B-4010.11 and B-4230 were final (permanent) adoption of emergency rules at the 5/1/2009 State Board meeting, with an effective date of 7/1/2009 (Rule-making# 09-3-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections B-4242 through B-4242.1 and B-4242.12 through B-4242.13 were final adoption following publication at the 1/8/2010 State Board meeting, with an effective date of 3/2/2010 (Rule-making# 09-10-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections B-4011.1 through B-4011.11, B-4011.131 through B-4011.136, B-4011.22 through B-4011.23, B-4011.3, B-4220 through B-4220.12, B-4224, B-4230.1, B-4242.11 through B-4242.13, B-4430.11, B-4430.2 through B-4430.22 were final adoption following publication at the 12/3/2010 State Board meeting, with an effective date of 2/1/2011 (Rule-making# 10-7-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections B-4222.8, B-4223, and B-4225.7 were adopted on an emergency basis at the 6/10/2011 State Board meeting, with an effective date of 6/10/2011 (Rule-making# 11-4-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections B-4222.8, B-4223, and B-4225.7 were final (permanent) adoption of prior emergency rules at the 7/8/2011 State Board meeting, with an effective date of 9/1/2011 (Rule-making# 11-4-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Section B-4224 were adopted on an emergency basis at the 9/9/2011 State Board meeting, with an effective date of 10/1/2011 (Rule-making# 11-8-30-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Section B-4224 were adopted as final (permanent) at the 11/4/2011 State Board meeting, with an effective date of 1/1/2012 (Rule-making# 11-8-30-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions and/or repeals of Sections B-4225.62 through B-4225.63, B-4230.11 through B-4230.12, B-4230.2 through B-4230.21, B-4240, B-4242.34 through B-4242.343, B-4242.35 through B-4242.36, B-4315, B-4315.2, B-4317.4, B-4317.6, B-4600 through B-4611.1, B-4640 through B-4653, B-4691.1 through B-4697.2, B-4698 through B-4698.3, B-4730 through B-4733, B-4740 through B-4760, and B-4800.1 through B-4800.3 were final adoption following publication at the 3/2/2012 State Board meeting (Rule-making# 11-11-16-2), with an effective date of 5/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

~~Revisions of Sections B-4430.22 and B-4430.32 were final adoption following publication at the 5/4/2012 State Board meeting (Rule-making# 12-1-27-1), with an effective date of 7/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

~~Revisions of Sections B-4010.42 through B-4010.424 were final adoption following publication at the 6/1/2012 State Board meeting (Rule-making# 11-8-11-2), with an effective date of 8/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

~~Revisions of Sections B-4011.31 through B-4011.32 and B-4110.1 through B-4110.2 were final adoption following publication at the 9/7/2012 State Board meeting (Rule-making# 11-12-23-1), with an effective date of 11/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Section B-4224 were final adoption following publication at the 2/1/2013 State Board meeting (Rule-making# 12-12-3-1), with an effective date of 4/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections B-4100, B-4220.11 and B-4220.12, B-4223.1, B-4223.5 and B-4223.51 were adopted on an emergency basis at the 9/6/2013 State Board meeting (Rule-making# 13-5-14-2), with an effective date of 10/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections B-4100, B-4220.11 and B-4220.12, B-4223.1, B-4223.5 and B-4223.51 were final (permanent) adoption of prior emergency rules at the 10/4/2013 State Board meeting (Rule-making# 13-5-14-2), with an effective date of 12/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections B-4010.12, B-4230 through B-4230.1, and B-4430.4 were adopted as emergency at the 10/4/2013 State Board meeting (Rule-making# 13-8-19-1), with an effective date of 11/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections B-4010.12, B-4230 through B-4230.1, and B-4430.4 were adopted as final (permanent) following publication at the 11/8/2013 State Board meeting (Rule-making# 13-8-19-1), with an effective date of 1/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

~~Sections B-4000 through B-4800.4 were repealed in entirety and rewritten as Sections 4.000 through 4.906 and adopted as final following publication at the 7/11/14 State Board meeting (Rule-making# 12-1-3-2), with an effective date of 9/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.~~

~~Revisions to Sections 4.207.3, 4.401.1, 4.407.1, and 4.407.3 through 4.407.31 were adopted on an emergency basis at the 9/5/2014 State Board meeting (Rule-making# 14-8-12-1), with an effective date of 10/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.~~

~~Revisions to Sections 4.207.3, 4.401.1, 4.407.1, and 4.407.3 through 4.407.31 were final (permanent) adoption of prior emergency rules at the10/3/2014 State Board meeting (Rule-making# 14-8-12-1), with an effective date of 12/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.~~

~~Revisions to Sections 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3, and 4.407.31 were adopted as emergency at the10/2/2015 State Board meeting (Rule-making# 15-9-1-1), with an effective date of 10/1/2015. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.~~

~~Revisions to Sections 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3, and 4.407.31 were adopted as final (permanent) at the11/6/2015 State Board meeting (Rule-making# 15-9-1-1), with an effective date of 1/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.~~

~~Revisions to Sections 4.704.1, 4.801.2 through 4.801.43, 4.803 through 4.803.41, 4.803.43, 4.803.5, 4.803.7, and 4.804.1 were adopted as final following publication at the11/6/2015 State Board meeting (Rule-making# 15-2-9-1), with an effective date of 1/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.~~

~~Addition of Sections 4.609 through 4.609.6 were final adoption following publication at the12/4/2015 State Board meeting (Rule-making# 15-9-30-1), with an effective date of 2/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.~~

~~Revisions to Sections 4.208.1 and 4.603 were adopted as final following publication at the 2/5/2016 State Board meeting (Rule-making# 15-10-23-1), with an effective date of 4/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.~~

~~Revisions to Section 4.609.1 were adopted on an emergency basis at the 2/5/2016 State Board meeting (Rule-making# 16-1-14-1), with an effective date of 2/5/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.~~

~~Revisions to Section 4.609.1 were final (permanent) adoption of prior emergency rules at the 3/4/2016 State Board meeting (Rule-making# 16-1-14-1), with an effective date of 5/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.~~

4.000 ~~FOOD ASSISTANCE PROGRAM~~ SNAP

4.000.1 SNAP DEFINITIONS

“ABLE-BODIED ADULT WITHOUT DEPENDENTS (ABAWD)” MEANS AN INDIVIDUAL BETWEEN THE AGES OF EIGHTEEN (18) AND FIFTY (50) WITHOUT A PHYSICAL OR MENTAL DISABILITY, WHO IS NOT PREGNANT, AND WHO LIVES IN A SNAP HOUSEHOLD WITH NO ONE UNDER THE AGE OF EIGHTEEN (18).

“ADMINISTRATIVE DISQUALIFICATION HEARING (ADH)” MEANS A DISQUALIFICATION HEARING AGAINST AN INDIVIDUAL ACCUSED OF WRONGFULLY OBTAINING OR ATTEMPTING TO OBTAIN ASSISTANCE.

“ADMINISTRATIVE LAW JUDGE (ALJ)” MEANS THE PERSON THAT PRESIDES OVER FAIR HEARINGS AND ADMINISTRATIVE DISQUALIFICATION HEARINGS AT THE STATE LEVEL.

“ADVERSE ACTION” MEANS ANY ACTION TAKEN BY A LOCAL OFFICE THAT CAUSES A HOUSEHOLD'S BENEFITS TO BE REDUCED OR TERMINATED.

“ADVERSE ACTION PERIOD” MEANS THE PERIOD OF TIME THAT ELAPSES PRIOR TO THE ADVERSE ACTION BECOMING EFFECTIVE DURING THE CERTIFICATION PERIOD.

“AGENCY ERROR CLAIM” MEANS THAT A DEBT HAS BEEN ESTABLISHED FOR THE HOUSEHOLD TO REPAY DUE TO AN OVERISSUANCE OF BENEFITS THAT WAS ISSUED TO THE HOUSEHOLD RESULTING FROM AN ERROR MADE BY THE LOCAL OFFICE.

“ALLOTMENT” MEANS THE TOTAL AMOUNT OF SNAP BENEFITS A HOUSEHOLD IS AUTHORIZED TO RECEIVE IN A PARTICULAR MONTH.

“APPEAL” MEANS A REQUEST MADE BY A HOUSEHOLD TO HAVE A DECISION ABOUT ITS CASE REVIEWED BY AN IMPARTIAL THIRD PARTY TO DETERMINE WHETHER THE DECISION WAS CORRECT.

“APPLICATION FILING DATE” MEANS THE DATE AN APPLICATION FOR ASSISTANCE IS RECEIVED BY THE COUNTY OFFICE. “APPLICATION” MEANS A REQUEST ON A STATE-APPROVED FORM FOR BENEFITS, WHICH CAN INCLUDE THE ELECTRONIC STATE-PRESCRIBED FORM.”

“APPLICATION FOR RECERTIFICATION” MEANS AN APPLICATION SUBMITTED PRIOR TO THE LAST MONTH OF THE CERTIFICATION PERIOD TO DETERMINE A HOUSEHOLD’S CONTINUED ELIGIBILITY FOR THE NEXT CERTIFICATION PERIOD.

“APPLICATION PROCESS” MEANS THE REQUIRED PROCESS A HOUSEHOLD MUST COMPLETE FOR PURPOSES OF DETERMINING ELIGIBILITY FOR BENEFITS.

“AUTHORIZED REPRESENTATIVE” MEANS AN INDIVIDUAL WHO HAS BEEN DESIGNATED IN WRITING BY A RESPONSIBLE MEMBER OF THE HOUSEHOLD TO ACT ON BEHALF OF OR ASSIST THE HOUSEHOLD WITH THE APPLICATION PROCESS, OBTAINING BENEFITS, AND/OR IN USING BENEFITS AT AUTHORIZED RETAILERS.

“AUTOMATED CHILD SUPPORT ENFORCEMENT SYSTEM (ACSES)” MEANS THE AUTOMATED COMPUTER SYSTEM USED BY CHILD SUPPORT SERVICES TO RECORD CHILD SUPPORT PAYMENTS.

“AVAILABLE FOR INSPECTION” MEANS COPIES OF DOCUMENTS CAN BE VIEWED DURING NORMAL WORKING HOURS OR BY CONTACTING: FOOD AND ENERGY ASSISTANCE DIVISION DIRECTOR, COLORADO DEPARTMENT OF HUMAN SERVICES, 1575 SHERMAN STREET, 3RD FLOOR, DENVER, COLORADO 80203; OR A STATE PUBLICATIONS DEPOSITORY LIBRARY.

“BASIC CATEGORICAL ELIGIBILITY (BCE)” MEANS THE STATUS GRANTED TO ANY HOUSEHOLD THAT IS NOT ELIGIBLE FOR EXPANDED CATEGORICAL ELIGIBILITY AND CONTAINS ONLY MEMBERS WHO RECEIVE, OR ARE ELIGIBLE TO RECEIVE, BENEFITS FROM COLORADO WORKS, SUPPLEMENTAL SECURITY INCOME, OLD AGE PENSION, AID TO THE NEEDY AND DISABLED, AID TO THE BLIND, OR A COMBINATION OF THESE BENEFITS.

“BASIC UTILITY ALLOWANCE (BUA)” MEANS A FIXED DEDUCTION APPLIED TO A HOUSEHOLD THAT DOES NOT PAY FOR HEATING OR COOLING AND INCURS AT LEAST TWO (2) NON-HEATING OR NON-COOLING UTILITY COSTS, SUCH AS ELECTRICITY, WATER, SEWER, TRASH, COOKING FUEL, OR TELEPHONE.

“BOARDER” MEANS AN INDIVIDUAL RESIDING WITH OTHERS AND PAYING REASONABLE COMPENSATION TO OTHERS FOR LODGING AND MEALS.

“BOARDING HOUSE” MEANS AN ESTABLISHMENT THAT IS LICENSED AS A COMMERCIAL ENTERPRISE AND WHICH OFFERS MEALS AND LODGING FOR COMPENSATION.

“CASE RECORD” MEANS A COMBINATION OF THE PHYSICAL CASE FILE THAT CONTAINS DOCUMENTS PERTINENT TO A HOUSEHOLD’S CASE; SIMILAR DOCUMENTS MAINTAINED IN AN ELECTRONIC DATABASE; AND INFORMATION ABOUT THE HOUSEHOLD THAT IS CONTAINED WITHIN THE STATEWIDE AUTOMATED SYSTEM.

“CERTIFICATION PERIOD” MEANS THE PERIOD OF TIME FOR WHICH A HOUSEHOLD HAS BEEN CERTIFIED TO RECEIVE BENEFITS.

“CIVIL UNION” MEANS A LEGALLY BINDING PARTNERSHIP BETWEEN TWO INDIVIDUALS WITHOUT THE LEGAL RECOGNITION OF THESE INDIVIDUALS AS SPOUSES.

“CLAIM” MEANS A DEBT RESULTING FROM AN OVERISSUANCE OF BENEFITS THAT A HOUSEHOLD IS OBLIGATED TO REPAY.

“CLEAR AND CONVINCING EVIDENCE” MEANS EVIDENCE WHICH IS STRONGER THAN A PREPONDERANCE OF EVIDENCE AND WHICH IS UNMISTAKABLE AND FREE FROM SERIOUS OR SUBSTANTIAL DOUBT.

“COLLATERAL CONTACT” MEANS A VERBAL OR WRITTEN CONFIRMATION OF A HOUSEHOLD'S CIRCUMSTANCES BY A PERSON OUTSIDE THE HOUSEHOLD WHO HAS FIRST-HAND KNOWLEDGE OF THE INFORMATION, MADE EITHER IN PERSON, ELECTRONICALLY SUBMITTED OR BY TELEPHONE.

“COLORADO ELECTRONIC BENEFIT TRANSFER SYSTEM (CO/EBTS)” MEANS THE ELECTRONIC SYSTEM THAT ENABLES SNAP PARTICIPANTS OR THEIR AUTHORIZED REPRESENTATIVES TO REDEEM THEIR SNAP BENEFITS AT POINT-OF-SALE TERMINALS.

“COLORADO UNEMPLOYMENT BENEFITS SYSTEM (CUBS)” MEANS THE ELECTRONIC SYSTEM BY WHICH UNEMPLOYMENT INSURANCE BENEFITS (UIB) ARE DETERMINED BY THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT.

“COMMUNAL DINING FACILITY” MEANS AN ESTABLISHMENT APPROVED BY FNS THAT PREPARES AND SERVES MEALS FOR PERSONS AGED 60 AND OLDER, OR FOR SUPPLEMENTAL SECURITY INCOME (SSI) RECIPIENTS, AND THEIR SPOUSES. THIS ALSO INCLUDES FEDERALLY SUBSIDIZED HOUSING FOR PERSONS AGED 60 AND OLDER AT WHICH MEALS ARE PREPARED FOR AND SERVED TO THE RESIDENTS. IT ALSO INCLUDES PRIVATE ESTABLISHMENTS THAT CONTRACT WITH AN APPROPRIATE STATE OR LOCAL AGENCY TO OFFER MEALS AT CONCESSIONAL PRICES TO PERSONS AGED 60 AND OLDER OR SSI RECIPIENTS, AND THEIR SPOUSES.

“COMPROMISE” MEANS THE DECISION TO REDUCE THE AMOUNT OF A CLAIM THAT IS OWED BY A HOUSEHOLD.

“COUNTABLE MONTH” MEANS A MONTH IN WHICH AN ABAWD RECEIVED A FULL SNAP ALLOTMENT BUT DID NOT MEET WORK REQUIREMENTS OR HAVE AN EXEMPTION FROM THOSE REQUIREMENTS.

“DEMAND LETTER”, SEE “NOTICE OF OVERPAYMENT.”

“DISASTER SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (D-SNAP) MEANS THE ASSISTANCE PROVIDED TO THE AFFECTED AREAS WHEN A PRESIDENTIAL DISASTER DECLARATION FOR INDIVIDUAL ASSISTANCE IS DECLARED AND THE DECISION TO IMPLEMENT

THIS PROGRAM AFTER A PRESIDENTIAL DECLARATION SHALL BE AT THE AFFECTED COUNTY'S DISCRETION IN COORDINATION WITH THE STATE SNAP OFFICE AND FNS.

"DISPUTE RESOLUTION CONFERENCE (DRC)" MEANS AN INFORMAL MEETING BETWEEN A HOUSEHOLD AND THE LOCAL OFFICE TO REVIEW AN ACTION TAKEN ON A CASE AND THE RELEVANT FACTS PERTAINING TO SUCH ACTION.

"DISQUALIFICATION CONSENT AGREEMENT (DCA)" MEANS THE FORM THAT ALLOWS THE INDIVIDUAL(S) SUSPECTED OF INTENTIONAL PROGRAM VIOLATION/FRAUD TO CONSENT TO HIS/HER DISQUALIFICATION IN CASES OF DEFERRED ADJUDICATION.

"DISQUALIFIED INDIVIDUALS" MEANS ANY INDIVIDUAL WHO IS INELIGIBLE TO RECEIVE SNAP DUE TO HAVING BEEN DISQUALIFIED FOR AN INTENTIONAL PROGRAM VIOLATION/FRAUD, FAILURE TO PROVIDE OR OBTAIN A SSN, INELIGIBLE NON-CITIZENS, INDIVIDUALS DISQUALIFIED FOR FAILURE TO COOPERATE WITH WORK REQUIREMENTS, INDIVIDUALS DISQUALIFIED FOR FAILURE TO COOPERATE WITH THE STATE QUALITY ASSURANCE DIVISION, AND ABAWDS WHO ALREADY RECEIVED THREE COUNTABLE MONTHS OF SNAP WITHIN THIRTY-SIX (36) MONTHS WITHOUT MEETING AN EXEMPTION OR ABAWD WORK REQUIREMENTS.

"DOCUMENTARY EVIDENCE" MEANS WRITTEN INFORMATION USED TO VERIFY THE INCOME, EXPENSES, AND OTHER CIRCUMSTANCES OF A HOUSEHOLD.

"DOCUMENTATION" MEANS THE COLLECTION OF DOCUMENTARY EVIDENCE, VERIFICATION, CASE NOTES, AND OTHER INFORMATION RELATED TO A HOUSEHOLD'S CASE UPON WHICH ELIGIBILITY DETERMINATIONS AND OTHER DECISIONS ARE BASED.

"DRUG AND ALCOHOL TREATMENT CENTER (DAA)" MEANS ANY RESIDENTIAL FACILITY RUN BY A PRIVATE, NONPROFIT ORGANIZATION OR INSTITUTION, OR A PUBLICLY OPERATED COMMUNITY MENTAL HEALTH CENTER, UNDER PART B OF TITLE XIX OF THE PUBLIC HEALTH SERVICE ACT (42 U.S.C. 300X ET SEQ.) THAT PROVIDES REHABILITATIVE TREATMENT TO PERSONS PARTICIPATING IN A DRUG OR ALCOHOL TREATMENT PROGRAM.

"DUAL PARTICIPATION" MEANS THE RECEIPT OF BENEFITS IN MORE THAN ONE SNAP HOUSEHOLD OR STATE IN THE SAME CALENDAR MONTH.

"EBT" MEANS ELECTRONIC BENEFIT TRANSFER.

"ELIGIBILITY HAS BEEN DETERMINED" MEANS A REQUIRED INTERVIEW WAS COMPLETED AND ALL REQUIRED VERIFICATIONS WERE RECEIVED FOR A VALID SNAP APPLICATION AND A DETERMINATION OF ELIGIBILITY OR INELIGIBILITY WAS MADE WITH A RESULTING NOTICE OF ACTION.

"EBT CARD" MEANS THE CARD ISSUED TO PERSONS AUTHORIZED TO RECEIVE SNAP TO WHICH THE HOUSEHOLD'S ALLOTMENT IS CREDITED. USED FOR SNAP PURPOSES TO PURCHASE ELIGIBLE FOODS AT APPROVED RETAILERS.

"EMPLOYMENT AND TRAINING PROGRAM" MEANS A PROGRAM OPERATED BY THE DEPARTMENT OF HUMAN SERVICES CONSISTING OF WORK, TRAINING, EDUCATION, WORK

EXPERIENCE, AND/OR JOB SEARCH ACTIVITIES DESIGNED TO HELP RECIPIENTS OBTAIN GAINFUL EMPLOYMENT.

“EMPLOYMENT FIRST (EF)” MEANS COLORADO’S EMPLOYMENT AND TRAINING PROGRAM.

“EXCESS MEDICAL DEDUCTION” MEANS A DEDUCTION FROM A HOUSEHOLD'S TOTAL GROSS INCOME APPLIED WHEN A PERSON WITH A DISABILITY OR A PERSON AGED 60 AND OLDER HAS MEDICAL EXPENSES OVER A SPECIFIED MONTHLY AMOUNT.

“EXEMPT INCOME” MEANS INCOME THAT IS EXEMPT FROM CONSIDERATION WHEN DETERMINING ELIGIBILITY FOR SNAP.

“EXPANDED CATEGORICAL ELIGIBILITY (ECE)” MEANS HOUSEHOLDS THAT ARE EXEMPT FROM HAVING RESOURCES CONSIDERED WHEN DETERMINING ELIGIBILITY FOR SNAP.

“EXPEDITED SERVICE” MEANS THE METHOD BY WHICH AN APPLICATION FOR SNAP IS PROCESSED TO ENSURE THAT THE NEEDIEST HOUSEHOLDS HAVE ACCESS TO BENEFITS NO LATER THAN THE SEVENTH (7TH) CALENDAR DAY FOLLOWING THE DATE OF APPLICATION.

“FAIR HEARING” MEANS A HEARING CONDUCTED IN PERSON OR ON THE TELEPHONE BY THE OFFICE OF ADMINISTRATIVE COURTS TO PROVIDE AN IMPARTIAL DECISION ON A HOUSEHOLD’S APPEAL OF A LOCAL OFFICE’S DECISION OR ACTION.

“FINANCIAL CRITERIA” MEANS THE SET OF RULES GOVERNING GROSS AND NET INCOME AND RESOURCE STANDARDS AND THE PROPER METHODS FOR COMPUTING A HOUSEHOLD’S INCOME AND RESOURCES.

“FLEEING FELON” MEANS AN INDIVIDUAL WHO IS FLEEING TO AVOID PROSECUTION OR ARREST FOR A FELONY UNDER A STATE OR FEDERAL LAW.

“FNS” MEANS THE FOOD AND NUTRITION SERVICE OF THE U.S. DEPARTMENT OF AGRICULTURE.

“FRAUD” MEANS THE ACT COMMITTED BY A PERSON WHEN OBTAINING, ATTEMPTING TO OBTAIN, OR AIDING AND ABETTING ANOTHER TO OBTAIN ASSISTANCE BENEFITS THROUGH INTENTIONALLY FALSE STATEMENTS, REPRESENTATIONS, OR THE WITHHOLDING OF MATERIAL INFORMATION.

“FULL-TIME STUDENT” MEANS A PERSON WHO HAS A SCHOOL SCHEDULE EQUIVALENT TO A FULL-TIME CURRICULUM AS DEFINED BY THE INSTITUTION OF HIGHER EDUCATION THE PERSON IS ATTENDING.

“G-845” MEANS THE FORM SUBMITTED TO THE U.S. CITIZENSHIP AND IMMIGRATION SERVICES TO REQUEST IMMIGRATION STATUS VERIFICATION FOR A SNAP APPLICANT OR PARTICIPANT.

“GOOD CAUSE” MEANS A WAIVER GRANTED TO A PERSON OR HOUSEHOLD A) EXCUSING THEM FROM COMPLYING WITH A SPECIFIC ELIGIBILITY REQUIREMENT BECAUSE COMPLIANCE COULD CAUSE ADVERSE CONSEQUENCES TO THE PERSON OR HOUSEHOLD, OR B)

PROVIDING THE HOUSEHOLD WITH MORE TIME TO COMPLY WITH A SPECIFIC ELIGIBILITY REQUIREMENT.

“GROSS INCOME” MEANS THE TOTAL OF ALL NON-EXEMPT EARNED AND UNEARNED INCOME ADDED TOGETHER BEFORE ANY DEDUCTION OR DISREGARD IS CONSIDERED.

“GROUP LIVING ARRANGEMENT (GLA)” MEANS A PUBLIC OR PRIVATE NON-PROFIT FACILITY CERTIFIED UNDER SECTION 1616(E) OF THE SOCIAL SECURITY ACT WHICH SERVES NO MORE THAN SIXTEEN (16) PEOPLE.

“HEAD OF HOUSEHOLD (HOH)” MEANS THE PERSON WHO IS GENERALLY REGARDED AS THE PERSON WITH THE MOST KNOWLEDGE OF THE HOUSEHOLD’S CIRCUMSTANCES. THE HEAD OF HOUSEHOLD IS THE PERSON TO WHOM THE LOCAL OFFICE ADDRESSES CORRESPONDENCE AND NOTICES ABOUT THE HOUSEHOLD’S CASE. THIS PERSON IS GENERALLY THE INDIVIDUAL WHO COMPLETES THE APPLICATION PROCESS AND IS RESPONSIBLE FOR OBTAINING AND USING THE HOUSEHOLD’S EBT CARD.

“HEATING/COOLING UTILITY ALLOWANCE (HCUA)” MEANS A FIXED DEDUCTION APPLIED TO ANY HOUSEHOLD THAT INCURS A HEATING OR COOLING EXPENSE.

“HOMELESS” MEANS AN INDIVIDUAL WHO LACKS A FIXED AND REGULAR NIGHTTIME RESIDENCE OR WHOSE PRIMARY RESIDENCE IS: A SUPERVISED SHELTER DESIGNED FOR TEMPORARY ACCOMMODATIONS, A HALFWAY HOUSE OR SIMILAR FACILITY THAT PROVIDES TEMPORARY RESIDENCE, A PLACE NOT DESIGNED FOR OR ORDINARILY USED AS REGULAR SLEEPING ACCOMMODATIONS FOR HUMAN BEINGS, OR A TEMPORARY ACCOMMODATION IN THE RESIDENCE OF ANOTHER INDIVIDUAL FOR NINETY (90) DAYS OR LESS.

“HOMELESS MEAL PROVIDER” MEANS:

1. A PUBLIC OR PRIVATE NONPROFIT ESTABLISHMENT THAT FEEDS PERSONS EXPERIENCING HOMELESSNESS; OR,
2. A RESTAURANT WHICH CONTRACTS WITH AN APPROPRIATE STATE AGENCY TO OFFER MEALS AT CONCESSIONAL (LOW OR REDUCED) PRICES TO PERSONS EXPERIENCING HOMELESSNESS.

“HOUSEHOLD” MEANS A GROUP OF INDIVIDUALS WHO LIVE TOGETHER AND CUSTOMARILY PURCHASE AND PREPARE FOOD TOGETHER.

“HOUSEHOLD INCOME” MEANS ALL EARNED AND UNEARNED INCOME RECEIVED OR ANTICIPATED TO BE RECEIVED BY HOUSEHOLD MEMBERS FROM ALL SOURCES, UNLESS SPECIFICALLY EXEMPTED FOR SNAP ELIGIBILITY PURPOSES.

“INADVERTENT HOUSEHOLD ERROR CLAIM” MEANS A DEBT THAT HAS BEEN ESTABLISHED FOR THE HOUSEHOLD TO REPAY DUE TO AN OVERISSUANCE OF BENEFITS THAT WAS ISSUED TO A HOUSEHOLD DUE TO A MISUNDERSTANDING OR UNINTENTIONAL ERROR ON THE PART OF THE HOUSEHOLD.

“INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS)” MEANS A SYSTEM USED TO MATCH APPLICANTS’ AND PARTICIPANTS’ SOCIAL SECURITY NUMBERS WITH THE SOCIAL SECURITY ADMINISTRATION, INTERNAL REVENUE SERVICE, AND THE DEPARTMENT OF LABOR AND EMPLOYMENT TO OBTAIN INFORMATION ABOUT HOUSEHOLD INCOME.

“INDIGENT NON-CITIZEN” MEANS A SPONSORED NON-CITIZEN WHO, AFTER CONSIDERING ALL INCOME AND CONTRIBUTIONS PROVIDED BY THE SPONSOR AND OTHER SOURCES IN CONJUNCTION WITH THE NON-CITIZEN’S OWN INCOME, IS UNABLE TO OBTAIN FOOD AND SHELTER AMOUNTING TO ONE HUNDRED THIRTY PERCENT (130%) OF THE FEDERAL POVERTY LEVEL FOR THE NON-CITIZEN’S HOUSEHOLD SIZE. WHEN A NON-CITIZEN IS DECLARED INDIGENT, ONLY THE AMOUNT PROVIDED BY THE SPONSOR SHALL BE DEEMED TO THE NON-CITIZEN. A DECLARATION OF INDIGENCE MAY LAST UP TO TWELVE (12) MONTHS BUT MAY BE RENEWED AT THE END OF SUCH A PERIOD, IF NECESSARY. THE LOCAL OFFICE MUST NOTIFY THE U.S. ATTORNEY GENERAL OF EACH INDIGENCE DETERMINATION, INCLUDING THE NAME OF THE SPONSOR AND THE SPONSORED NON-CITIZEN.

“INITIAL APPLICATION” MEANS A HOUSEHOLD’S FIRST APPLICATION FOR ASSISTANCE OR AN APPLICATION FOR ASSISTANCE THAT IS RECEIVED AFTER THE HOUSEHOLD HAS BEEN OFF OF THE PROGRAM FOR ANY PERIOD FOLLOWING THE END OF A CERTIFICATION PERIOD.

“INITIAL MONTH OF APPLICATION” MEANS THE FIRST MONTH FOR WHICH THE HOUSEHOLD IS CERTIFIED FOR PARTICIPATION IN THE PROGRAM FOR THOSE WHO HAVE NOT RECEIVED FOOD BENEFITS IN THE STATE PREVIOUSLY OR FOLLOWING ANY BREAK AFTER THE END OF THE CERTIFICATION PERIOD WHERE THE HOUSEHOLD WAS NOT CERTIFIED FOR PARTICIPATION. IF THE HOUSEHOLD APPLIES FOR RECERTIFICATION PRIOR TO THE EXPIRATION OF ITS CERTIFICATION PERIOD AND IS FOUND ELIGIBLE FOR THE FIRST MONTH FOLLOWING THE END OF THE CERTIFICATION PERIOD, THAT MONTH SHALL NOT BE AN INITIAL MONTH.

“INSTITUTION OF HIGHER EDUCATION” MEANS INSTITUTIONS THAT NORMALLY REQUIRE A HIGH SCHOOL DIPLOMA OR EQUIVALENCY CERTIFICATE FOR A STUDENT TO ENROLL, SUCH AS COLLEGES, UNIVERSITIES, AND VOCATIONAL OR TECHNICAL SCHOOLS.

“INTENTIONAL” MEANS A FALSE REPRESENTATION OF A MATERIAL FACT WITH KNOWLEDGE OF THAT FALSITY OR OMISSION OF A MATERIAL FACT WITH KNOWLEDGE OF THAT OMISSION.

“INTENTIONAL PROGRAM VIOLATION (IPV)” MEANS WHEN AN INDIVIDUAL HAS INTENTIONALLY MADE A FALSE OR MISLEADING STATEMENT OR MISREPRESENTED, CONCEALED OR WITHHELD FACTS, OR COMMITTED OR INTENDED TO COMMIT ANY ACT THAT CONSTITUTES A VIOLATION OF THE FOOD AND NUTRITION ACT OF 2008, THE SNAP REGULATIONS, OR ANY STATE STATUTE RELATING TO THE USE, PRESENTATION, TRANSFER, ACQUISITION, RECEIPT OR POSSESSION OF SNAP BENEFITS.

“IPV HEARING”, SEE “ADMINISTRATIVE DISQUALIFICATION HEARING.”

“IPV HEARING WAIVER”, SEE “WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING.”

“ISSUANCE MONTH” MEANS THE CALENDAR MONTH FOR WHICH A BENEFIT ALLOTMENT IS ISSUED.

“LAWFUL PERMANENT RESIDENT” MEANS A NON-CITIZEN LEGALLY ADMITTED INTO THE UNITED STATES TO RESIDE ON A PERMANENT BASIS.

“LEVEL SANCTION” MEANS A SPECIFIED PERIOD OF INELIGIBILITY IMPOSED AGAINST AN INDIVIDUAL WHO FAILED TO TAKE A REQUIRED ACTION AS PART OF HIS OR HER ELIGIBILITY FOR SNAP.

“LIQUID RESOURCES” MEANS ASSETS SUCH AS CASH ON HAND OR ASSETS THAT CAN BE EASILY CONVERTED TO CASH SUCH AS MONEY IN CHECKING OR SAVINGS ACCOUNTS, SAVING CERTIFICATES, OR STOCKS AND BONDS.

“LIVE-IN ATTENDANTS” MEANS INDIVIDUALS WHO RESIDE WITH A HOUSEHOLD TO PROVIDE MEDICAL, HOUSEKEEPING, CHILD CARE, OR OTHER PERSONAL SERVICES.

“LOCAL OFFICE” MEANS THE COUNTY DEPARTMENT OF SOCIAL/HUMAN SERVICES THAT IS RESPONSIBLE FOR ADMINISTERING SNAP. IN THOSE COUNTIES THAT HAVE MORE THAN ONE OFFICE THAT ADMINISTERS SNAP, “LOCAL OFFICE” SHALL BE INCLUSIVE OF ALL LOCAL OFFICES WITHIN THE COUNTY THAT ADMINISTER THE PROGRAM.

“LOCAL-LEVEL DISPUTE RESOLUTION CONFERENCE”, SEE “DISPUTE RESOLUTION CONFERENCE.”

“LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LEAP)” MEANS THE COLORADO PROGRAM DESIGNED TO HELP LOW-INCOME APPLICANTS PAY A PORTION OF THEIR WINTER HEATING COSTS.

“MANAGEMENT EVALUATION (ME) REVIEWS” MEANS STATE OR FEDERAL REVIEWS OF EACH COUNTY’S ADMINISTRATION OF SNAP TO DETERMINE EACH COUNTY’S ADHERENCE TO FEDERAL- AND STATE-MANDATED REQUIREMENTS. SUCH REVIEWS ARE MANDATED BY THE FOOD AND NUTRITION SERVICE OF THE USDA.

“MASS UPDATE” MEANS A CHANGE IN DATA OR POLICY THAT AFFECTS THE ENTIRE STATE-WIDE CASELOAD OR A PORTION OF THE CASELOAD.

“MATERIAL INFORMATION” MEANS INFORMATION TO WHICH A REASONABLE PERSON WOULD ATTACH IMPORTANCE WHEN DETERMINING A COURSE OF ACTION.

“MIGRANT FARM WORKER” MEANS A PERSON WHO TRAVELS AWAY FROM HOME ON A REGULAR BASIS TO FOLLOW THE FLOW OF SEASONAL AGRICULTURAL WORK.

“MINIMUM BENEFIT” MEANS THE MINIMUM AMOUNT OF BENEFITS ISSUED TO ONE- AND TWO-PERSON HOUSEHOLDS THAT ARE ELIGIBLE FOR ASSISTANCE, BUT WHOSE ISSUANCE CALCULATES TO LESS THAN THE FEDERALLY PRESCRIBED MINIMUM ALLOTMENT.

“NET INCOME TEST” MEANS THE ONE HUNDRED PERCENT (100%) FEDERAL POVERTY LEVEL UNDER WHICH A HOUSEHOLD’S INCOME MUST FALL AFTER ALL ALLOWABLE DEDUCTIONS ARE CONSIDERED IN ORDER TO BE CONSIDERED ELIGIBLE. THIS LEVEL IS SPECIFIC TO THE HOUSEHOLD SIZE AS DEFINED BY USDA, FNS.

“NON-FINANCIAL CRITERIA” MEANS THE SET OF RULES GOVERNING ELEMENTS NOT RELATED TO THE GROSS AND NET INCOME AND RESOURCE STANDARDS.

“NON-LIQUID RESOURCES” MEANS ASSETS WHICH CANNOT BE EASILY CONVERTED INTO CASH SUCH AS VEHICLES AND REAL PROPERTY.

“NOTICE OF ACTION (NOA)” MEANS THE STATE-PRESCRIBED FORM SENT TO A HOUSEHOLD EVERY TIME AN ACTION IS TAKEN TO INCREASE, DECREASE, SUSPEND, DENY, TERMINATE, OR OTHERWISE AFFECT A HOUSEHOLD’S BENEFITS. THIS FORM DESCRIBES THE ACTION TAKEN UPON A HOUSEHOLD’S CASE AND THE RESULTING EFFECT.

“NOTICE OF OVERPAYMENT” MEANS A NOTICE SENT TO A HOUSEHOLD UPON THE ESTABLISHMENT OF A CLAIM AGAINST THE HOUSEHOLD FOR AN OVERPAYMENT OF BENEFITS.

“ON-THE-JOB TRAINING (OJT)” MEANS TRAINING PROVIDED TO AN EMPLOYEE AFTER HE OR SHE IS HIRED. SUCH TRAINING IS DESIGNED FOR INDIVIDUALS WHO DO NOT HAVE THE NECESSARY WORK EXPERIENCE REQUIRED FOR THE JOB.

“ONE UTILITY ALLOWANCE (OUA)” MEANS A FIXED DEDUCTION GIVEN TO ANY HOUSEHOLD THAT IS NOT ELIGIBLE TO RECEIVE THE HCUA OR BUA AND INCURS ONLY ONE (1) NON-HEATING OR NON-COOLING UTILITY EXPENSE, SUCH AS ELECTRICITY, WATER, SEWER, TRASH, OR COOKING FUEL. THE OUA IS NOT ALLOWED IF THE HOUSEHOLD’S ONLY UTILITY EXPENSE IS A TELEPHONE.

“OVER-ISSUANCE” MEANS THE AMOUNT OF SNAP BENEFITS ISSUED TO A HOUSEHOLD THAT EXCEEDS THE AMOUNT IT WAS ELIGIBLE TO RECEIVE.

“PA HOUSEHOLDS” MEANS HOUSEHOLDS THAT CONTAIN ONLY PERSONS WHO RECEIVE TANF OR ADULT FINANCIAL CASH GRANTS.

“PAROLEE” MEANS A NON-CITIZEN ALLOWED INTO THE UNITED STATES FOR URGENT HUMANITARIAN REASONS OR WHEN THE NON-CITIZEN’S ENTRY IS DETERMINED TO BE FOR SIGNIFICANT PUBLIC BENEFIT. PAROLE DOES NOT CONSTITUTE A FORMAL ADMISSION TO THE UNITED STATES AND CONFERS TEMPORARY STATUS ONLY, REQUIRING PAROLEES TO LEAVE WHEN THE CONDITIONS SUPPORTING THEIR PAROLE CEASE TO EXIST.

“PAYMENT ERROR RATE (PER)” MEANS THE SUM OF THE OVERPAYMENT ERROR RATE AND THE UNDERPAYMENT ERROR RATE, WHICH IS THE VALUE OF ALL OVER AND UNDERPAID ALLOTMENTS EXPRESSED AS A PERCENTAGE OF ALL ALLOTMENTS ISSUED TO THE CASES REVIEWED, EXCLUDING THOSE CASES PROCESSED BY SSA PERSONNEL OR PARTICIPATING IN CERTAIN DEMONSTRATION PROJECTS DESIGNATED BY FNS.

“PERIOD OF INELIGIBILITY” MEANS THE PERIOD OF TIME A PERSON IS INELIGIBLE TO RECEIVE SNAP BENEFITS AS A RESULT OF A FAILURE TO COOPERATE WITH EITHER A STATE OR FEDERAL QA REVIEW.

“PERIODIC REPORT FORM (PRF)” MEANS THE REPORT THAT MUST BE SUBMITTED BY THE HOUSEHOLD DURING THE TWELFTH (12TH) MONTH OF A TWENTY FOUR (24) MONTH CERTIFICATION PERIOD. THE PURPOSE OF THIS FORM IS TO ALLOW THE HOUSEHOLD TO REPORT ANY CHANGES THAT OCCURRED DURING THE FIRST HALF OF THE TWENTY FOUR (24) MONTH CERTIFICATION PERIOD AND FOR THE LOCAL OFFICE TO DETERMINE THE HOUSEHOLD’S CONTINUED ELIGIBILITY FOR THE REMAINING TWELVE (12) MONTHS OF THE HOUSEHOLD’S CERTIFICATION PERIOD.

“PERSON WITH DISABILITIES” MEANS A PERSON WHO:

1. RECEIVES SUPPLEMENTAL SECURITY INCOME BENEFITS UNDER TITLE XVI OF THE SOCIAL SECURITY ACT, OR THE COLORADO SUPPLEMENT, OR AID TO THE NEEDY AND DISABLED- SUPPLEMENTAL SECURITY INCOME- COLORADO SUPPLEMENT (AND-SSI-CS), OR AID TO THE BLIND-SUPPLEMENTAL SECURITY INCOME- COLORADO SUPPLEMENT (AB-SSI-CS); OR DISABILITY OR BLINDNESS PAYMENTS UNDER TITLE I, II, X, OR IXV OF THE SOCIAL SECURITY ACT;

2. IS A VETERAN WITH A SERVICE-CONNECTED DISABILITY RATED OR PAID AS A TOTAL DISABILITY UNDER TITLE 38 OF THE UNITED STATES CODE OR IS A VETERAN RECEIVING A PENSION FOR A NON-SERVICE CONNECTED DISABILITY;

3. IS A VETERAN CONSIDERED BY THE VA TO BE IN NEED OF REGULAR AID AND ATTENDANCE OR PERMANENTLY HOUSEBOUND UNDER TITLE 38 OF THE CODE;

4. IS A SURVIVING SPOUSE OF A VETERAN AND CONSIDERED IN NEED OF AID AND ATTENDANCE OR PERMANENTLY HOUSEBOUND OR A SURVIVING CHILD OF A VETERAN AND CONSIDERED BY THE VA TO BE PERMANENTLY INCAPABLE OF SELF-SUPPORT UNDER TITLE 38 OF THE UNITED STATES CODE;

5. IS A SURVIVING SPOUSE OR CHILD OF A VETERAN AND CONSIDERED BY THE VA TO BE ENTITLED TO COMPENSATION FOR A SERVICE-CONNECTED DEATH OR PENSION BENEFITS FOR A NON-SERVICE-CONNECTED DEATH UNDER TITLE 38 OF THE UNITED STATES CODE AND HAS A DISABILITY CONSIDERED PERMANENT UNDER SECTION 221(I) OF THE SOCIAL SECURITY ACT. “ENTITLED”, AS USED IN THIS DEFINITION, REFERS TO THOSE VETERANS’ SURVIVING SPOUSES AND CHILDREN WHO ARE RECEIVING THE COMPENSATION OR BENEFITS OR HAVE BEEN APPROVED FOR SUCH BENEFITS BUT ARE NOT YET RECEIVING THEM;

6. IS A PERSON WHO HAS A DISABILITY CONSIDERED PERMANENT UNDER SECTION 221(I) OF THE SOCIAL SECURITY ACT (SSA) AND RECEIVES A FEDERAL, STATE, OR LOCAL PUBLIC DISABILITY RETIREMENT PENSION;

7. IS A PERSON WHO RECEIVES AN ANNUITY FOR DISABILITY FROM THE RAILROAD RETIREMENT BOARD WHO IS CONSIDERED AS A DISABLED PERSON WITH DISABILITIES BY THE

SSA OR WHO QUALIFIES FOR MEDICARE AS DETERMINED BY THE RAILROAD RETIREMENT BOARD; OR

8. IS A RECIPIENT OF INTERIM ASSISTANCE BENEFITS PENDING THE RECEIPT OF THE SUPPLEMENTAL SECURITY INCOME (SSI), DISABILITY-RELATED MEDICAL ASSISTANCE UNDER TITLE XIX OF THE SOCIAL SECURITY ACT, OR DISABILITY-BASED STATE ASSISTANCE BENEFITS PROVIDED THAT THE ELIGIBILITY TO RECEIVE THESE BENEFITS IS BASED ON DISABILITY OR BLINDNESS CRITERIA WHICH ARE AT LEAST AS STRINGENT AS THOSE USED UNDER TITLE XVI OF THE SOCIAL SECURITY ACT.

“POST HIGH SCHOOL EDUCATION” MEANS COLLEGES, UNIVERSITIES, AND POST-HIGH SCHOOL LEVEL TECHNICAL AND VOCATIONAL SCHOOLS.

“PROSPECTIVE BUDGETING” MEANS THE METHOD OF COMPUTING A HOUSEHOLD’S MONTHLY ALLOTMENT BY USING CURRENT CIRCUMSTANCES AND REASONABLY ANTICIPATED INCOME FOR THE MONTH IN WHICH THE ALLOTMENT WILL BE ISSUED.

“PRUDENT PERSON PRINCIPLE (PPP)” MEANS A WORKER’S DISCRETION TO APPLY REASONABLE JUDGMENT WHEN DETERMINING THE PROPER COURSE OF ACTION IN SPECIFIC SITUATIONS IN ORDER TO MAKE AN ELIGIBILITY DETERMINATION.

“PUBLIC ASSISTANCE (PA)” MEANS ANY OF THE FOLLOWING PROGRAMS AUTHORIZED BY THE SOCIAL SECURITY ACT OF 1935, AS AMENDED: OLD AGE PENSION, TANF, AID TO THE BLIND, AID TO THE PERMANENTLY AND TOTALLY DISABLED, AND AID TO THE AGED, BLIND, OR DISABLED.

“QUALITY ASSURANCE (QA)” MEANS THE DIVISION RESPONSIBLE FOR REVIEWING SNAP CASES TO DETERMINE IF THE PROPER ELIGIBILITY DETERMINATION WAS MADE AND IF THE CORRECT AMOUNT OF BENEFITS WERE ISSUED TO A HOUSEHOLD IN A GIVEN MONTH.

“QA ACTIVE CASE” MEANS CASES WHERE A HOUSEHOLD WAS CERTIFIED PRIOR TO OR DURING THE SAMPLE MONTH AND ISSUED SNAP BENEFITS FOR THE SAMPLE MONTH.

“QA NEGATIVE CASE” MEANS CASES WHERE A HOUSEHOLD WAS DENIED CERTIFICATION TO RECEIVE SNAP BENEFITS IN THE SAMPLE MONTH OR WHICH HAD ITS PARTICIPATION IN THE PROGRAM TERMINATED DURING A CERTIFICATION PERIOD EFFECTIVE FOR THE SAMPLE MONTH.

“QUALIFIED NON-CITIZEN” MEANS AN INDIVIDUAL WHO MEETS THE SPECIFIC DEFINITION OF “QUALIFIED ALIEN” AS DEFINED BY THE FOOD AND NUTRITION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE, WHICH INCLUDES LAWFUL PERMANENT RESIDENTS, ASYLEES, REFUGEES, PAROLEES, INDIVIDUALS GRANTED WITHHOLDING OF DEPORTATION OR REMOVAL, CONDITIONAL ENTRANTS, CUBAN OR HAITIAN ENTRANTS, BATTERED ALIENS, AND NON-CITIZEN VICTIMS OF A SEVERE FORM OF TRAFFICKING. THIS TERM IS NOT ITSELF AN IMMIGRATION STATUS, BUT RATHER INCLUDES A COLLECTION OF IMMIGRATION STATUSES. IT IS A TERM USED SOLELY FOR FEDERAL PUBLIC BENEFITS PURPOSES. QUALIFIED NON-CITIZENS ARE NOT AUTOMATICALLY ELIGIBLE FOR ASSISTANCE, BUT RATHER MUST MEET ALL OTHER ELIGIBILITY REQUIREMENTS.

“QUALITY CONTROL REVIEW” MEANS A REVIEW OF A STATISTICALLY VALID SAMPLE OF ACTIVE AND NEGATIVE CASES TO DETERMINE THE EXTENT TO WHICH HOUSEHOLDS ARE RECEIVING SNAP ALLOTMENTS TO WHICH THEY ARE ENTITLED, AND TO DETERMINE THE EXTENT TO WHICH DECISIONS TO DENY, SUSPEND, OR TERMINATE CASES ARE CORRECT.

“QUEST CARD” MEANS COLORADO’S SPECIFIC VERSION OF THE EBT CARD.

“QUESTIONABLE” MEANS INCONSISTENT OR CONTRADICTORY INFORMATION, STATEMENTS, DOCUMENTS OR CASE DOCUMENTATION THAT REQUIRES VERIFICATION FROM THE HOUSEHOLD TO DETERMINE ELIGIBILITY.

“RECOUPMENT” MEANS THE WITHHOLDING OF A PORTION OF A HOUSEHOLD’S MONTHLY ALLOTMENT TO PAY BACK AN OVER-ISSUANCE.

“REPAYMENT AGREEMENT” MEANS THE FORM SENT TO A HOUSEHOLD UPON THE ESTABLISHMENT OF A CLAIM THAT OUTLINES THE HOUSEHOLD'S RESPONSIBILITY AND OPTIONS FOR REPAYMENT.

“RESTORATION” MEANS A PAYMENT OF BENEFITS MADE TO A HOUSEHOLD WHO WAS ELIGIBLE TO RECEIVE THE AMOUNT IN A PAST MONTH BUT DID NOT RECEIVE THE PAYMENT.

“ROOMER” MEANS AN INDIVIDUAL TO WHOM A HOUSEHOLD FURNISHES LODGING, BUT NOT MEALS, FOR COMPENSATION.

“SANCTION” MEANS A SPECIFIED PERIOD OF INELIGIBILITY IMPOSED AGAINST AN INDIVIDUAL WHO FAILED TO TAKE A REQUIRED ACTION AS PART OF HIS OR HER ELIGIBILITY FOR EITHER SNAP OR COLORADO WORKS.

“SELF-EMPLOYMENT” MEANS A SITUATION WHERE SOME OR ALL INCOME IS RECEIVED FROM A SELF-OPERATED BUSINESS OR ENTERPRISE IN WHICH THE INDIVIDUAL RETAINS CONTROL OVER WORK OR SERVICES OFFERED AND ASSUMES THE NECESSARY BUSINESS RISKS AND EXPENSES CONNECTED WITH THE OPERATION OF THE BUSINESS.

“SHELTER FOR BATTERED WOMEN AND CHILDREN” MEANS A PUBLIC OR PRIVATE NONPROFIT RESIDENTIAL FACILITY THAT SERVES BATTERED WOMEN AND THEIR CHILDREN. IF SUCH A FACILITY SERVES OTHER INDIVIDUALS, A PORTION OF THE FACILITY MUST BE SET ASIDE ON A LONG-TERM BASIS TO SERVE ONLY BATTERED WOMEN AND CHILDREN.

“SIMPLIFIED REPORTING” MEANS SNAP HOUSEHOLDS ARE REQUIRED TO REPORT MID-CERTIFICATION CHANGES THAT CAUSE THE HOUSEHOLD’S COMBINED GROSS INCOME TO RISE ABOVE ONE HUNDRED THIRTY PERCENT (130%) FPL FOR THE APPLICABLE HOUSEHOLD SIZE, WHEN A MEMBER OF THE HOUSEHOLD WINS SUBSTANTIAL LOTTERY OR GAMBLING WINNINGS, AND IF AN ABAWD’S WORK/VOLUNTEER HOURS FALL BELOW TWENTY (20) HOURS PER WEEK.

“SNAP" MEANS SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM, FORMERLY KNOWN AS THE FOOD ASSISTANCE PROGRAM IN COLORADO.

“SPONSOR” MEANS A PERSON WHO HAS EXECUTED AN AFFIDAVIT(S) OF SUPPORT OR SIMILAR AGREEMENT ON BEHALF OF A NON-CITIZEN AS A CONDITION OF THE NON-CITIZENS ENTRY OR ADMISSION TO THE US AS A PERMANENT RESIDENT.

“SPONSORED NON-CITIZEN” MEANS THOSE NON-CITIZENS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE INTO THE UNITED STATES WHO HAVE BEEN SPONSORED BY AN INDIVIDUAL FOR ENTRY INTO THE COUNTRY.

“STANDARD ELIGIBILITY” MEANS THE SET OF RULES APPLICABLE TO HOUSEHOLDS THAT DO NOT FALL UNDER “EXPANDED CATEGORICAL ELIGIBILITY” OR “BASIC CATEGORICAL ELIGIBILITY.” HOUSEHOLDS CONSIDERED UNDER STANDARD ELIGIBILITY RULES ARE SUBJECT TO RESOURCE LIMITS AS A CONDITION OF ELIGIBILITY.

“STATE DEPARTMENT” MEANS THE OFFICE/DIVISION WITHIN THE COLORADO DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS SNAP. CURRENTLY, THIS IS THE FOOD AND ENERGY ASSISTANCE DIVISION WITHIN THE OFFICE OF ECONOMIC SECURITY.

“STATE-LEVEL FAIR HEARING” MEANS A REVIEW REQUESTED BY AN APPLICANT OR RECIPIENT WHICH IS HELD BEFORE AN ALJ TO ESTABLISH WHETHER AN ACTION OR ELIGIBILITY DETERMINATION TAKEN WAS CORRECT.

“STRIKER” MEANS AN INDIVIDUAL WHO IS INVOLVED IN A STRIKE OR OTHER CONCERTED STOPPAGE OF WORK BY EMPLOYEES, INCLUDING A STOPPAGE BY REASON OF THE EXPIRATION OF A COLLECTIVE BARGAINING AGREEMENT AND ANY CONCERTED SLOWDOWN OR OTHER CONCERTED INTERRUPTION OF OPERATIONS BY EMPLOYEES.

“SUBSTANTIAL LOTTERY OR GAMBLING WINNINGS” IS A CASH PRIZE WON IN A SINGLE GAME, BEFORE TAXES OR OTHER AMOUNTS ARE WITHHELD, THAT IS EQUAL TO OR GREATER THAN THE RESOURCE LIMIT FOR PERSONS AGED 60 AND OLDER AND PERSONS WITH DISABILITIES.

“SUPPLEMENT” MEANS A PAYMENT OF ADDITIONAL ALLOWABLE BENEFITS MADE FOR THE CURRENT ISSUANCE MONTH.

“SUPPLEMENTAL SECURITY INCOME (SSI)” MEANS MONTHLY CASH PAYMENTS MADE UNDER THE AUTHORITY OF: (1) TITLE XVI OF THE SOCIAL SECURITY ACT, AS AMENDED, TO THE AGED, BLIND AND DISABLED; (2) SECTION 1616(A) OF THE SOCIAL SECURITY ACT; OR (3) SECTION 212(A) OF PUB. L. 93-66.

“SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE)” MEANS THE SYSTEM ALLOWING FOR THE VALIDATION OF IMMIGRATION STATUSES OF NON-CITIZEN APPLICANTS AND PARTICIPANTS THROUGH ACCESS TO CENTRALIZED U.S. CITIZENSHIP AND IMMIGRATION SERVICE (USCIS) DATA.

“TELEPHONE ALLOWANCE” MEANS A FIXED DEDUCTION GIVEN TO ANY HOUSEHOLD NOT INCURRING UTILITY EXPENSES OTHER THAN THE EXPENSE FOR A TELEPHONE.

“TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) OR COLORADO WORKS (CW)” MEANS THE CASH ASSISTANCE PROGRAM ALSO KNOWN AS TITLE IV-A OF THE SOCIAL SECURITY ACT.

“TEMPORARY EMERGENCY” MEANS AN EMERGENCY CAUSED BY ANY NATURAL OR HUMAN-CAUSED DISASTER, OTHER THAN A MAJOR DISASTER DECLARED BY THE PRESIDENT OF THE UNITED STATES UNDER THE DISASTER RELIEF ACT OF 1974, WHICH IS DETERMINED BY FNS TO HAVE DISRUPTED COMMERCIAL CHANNELS OF FOOD DISTRIBUTION.

“THRIFTY FOOD PLAN” MEANS THE DIET REQUIRED TO FEED A FAMILY OF FOUR (4) PERSONS CONSISTING OF A MAN AND A WOMAN TWENTY (20) THROUGH FIFTY (50) YEARS OF AGE, A CHILD SIX (6) THROUGH EIGHT (8) YEARS OF AGE, AND A CHILD NINE (9) THROUGH ELEVEN (11) YEARS OF AGE, DETERMINED IN ACCORDANCE WITH THE U.S. DEPARTMENT OF AGRICULTURE. THE COST OF SUCH A DIET SHALL BE THE BASIS FOR UNIFORM ALLOTMENTS FOR ALL HOUSEHOLDS REGARDLESS OF THEIR ACTUAL COMPOSITION.

“TRAFFICKING” MEANS ATTEMPTING TO BUY, SELL, STEAL, OR OTHERWISE AFFECT AN EXCHANGE OF SNAP BENEFITS ISSUED AND ACCESSED VIA ELECTRONIC BENEFIT TRANSFER (EBT) CARDS, CARD NUMBERS AND PERSONAL IDENTIFICATION NUMBERS (PINS), OR BY MANUAL VOUCHER AND SIGNATURE, FOR CASH OR CONSIDERATION OTHER THAN ELIGIBLE FOOD, EITHER DIRECTLY, INDIRECTLY, IN COMPLICITY OR COLLUSION WITH OTHERS, OR ACTING ALONE. TRAFFICKING ALSO INCLUDES (1) THE EXCHANGE OF SNAP BENEFITS FOR FIREARMS, AMMUNITION, EXPLOSIVES, OR CONTROLLED SUBSTANCES, (2) THE RESALE OF A PRODUCT PURCHASED WITH SNAP BENEFITS IN EXCHANGE FOR CASH OR CONSIDERATION OTHER THAN ELIGIBLE FOOD, AND (3) THE PURCHASE OF A PRODUCT THAT HAS A CONTAINER REQUIRING A RETURN DEPOSIT WITH THE INTENT OF OBTAINING CASH BY DISCARDING THE PRODUCT AND RETURNING THE CONTAINER FOR THE DEPOSIT AMOUNT.

“UNCLEAR INFORMATION” UNCLEAR INFORMATION IS INFORMATION THAT IS NOT VERIFIED, OR INFORMATION THAT IS VERIFIED BUT THE LOCAL OFFICE NEEDS ADDITIONAL INFORMATION TO ACT ON THE CHANGE.

“UNDER-ISSUANCE” MEANS THE DIFFERENCE BETWEEN THE ALLOTMENT THE HOUSEHOLD WAS ELIGIBLE TO RECEIVE AND THE ALLOTMENT THE HOUSEHOLD ACTUALLY RECEIVED, WHICH WAS LOWER THAN WHAT THE HOUSEHOLD WAS ELIGIBLE TO RECEIVE.

“VALID APPLICATION” MEANS A STATE-PRESCRIBED FORM COMPLETED WITH NAME, ADDRESS, AND SIGNATURE.

“VENDOR PAYMENTS” MEANS MONEY PAYMENTS THAT ARE NOT PAYABLE DIRECTLY TO A HOUSEHOLD, BUT ARE PAID TO A THIRD PARTY FOR A HOUSEHOLD EXPENSE.

“VERIFICATION” MEANS CONFIRMATION OF A HOUSEHOLD’S STATEMENTS THROUGH WRITTEN, VERBAL, OR ELECTRONIC MEANS

“VERIFIED UPON RECEIPT (VUR)” MEANS INFORMATION THAT IS PROVIDED DIRECTLY FROM THE PRIMARY SOURCE AND WHICH IS NOT QUESTIONABLE.

“VOLUNTARY QUIT” MEANS WHEN A SNAP RECIPIENT VOLUNTARILY QUIT A JOB OF 30 OR MORE HOURS A WEEK OR REDUCED WORK EFFORT TO LESS THAN 30 HOURS A WEEK WITHOUT GOOD CAUSE.

“VOLUNTARY WORK REGISTRANT” MEANS AN INDIVIDUAL WHO CHOOSES TO PARTICIPATE IN THE PROGRAM AND IS NOT MANDATED TO PARTICIPATE BY THE STATE OR FEDERAL REGULATIONS.

“WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING” MEANS A WAIVER SENT TO INDIVIDUALS SUSPECTED OF INTENTIONAL PROGRAM VIOLATION WHICH PRESENTS THE INDIVIDUAL WITH THE OPTION OF WAIVING HIS OR HER RIGHT TO AN ADMINISTRATIVE HEARING, ESSENTIALLY ACCEPTING THE APPROPRIATE DISQUALIFICATION WITHOUT NECESSARILY ADMITTING THE VIOLATION.

4.~~010~~100 ~~PROGRAM~~ SNAP INTRODUCTION

This material sets forth rules, policies, and procedures concerned with eligibility determination and certification of persons who apply to participate in the SNAP ~~Food Assistance Program~~, and, if determined eligible, the requirements concerning the use of SNAP ~~Food Assistance~~ benefits. The rules and regulations herein are promulgated in accordance with Program regulations of the United States Department of Agriculture (USDA), 7 CFR 271–274 (2012), as amended, and the State Plan of Operation. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of 7 CFR Parts 271 through 274 are available for inspection ~~during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203~~. Electronic copies of 7 CFR parts 271 through 274 may be found by accessing the electronic code of federal regulations at http://www.ecfr.gov.

4.110~~020~~ USE OF THE SNAP~~FOOD ASSISTANCE~~ MANUAL

Below is a summary of the information contained in each section:

Section 4.000 contains ~~general Program information, confidentiality requirements,~~ SNAP SPECIFIC DEFINITIONS.~~, and complaint procedures, including complaints regarding alleged discrimination.~~

Section 4.100 contains GENERAL PROGRAM INFORMATION, CONFIDENTIALITY REQUIREMENTS, AND COMPLAINT PROCEDURES (INCLUDING COMPLAINTS REGARDING ALLEGED DISCRIMINATION) ~~Program specific definitions~~.

Section 4.200 sets forth policies and procedures for the application and recertification processes. Information contained in this section includes the process of filing an application and recertification, interview requirements, timely processing standards, determination of certification periods, and initial month allotment proration.

Section 4.300 outlines the non-financial criteria a household must meet ~~in order~~ to be eligible for SNAP ~~the Program~~. Non-financial criteria include identity of applicant, Social Security Number (SSN) requirement, residency, household composition, citizenship and non-citizenship status, and work program requirements.

Section 4.400 sets forth the financial criteria a household must meet ~~in order~~ to be eligible for the Program. Financial criteria include gross and net income standards, resource standards, and deductions from income.

Section 4.500 sets forth policies and procedures regarding the verification and documentation of a household's circumstances.

Section 4.600 outlines a household's obligation to report changes during the certification period, and how certain changes are handled by the LOCAL OFFICE ~~county department~~.

Section 4.700 sets forth policies and procedures for issuing SNAP ~~Food Assistance~~ benefits, including restoration and replacement of issuances.

Section 4.800 outlines the rules and processes regarding claims, appeals, and fraud.

Section 4.900 outlines state and county administrative requirements.

~~4.100 DEFINITIONS~~

~~"Able-Bodied Adult Without Dependent (ABAWD)" means an individual between the ages of eighteen (18) and fifty (50) without a physical or mental disability, who is not pregnant, and who lives in a Food Assistance household with no one under the age of eighteen (18).~~

~~"Administrative disqualification hearing (ADH)" means a disqualification hearing against an individual accused of wrongfully obtaining or attempting to obtain assistance.~~

~~"Administrative law judge (ALJ)" means the person that presides over fair hearings and administrative disqualification hearings at the state level.~~

~~"Adverse action" means any action taken by a local office that causes a household's benefits to be reduced or terminated.~~

~~"Adverse action period" means the period of time that elapses prior to the adverse action becoming effective during the certification period.~~

~~"Agency error claim" means that a debt has been established for the household to repay due to an overpayment of benefits that was issued to the household resulting from an error made by the local office.~~

~~"Allotment" means the total amount of Food Assistance benefits a household is authorized to receive in a particular month.~~

~~"Appeal" means a request made by a household to have a decision about its case reviewed by an impartial third party to determine whether the decision was correct.~~

~~"Application filing date" means the date an application for assistance is received by the county office. "Application" means a request on a state-approved form for benefits, which can include the electronic State-prescribed form."~~

~~"Application for redetermination/recertification (RRR)" means an application submitted prior to the last month of the certification period to determine a household's continued eligibility for the next certification period.~~

~~"Application process" means the required process a household must complete for purposes of determining eligibility for benefits.~~

~~"Authorized representative" means an individual who has been designated in writing by a responsible member of the household to act on behalf of or assist the household with the application process, obtaining benefits, and/or in using benefits at authorized retailers.~~

~~"Automated Child Support Enforcement System (ACSES)" means the automated computer system used by Child Support Services to record child support payments.~~

~~"Basic Categorical Eligibility (BCE)" means the status granted to any household that is not eligible for Expanded Categorical Eligibility and contains only members who receive, or are eligible to receive, benefits from Colorado Works, Supplemental Security Income, Old Age Pension, Aid to the Needy and Disabled, Aid to the Blind, or a combination of these benefits.~~

~~"Basic Utility Allowance (BUA)" means a fixed deduction applied to a household that does not pay for heating or cooling and incurs at least two (2) non-heating or non-cooling utility costs, such as electricity, water, sewer, trash, cooking fuel, or telephone.~~

~~"Boarder" means an individual residing with others and paying reasonable compensation to others for lodging and meals.~~

~~"Boarding house" means an establishment that is licensed as a commercial enterprise and which offers meals and lodging for compensation.~~

~~"Case payee" means the person appointed to receive the household's benefits.~~

~~"Case record" means a combination of the physical case file that contains documents pertinent to a household's case; similar documents maintained in an electronic database; and information about the household that is contained within the statewide automated system.~~

~~"Certification period" means the period of time for which a household has been certified to receive benefits.~~

~~"Civil union" means a legally binding partnership between two individuals without the legal recognition of these individuals as spouses.~~

~~"Claim" means a debt resulting from an overpayment of benefits that a household is obligated to repay.~~

~~"Clear and convincing evidence" means evidence which is stronger than a preponderance of evidence and which is unmistakable and free from serious or substantial doubt.~~

~~"Collateral contact" means a verbal or written confirmation of a household's circumstances by a person outside the household who has first-hand knowledge of the information, made either in person, electronically submitted or by telephone.~~

~~"Colorado Benefits Management System (CBMS)" means the computer system used to determine food assistance eligibility.~~

~~"Colorado Electronic Benefit Transfer System (CO/EBTS)" means the electronic system that enables Food Assistance participants or their authorized representatives to redeem their Food Assistance benefits at point-of-sale terminals.~~

~~"Colorado Unemployment Benefits System (CUBS)" means the electronic system by which Unemployment Insurance Benefits (UIB) are determined by Colorado Department of Labor and Employment.~~

~~"Communal dining facility" means an establishment approved by FNS that prepares and serves meals for elderly persons, or for Supplemental Security Income (SSI) recipients, and their spouses. This also includes federally subsidized housing for elderly persons at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate State or local agency to offer meals at concessional prices to elderly persons or SSI recipients, and their spouses.~~

~~"Compromise" means the decision to reduce the amount of a claim that is owed by a household.~~

~~"Countable month" means a month in which an ABAWD received full Food Assistance allotment but did not meet work requirements or have an exemption from those requirements.~~

~~"County Assistance Office" means the county social or human services office that is responsible for administering the Food Assistance Program.~~

~~"Demand letter", see "Notice of Overpayment."~~

~~"Disaster Supplemental Nutrition Assistance Program (D-SNAP) means the food assistance provided to the affected areas when a Presidential disaster declaration for individual assistance is declared and the decision to implement this Program after a Presidential declaration shall be at the affected county's discretion in coordination with the State Food Assistance Office and FNS.~~

~~"Dispute resolution conference (DRC)" means an informal meeting between a household and the local office to review an action taken on a case and the relevant facts pertaining to such action.~~

~~"Disqualification Consent Agreement (DCA)" means the form that allows the individual(s) suspected of intentional Program violation/fraud to consent to his/her disqualification in cases of deferred adjudication.~~

~~"Disqualified individuals" means any individual who is ineligible to receive Food Assistance due to having been disqualified for an Intentional Program Violation/fraud, failure to provide or obtain a SSN, ineligible non-citizens, individuals disqualified for failure to cooperate with work requirements, individuals disqualified for failure to cooperate with the State quality assurance division, and ABAWDs who already received three countable months of Food Assistance within thirty-six (36) months without meeting an exemption or ABAWD work requirements.~~

~~"Documentary evidence" means written information used to verify the income, expenses, and other circumstances of a household.~~

~~"Documentation" means the collection of documentary evidence, verification, case notes, and other information related to a household's case upon which eligibility determinations and other decisions are based.~~

~~"Drug and Alcohol Treatment Center (DAA)" means any residential facility run by a private, nonprofit organization or institution, or a publicly operated community mental health center, under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) that provides rehabilitative treatment to persons participating in a drug or alcohol treatment program.~~

~~"Dual participation" means the receipt of benefits in more than one Food Assistance household or state in the same calendar month.~~

~~"Elderly" means an individual that is sixty (60) years of age or older.~~

~~"EBT" means Electronic Benefit Transfer.~~

~~"EBT card" means the card issued to persons authorized to receive Food Assistance to which the household's allotment is credited. Used for Food Assistance purposes to purchase eligible foods at approved retailers.~~

~~"Employment and Training Program" means a program operated by the Department of Human Services consisting of work, training, education, work experience, and/or job search activities designed to help recipients obtain gainful employment.~~

~~"Employment First (EF)" means Colorado's Employment and Training program.~~

~~"Excess medical deduction" means a deduction from a household's total gross income applied when a person with a disability or a person who is elderly has medical expenses over a specified monthly amount.~~

~~"Exempt income" means income that is exempt from consideration when determining eligibility for Food Assistance.~~

~~"Expanded Categorical Eligibility (ECE)" means households that are exempt from having resources considered when determining eligibility for Food Assistance.~~

~~"Expedited service" means the method by which an application for Food Assistance is processed to ensure that the neediest households have access to Food Assistance benefits no later than the seventh (7th) calendar day following the date of application.~~

~~"Fair Hearing" means a hearing conducted in person or on the telephone by the Office of Administrative Courts to provide an impartial decision on a household's appeal of a local office's decision or action.~~

~~"Financial criteria" means the set of rules governing gross and net income and resource standards and the proper methods for computing a household's income and resources.~~

~~"Fleeing felon" means an individual who is fleeing to avoid prosecution or arrest for a felony under a state or federal law.~~

~~"FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.~~

~~"Fraud" means the act committed by a person when obtaining, attempting to obtain, or aiding and abetting another to obtain assistance benefits through intentionally false statements, representations, or the withholding of material information.~~

~~"Full-time student" means a person who has a school schedule equivalent to a full-time curriculum as defined by the institute of higher education the person is attending.~~

~~"Good cause" means a waiver granted to a person or household a) excusing them from complying with a specific eligibility requirement because compliance could cause adverse consequences to the person or household, or b) providing the household with more time to comply with a specific eligibility requirement.~~

~~"G-845" means the form submitted to the U.S. Citizenship and Immigration Services to request immigration status verification for a Food Assistance applicant or participant.~~

~~"Gross Income" means the total of all non-exempt earned and unearned income added together before any deduction or disregard is considered.~~

~~"Group Living Arrangement (GLA)" means a public or private non-profit facility certified under Section 1616(e) of the Social Security Act which serves no more than sixteen (16) people.~~

~~"Head of household (HOH)" means the person who is generally regarded as the person with the most knowledge of the household's circumstances. The head of household is the person to whom the local office addresses correspondence and notices about the household's case. This person is generally the individual who completes the application process and is responsible for obtaining and using the household's EBT card.~~

~~"Heating/Cooling Utility Allowance (HCUA)" means a fixed deduction applied to any household that incurs a heating or cooling expense.~~

~~"Homeless" means an individual who lacks a fixed and regular nighttime residence or whose primary residence is: a supervised shelter designed for temporary accommodations, a halfway house or similar facility that provides temporary residence, a place not designed for or ordinarily used as regular sleeping accommodations for human beings, or a temporary accommodation in the residence of another individual for ninety (90) days or less.~~

~~"Homeless meal provider" means:~~

~~A. A public or private nonprofit establishment that feeds homeless persons; or,~~

~~B. A restaurant which contracts with an appropriate State agency to offer meals at concessional (low or reduced) prices to homeless persons.~~

~~"Household" means a group of individuals who live together and customarily purchase and prepare food together.~~

~~"Household income" means all earned and unearned income received or anticipated to be received by household members from all sources, unless specifically exempted for Food Assistance eligibility purposes.~~

~~"Inadvertent Household Error Claim" means a debt that has been established for the household to repay due to an overpayment of benefits that was issued to a household due to a misunderstanding or unintentional error on the part of the household.~~

~~"Income and Eligibility Verification System (IEVS)" means a system used to match applicants' and participants' Social Security Numbers with the Social Security Administration, Internal Revenue Service, and the Department of Labor and Employment to obtain information about household income.~~

~~"Initial application" means a household's first application for assistance or an application for assistance that is received after the household has been off of the Program for any period following the end of a certification period.~~

~~"Initial month of application" means the first month for which the household is certified for participation in the Program for those who have not received food benefits in the State previously or following any break after the end of the certification period where the household was not certified for participation. If the household submits an application for recertification prior to the expiration of its certification period and is found eligible for the first month following the end of the certification period, that month shall not be an initial month.~~

~~"Indigent non-citizen" means a sponsored non-citizen who, after considering all income and contributions provided by the sponsor and other sources in conjunction with the non-citizen's own income, is unable to obtain food and shelter amounting to one hundred thirty percent (130%) of the federal poverty level for the non-citizen's household size. When a non-citizen is declared indigent, only the amount provided by the sponsor shall be deemed to the non-citizen. A declaration of indigence may last up to twelve (12) months, but may be renewed at the end of such a period, if necessary. The local office must notify the U.S. Attorney General of each indigence determination, including the name of the sponsor and the sponsored non-citizen.~~

~~"Institution of higher education" means institutions that normally require a high school diploma or equivalency certificate for a student to enroll, such as colleges, universities, and vocational or technical schools.~~

~~"Intentional Program Violation (IPV)" means when an individual has intentionally made a false or misleading statement or misrepresented, concealed or withheld facts, or committed or intended to commit any act that constitutes a violation of the Food and Nutrition Act of 2008, the Food Assistance Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Assistance benefits.~~

~~"Intentional" means a false representation of a material fact with knowledge of that falsity or omission of a material fact with knowledge of that omission.~~

~~"IPV hearing", see "Administrative disqualification hearing."~~

~~"IPV hearing waiver", see "Waiver of administrative disqualification hearing."~~

~~"Issuance month" means the calendar month for which a benefit allotment is issued.~~

~~"Lawful Permanent Resident" means a non-citizen legally admitted into the United States to reside on a permanent basis.~~

~~"Level sanction" means a specified period of ineligibility imposed against an individual who failed to take a required action as part of his or her eligibility for Food Assistance.~~

~~"Liquid resources" means assets such as cash on hand or assets that can be easily converted to cash such as money in checking or savings accounts, saving certificates, or stocks and bonds.~~

~~"Live-in attendants" means individuals who reside with a household to provide medical, housekeeping, child care, or other personal services.~~

~~"Local-level Dispute Resolution Conference", see "Dispute Resolution Conference."~~

~~"Local office" means the county department of social/human services that is responsible for administering the Food Assistance Program. In those counties that have more than one office that administers the Food Assistance Program, "local office" shall be inclusive of all local offices within the county that administer the Program.~~

~~"Low-Income Home Energy Assistance Program (LEAP)" means the Colorado program designed to help low-income applicants pay a portion of their winter heating costs.~~

~~"Management Evaluation (ME) reviews" means state or federal reviews of each county's administration of the Food Assistance Program to determine each county's adherence to federal- and state-mandated requirements. Such reviews are mandated by the Food and Nutrition Service of the USDA.~~

~~"Mandatory Work Registrant" means an individual age sixteen (16) to sixty (60) who has not met any Federal exemptions from SNAP work requirements and is therefore required to register for work or be registered by the State agency.~~

~~"Mass update" means a change in data or policy that affects the entire state-wide caseload or a portion of the caseload.~~

~~"Material information" means information to which a reasonable person would attach importance when determining a course of action.~~

~~"Migrant farm worker" means a person who travels away from home on a regular basis to follow the flow of seasonal agricultural work.~~

~~"Minimum benefit" means the minimum amount of benefits issued to one- and two-person households that are eligible for assistance, but whose issuance calculates to less than the federally prescribed minimum allotment.~~

~~"Net income test" means the one hundred percent (100%) federal poverty level under which a household's income must fall after all allowable deductions are considered in order to be considered eligible. This level is specific to the household size as defined by USDA, FNS.~~

~~"Non-liquid resources" means assets which cannot be easily converted into cash such as vehicles and real property.~~

~~"Non-financial criteria" means the set of rules governing elements not related to the gross and net income and resource standards.~~

~~"Notice of Action (NOA)" means the state-prescribed form sent to a household every time an action is taken to increase, decrease, suspend, deny, terminate, or otherwise affect a household's benefits. This form describes the action taken upon a household's case and the resulting effect.~~

~~"Notice of overpayment" means a notice sent to a household upon the establishment of a claim against the household for an overpayment of benefits.~~

~~"On-the-job training (OJT)" means training provided to an employee after he or she is hired. Such training is designed for individuals who do not have the necessary work experience required for the job.~~

~~"One Utility Allowance (OUA)" means a fixed deduction given to any household that is not eligible to receive the HCUA or BUA and incurs only one (1) non-heating or non-cooling utility expense, such as electricity, water, sewer, trash, or cooking fuel. The OUA is not allowed if the household's only utility expense is a telephone.~~

~~"Over-issuance" means the amount of Food Assistance benefits issued to a household that exceeds the amount it was eligible to receive.~~

~~"Parolee" means a non-citizen allowed into the United States for urgent humanitarian reasons or when the non-citizen's entry is determined to be for significant public benefit. Parole does not constitute a formal admission to the United States and confers temporary status only, requiring parolees to leave when the conditions supporting their parole cease to exist.~~

~~"Payment Error Rate (PER)" means the sum of the overpayment error rate and the underpayment error rate, which is the value of all over and underpaid allotments expressed as a percentage of all allotments issued to the cases reviewed, excluding those cases processed by SSA personnel or participating in certain demonstration projects designated by FNS.~~

~~"Period of ineligibility" means the period of time a person is ineligible to receive Food Assistance benefits as a result of a failure to cooperate with either a state or federal QA review.~~

~~"Periodic Report Form (PRF)" means the report that must be submitted by the household during the twelfth (12th) month of a twenty four (24) month certification period. The purpose of this form is to allow the household to report any changes that occurred during the first half of the twenty four (24) month certification period and for the local office to determine the household's continued eligibility for the remaining twelve (12) months of the household's certification period.~~

~~"Person with disabilities" means a person who:~~

~~1. Receives Supplemental Security Income benefits under Title XVI of the Social Security Act, or the Colorado Supplement, or Aid To The Needy And Disabled- Supplemental Security Income- Colorado Supplement (AND-SSI-CS), or Aid To The Blind-Supplemental Security Income- Colorado Supplement (AB-SSI-CS); or Disability Or Blindness Payments under Title I, II, X, or IXV of the Social Security Act;~~

~~2. Is a veteran with a service-connected disability rated or paid as a total disability under Title 38 of the United States Code or is a veteran receiving a pension for a non-service connected disability;~~

3. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the Code;

4. Is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code;

5. Is a surviving spouse or child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. "Entitled", as used in this definition, refers to those veterans' surviving spouses and children who are receiving the compensation or benefits or have been approved for such benefits but are not yet receiving them;

6. Is a person who has a disability considered permanent under Section 221(i) of the Social Security Act (SSA) and receives a federal, state, or local public disability retirement pension;

7. Is a person who receives an annuity for disability from the Railroad Retirement Board who is considered AS A disabled person with disabilities by the SSA or who qualifies for Medicare as determined by the Railroad Retirement Board; or

8. Is a recipient of interim assistance benefits pending the receipt of the Supplemental Security Income (SSI), disability-related medical assistance under Title XIX of the Social Security Act, or disability-based state assistance benefits provided that the eligibility to receive these benefits is based on disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act.

"Post high school education" means colleges, universities, and post-high school level technical and vocational schools.

"Prospective budgeting" means the method of computing a household's monthly allotment by using current circumstances and reasonably anticipated income for the month in which the allotment will be issued.

"Prudent Person Principle (PPP)" means a worker's reasonable judgment when determining the proper course of action in a given situation in order to make an eligibility determination.

"Public Assistance (PA)" means any of the following programs authorized by the Social Security Act of 1935, as amended: Old Age Pension, TANF, Aid to the Blind, Aid to the Permanently and Totally Disabled, and Aid to the Aged, Blind, or Disabled.

"PA households" means households that contain only persons who receive TANF or adult financial cash grants.

"Quality Assurance (QA)" means the division responsible for reviewing Food Assistance cases to determine if the proper eligibility determination was made and if the correct amount of benefits were issued to a household in a given month.

"QA active case" means cases where a household was certified prior to or during the sample month and issued Food Assistance benefits for the sample month.

~~"QA negative case" means cases where a household was denied certification to receive Food Assistance benefits in the sample month or which had its participation in the Program terminated during a certification period effective for the sample month.~~

~~"Qualified non-citizen" means an individual who meets the specific definition of "qualified alien" as defined by the Food and Nutrition Service, United States Department of Agriculture, which includes lawful permanent residents, asylees, refugees, parolees, individuals granted withholding of deportation or removal, conditional entrants, Cuban or Haitian entrants, battered aliens, and non-citizen victims of a severe form of trafficking. This term is not itself an immigration status, but rather includes a collection of immigration statuses. It is a term used solely for Federal public benefits purposes. Qualified non-citizens are not automatically eligible for assistance, but rather must meet all other eligibility requirements.~~

~~"Quality Control review" means a review of a statistically valid sample of active and negative cases to determine the extent to which households are receiving the Food Assistance allotments to which they are entitled, and to determine the extent to which decisions to deny, suspend, or terminate cases are correct.~~

~~"QUEST card" means Colorado's specific version of the EBT card.~~

~~"Questionable" means inconsistent or contradictory information, statements, documents or case documentation that requires verification from the household to determine eligibility.~~

~~"Recoupment" means the withholding of a portion of a household's monthly allotment to pay back an over-issuance.~~

~~"Repayment agreement" means the form sent to a household upon the establishment of a claim that outlines the household's responsibility and options for repayment.~~

~~"Restoration" means a payment of benefits made to a household who was eligible to receive the amount in a past month but did not receive the payment.~~

~~"Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation.~~

~~"Sanction" means a specified period of ineligibility imposed against an individual who failed to take a required action as part of his or her eligibility for either Food Assistance or Colorado Works.~~

~~"Self-employment" means a situation where some or all income is received from a self-operated business or enterprise in which the individual retains control over work or services offered and assumes the necessary business risks and expenses connected with the operation of the business.~~

~~"Shelter for battered women and children" means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.~~

~~"Simplified Reporting" means the reporting status granted to households receiving either a six (6) or twenty-four (24) month certification period. Households considered simplified reporting households are not required to report any changes to household circumstances throughout the course of the certification period unless the change that occurred causes the household's combined gross income to rise above one hundred thirty percent (130%) of the federal poverty level for the applicable household size. Households receiving a twenty four (24) month certification period have the additional requirement of completing and~~

~~submitting a periodic report form (PRF) (see "Periodic report form") at the twelve (12) month point of the certification period on which all changes that have occurred since initial application must be reported.~~

~~"SNAP" means Supplemental Nutrition Assistance Program, which is referred to as the Food Assistance Program in Colorado.~~

~~"Sponsor" means a person who has executed an affidavit(s) of support or similar agreement on behalf of a non-citizen as a condition of the non-citizen's entry or admission to the US as a permanent resident.~~

~~"Sponsored non-citizen" means those non-citizens lawfully admitted for permanent residence into the United States who have been sponsored by an individual for entry into the country.~~

~~"Standard Eligibility" means the set of rules applicable to households that do not fall under "Expanded categorical eligibility" or "Basic categorical eligibility." Households considered under standard eligibility rules are subject to resource limits as a condition of eligibility.~~

~~"State Department" means the Colorado Department of Human Services.~~

~~"State office or Division" means the agency of the state government that has the responsibility for the oversight and monitoring of each county department's administration of the Food Assistance Program.~~

~~"State-level fair hearing" means a review requested by an applicant or recipient which is held before an Administrative Law Judge (ALJ) to establish whether an action or eligibility determination taken was correct.~~

~~"Striker" means an individual who is involved in a strike or other concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement and any concerted slowdown or other concerted interruption of operations by employees.~~

~~"Substantial lottery or gambling winnings" is a cash prize won in a single game before taxes or other amounts are withheld that is equal to or greater than the resource limit for elderly and persons with disabilities.~~

~~"Supplement" means a payment of additional allowable benefits made for the current issuance month.~~

~~"Supplemental Security Income (SSI)" means monthly cash payments made under the authority of: (1) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled; (2) Section 1616(A) of the Social Security Act; or (3) Section 212(A) of Pub. L. 93-66.~~

~~"Systematic Alien Verification for Entitlements (SAVE)" means the system allowing for the validation of immigration statuses of non-citizen applicants and participants through access to centralized U.S. Citizenship and Immigration Service (USCIS) data.~~

~~"Telephone allowance" means a fixed deduction given to any household not incurring utility expenses other than the expense for a telephone.~~

~~"Temporary Assistance for Needy Families (TANF) or Colorado Works (CW)" means the cash assistance program also known as Title IV-A of the Social Security Act.~~

~~"Temporary emergency" means an emergency caused by any natural or human-caused disaster, other than a major disaster declared by the President of the United States under the Disaster Relief Act of 1974, which is determined by FNS to have disrupted commercial channels of food distribution.~~

~~"Thrifty Food Plan" means the diet required to feed a family of four (4) persons consisting of a man and a woman twenty (20) through fifty (50) years of age, a child six (6) through eight (8) years of age, and a child nine (9) through eleven (11) years of age, determined in accordance with the U.S. Department of Agriculture. The cost of such a diet shall be the basis for uniform allotments for all households regardless of their actual composition.~~

~~"Trafficking" means attempting to buy, sell, steal, or otherwise affect an exchange of Food Assistance benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and Personal Identification Numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone. Trafficking also includes (1) the exchange of food assistance benefits for firearms, ammunition, explosives, or controlled substances, (2) the resale of a product purchased with food assistance benefits in exchange for cash or consideration other than eligible food, and (3) the purchase of a product that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount.~~

~~"Under-issuance" means the difference between the allotment the household was eligible to receive and the allotment the household actually received, which was lower than what the household was eligible to receive.~~

~~"Valid application" means a state-prescribed form completed with name, address, and signature.~~

~~"Vendor payments" means money payments that are not payable directly to a household, but are paid to a third party for a household expense.~~

~~"Verification" means confirmation of a household's statements through written, verbal, or electronic means~~

~~"Verified upon receipt (VUR)" means information that is provided directly from the primary source and which is not questionable.~~

~~"Voluntary quit" means when a Food Assistance recipient voluntarily quit a job of 30 or more hours a week or reduced work effort to less than 30 hours a week without good cause.~~

~~"Voluntary Work Registrant" means an individual who chooses to participate in the program and is not mandated to participate by the State or Federal regulations.~~

> ~~"Waiver of Administrative Disqualification Hearing" means a waiver sent to individuals suspected of intentional Program violation which presents the individual with the option of waiving his or her right to an administrative hearing, essentially accepting the appropriate disqualification without necessarily admitting the violation.~~

4.120030 PURPOSE OF SNAP ~~THE FOOD ASSISTANCE PROGRAM~~

The purpose of SNAP ~~the Food Assistance Program~~ is expressed by the United States Congress in Section 2 of the Food and Nutrition Act of 2008, Public Law No. 110-246 (codified at 7 USC 2012). The rules

contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection ~~during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203~~.

SNAP ~~The Food Assistance Program~~ is designed to promote the general welfare and to safeguard the health and well-being of the nation's population by raising the levels of nutrition among low-income households.

4.130~~040~~ USING SNAP ~~FOOD ASSISTANCE~~ BENEFITS

SNAP ~~Food assistance~~ benefits received by an eligible household may be used at any time by the household or other persons whom the household selects to purchase eligible food for the household. SNAP ~~Food Assistance~~ benefits are issued through an Electronic Benefit Transfer (EBT) system in which benefit allotments are stored on an electronic benefit transfer card and used to purchase authorized items at a point-of-sale (POS) terminal. EBT cards shall be presented only to retailers authorized by USDA/FNS to accept food benefit payment for food purchases.

SNAP ~~Food Assistance~~ benefits must be used to pay for food currently purchased and cannot be used to pay for foods previously or subsequently secured or to pay back bills owed the grocer. The only exceptions are that SNAP ~~Food Assistance~~ benefits may be used to pay for food items such as milk or bakery goods that are delivered to the home on a regular basis, or for advance payment to a non-profit cooperative food venture when food purchased is to be delivered ~~at a~~ later ~~date~~.

A. EXPUNGEMENT

1. UPON APPROVAL OF BENEFITS, SNAP RECIPIENTS ARE PROVIDED INFORMATION IN WRITING THAT ANY SNAP BENEFITS ISSUED TO THE EBT CARD THAT ARE UNUSED AFTER 9 MONTHS (274 DAYS) WILL BE CONSIDERED AS AN EXPUNGEMENT AND REMOVED FROM THE ACCOUNT.
2. UPON APPROVAL OF BENEFITS, SNAP RECIPIENTS ARE PROVIDED INFORMATION IN WRITING THAT IF THE EBT ACCOUNT GOES INACTIVE (NO FOOD PURCHASES OR RETURNS) AFTER 9 MONTHS (274 DAYS), THE INACTIVE SNAP BENEFITS WILL BE CONSIDERED AS AN EXPUNGEMENT AND REMOVED FROM THE ACCOUNT.

4.130.1~~040.1~~ WHERE HOUSEHOLDS CAN USE SNAP ~~FOOD ASSISTANCE~~ BENEFITS

A. Specified persons may use their SNAP ~~Food Assistance~~ benefits to purchase meals from the following:

1. A meal delivery service approved by the USDA, Food and Nutrition Service (FNS);

2. A communal dining facility for ~~elderly~~ persons AGED 60 AND OLDER and/or SSI households;

3. An authorized drug or alcoholic treatment and rehabilitation center;

4. An authorized public or private, nonprofit group living arrangement facility; and

5. A shelter for battered women and children.

B. ~~Homeless~~ ~~Hh~~ouseholds CONTAINING PERSONS EXPERIENCING HOMELESSNESS shall be permitted to use their benefits to purchase prepared meals from an authorized public or private nonprofit provider for ~~homeless~~ persons EXPERIENCING HOMELESSNESS. A meal provider for ~~homeless~~ persons EXPERIENCING HOMELESSNESS means a public or private non-profit establishment, including, but not limited to, soup kitchens and temporary shelters which feed ~~homeless~~ persons EXPERIENCING HOMELESSNESS. ~~In order t~~To be considered a ~~homeless~~ meal provider TO PERSONS EXPERIENCING HOMELESSNESS, the meal provider must be approved as such by the USDA, FNS.

~~Homeless h~~Households CONTAINING PERSONS EXPERIENCING HOMELESSNESS may also purchase meals from restaurants if the restaurant offers discounts to ~~homeless households~~ or serves food to ~~homeless~~ households CONTAINING PERSONS EXPERIENCING HOMELESSNESS at concessional (reduced) prices, and the restaurant is authorized by the USDA, FNS as a retailer.

4.130.2~~040.2~~ ELIGIBLE FOODS

Households can only purchase eligible foods with SNAP ~~Food Assistance~~ benefits. Eligible foods include:

A. Any food or food product intended for human consumption, except for alcoholic beverages, tobacco, and hot food, including hot food products prepared by the retailer and sold at above room temperature for immediate consumption.

B. Seeds and plants to grow foods for ~~the~~ personal consumption by eligible household members.

4.140~~050~~ CONFIDENTIALITY

A. If there is a written request by a responsible member of the household, or THE ~~it's ITS~~ current~~ly~~ authorized representative, or a person acting on behalf of the household to review materials contained in the case record, the material and information contained in the case record shall be made available for inspection ~~during normal business hours~~.

B. The local office shall withhold confidential information, such as the names of persons who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal investigations or prosecutions.

C. Use or disclosure of information obtained from a SNAP ~~Food Assistance~~ applicant or household or from any State or Federal agency included in the Income and Eligibility Verification System (IEVS), including the Internal Revenue Service (IRS), Social Security Administration (SSA) and Colorado Department of Labor and Employment (DOLE) exclusively for SNAP ~~the Food Assistance Program~~, shall be restricted to the following persons:

1. Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, other Federal assistance programs, federally- assisted State programs providing assistance on a means-tested basis to LOW-INCOME ~~low income~~ individuals, or general assistance programs which are subject to the joint processing requirements in 4.202.1.

2. Employees of the Comptroller General's office of the United States for audit examination authorized by any other provision of law;

3. Local, State or Federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the identity of the individual requesting the information and his/her authority to do so, the violation being investigated, and the identity of the person about whom the information is requested;

   Local, State, or Federal law enforcement officers acting in their official capacity, upon written request by such law enforcement officers that includes the name of the household member being sought, for the purpose of obtaining the address, social security number, and, if available, photograph of the household member, if the member is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or a high misdemeanor in New Jersey), or is violating a condition of probation or parole imposed under a Federal or State law. The agency shall provide information regarding a household member, upon written request of a law enforcement officer acting in his or her official capacity that includes the name of the person being sought, if the other household member has information necessary for the apprehension or investigation of the other household member who is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole imposed under Federal or State law.

   The agency must accept any document that reasonably establishes the identity of the household member being sought by law enforcement authorities. If a law enforcement officer provides documentation indicating that a household member is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole, the agency shall follow the procedures in 4.304.4 to determine whether the member's eligibility FOR ~~in the~~ SNAP ~~Food Assistance program~~ should be terminated. A determination and request for information that does not comply with the terms and procedures in 4.304.4 is not sufficient to terminate the member's participation. The agency shall disclose only such information as is necessary to comply with a specific written request of a law enforcement agency authorized by this paragraph.

4. Persons C~~C~~onnected with the Parent Locator Service. Information made available to the Parent Locator Service must be restricted to the recipient or applicant's most recent address and place of employment;

5. Persons directly connected with the administration of the Child Support Program under part D, title IV of the Social Security Act, in order to assist in the administration of their program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under titles II and XVI of the Social Security Act;

6. Persons directly connected with the verification of immigration status of non-citizen SNAP ~~Food Assistance~~ applicants through the Systematic Alien Verification for Entitlements (SAVE) system, to the extent the information is necessary to identify the individual for verification purposes;

7. School authorities for the purpose of determining which children are from families who participate in the Program. This information is used to determine eligibility for meals under the National School Lunch or Breakfast Program; and,

8. Persons directly connected with the administration or enforcement of programs included in the Income and Eligibility Verification System (IEVS). Information obtained through the IEVS will be stored and processed so that no unauthorized personnel may acquire or retrieve the information for unauthorized purposes. All persons with access to information obtained pursuant to the IEVS requirements will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

4.150~~060~~ RIGHT AND OPPORTUNITY TO REGISTER TO VOTE

An applicant for SNAP ~~Food Assistance~~ benefits shall be provided the opportunity to register to vote. The LOCAL OFFICE ~~county department~~ shall provide to all applicants the prescribed voter registration application.

The LOCAL OFFICE ~~county department~~ shall not:

A. Seek to influence the applicant's political preference or party registration.

B. Display any political preference or party allegiance.

C. Make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote.

D. Make any statement to an applicant or take any action, the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

4.150.1~~060.1~~ Transmittal of Voter Registration Records

A completed voter registration application shall be transmitted to the county clerk and recorder for the county in which the LOCAL OFFICE ~~county department~~ is located not later than ten (10) calendar days after the date of acceptance; except that, if a registration application is accepted within five (5) calendar days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk and recorder for the county not later than five (5) calendar days after the date of acceptance.

4.150.2~~060.2~~ Confidentiality of Voter Registration Records

Records concerning voter registration and declination to register to vote shall be maintained for two years by the LOCAL OFFICE ~~county department~~, and these records shall not be a part of the SNAP ~~Food Assistance~~ case record and are not subject to subpoena. The LOCAL OFFICE ~~county department~~ shall ensure the confidentiality of individuals registering or declining to register to vote. A voter registration application completed at the agency is not to be used for any purpose other than voter registration.

4.160~~070~~ COMPLAINT REQUIREMENTS

The local office shall publicize the state's complaint system. In addition, the local office shall advise any household wishing to file a complaint of the complaint procedure and ASSIST THE HOUSEHOLD WITH ~~offer assistance in~~ filing a complaint, if appropriate.

The State Department shall ensure that information is made available to potential participants, applicants, participants, or other interested persons concerning the complaint system, and the procedure for filing a complaint at the state or county level. Such information shall be made available to potential participants, applicants, and other interested parties through written materials and posters which shall be prominently displayed in all certification and issuance offices.

The local office shall make every effort to resolve all complaints, excluding complaints of discrimination, brought to their attention at the local level. However, all complainants shall be informed they have the right to contact the State Department if they are not satisfied with the action taken at the local level.

4.160.1~~070.1~~ State DEPARTMENT and LOCAL OFFICE ~~County Department~~ Responsibility

A. The State Department shall maintain records of complaints received. These records will be reviewed on an office-by-office basis at least annually. Any potential or actual patterns of deficiencies identified shall be reported to the State DEPARTMENT ~~Food Assistance Division coordinator~~ for action or for inclusion, if appropriate, in the state and/or COUNTY'S ~~county department's~~ Performance Improvement Plan.

   The State DEPARTMENT ~~Food Assistance Division~~ shall be the primary contact through which complaints are filed. State staff shall either handle the complaint when filed, or refer the complaint to appropriate state or county staff for disposition.

B. When requested to do so by the State Department, the local office shall provide information sufficient to enable the State DEPARTMENT ~~Food Assistance Division~~ to provide notification to the complainant in accordance with timeframes specified in item C below.

C. The State level complaint system shall include notification to the complainant, either verbally or in writing, of the action taken by the State Department in resolving the complaint. Notification to the complainant by the State Department shall be accomplished within the following time frames:

1. Complaints involving expedited services shall be investigated and a response provided to the complainant no later than three (3) business days following the date the complaint was received by the State Department.

2. All other complaints shall be investigated and a response provided to the complainant no later than thirty (30) calendar days following the date the complaint was received by the State Department.

D. If a complaint can be resolved through the fair hearing process, the State Department shall advise the complainant of the process for requesting a fair hearing and offer the complainant assistance to request a fair hearing.

4.160.2~~070.2~~ Non-Discrimination Complaint Requirements

State and local agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, disability, religious creed, national origin, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity funded by the USDA. Discrimination in any aspect of program administration is prohibited. Local offices shall ensure that the nondiscrimination poster provided by FNS is prominently displayed. Posters may be obtained through the State Department.

The local office shall explain ~~the~~ complaint procedures~~, as outlined in 4.070.21 "Discrimination Complaint Procedure,"~~ to each person expressing an interest in filing a discrimination complaint and shall advise the individual of the right to file a complaint under this procedure. Such information shall be made available within ten (10) calendar days from the date of request.

4.160.21~~070.21~~ Discrimination Complaint Procedure

A. Individuals who believe they have been subject to discrimination may file a written complaint with the USDA, FNS national office, the local office, and/or the State Department. All complaints of alleged discrimination shall be made in writing and shall be submitted to the FNS national office.

   If allegations of discrimination are made verbally, and if the complainant is unable or unwilling to put the allegations in writing, the State or county employee to whom the allegation is made shall document the complaint in writing. The person accepting the complaint shall make every effort to secure the information specified in Subsection C, below.

B. The complainant shall be advised that a complaint may be submitted to the State Department, FNS or both, and that a complaint shall not be investigated unless information specified in items C, 2, through C, 4, below, is provided. In addition, the complainant shall be advised that a complaint must be filed no later than one hundred eighty (180) calendar days from the date of the alleged discrimination. The local office shall date stamp or otherwise note the date the complaint is received by the office.

1. Complaints directed to the FNS national office shall be addressed to: U.S. Department of Agriculture, Director, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410; Fax: (202) 690-7442; Email: program.intake@usda.gov.

2. Complaints directed to the State Department shall be addressed to: Colorado Department of Human Services, SNAP~~Food Assistance Program~~, 1575 Sherman St., Denver, CO 80203.

C. The complaint shall include the following information to facilitate investigations TO BE CONSIDERED COMPLETE:

1. The name, address and telephone number or other means of contacting the person alleging discrimination;

2. The location and name of the office which is accused of discriminatory practices;

3. The nature of the incident or action, or the aspect of Program administration that led the person to allege discrimination;

4. The reason for the alleged;

5. The name(s) and title(s), if appropriate, of person(s) who may have knowledge of the alleged discriminatory act; and

6. The date(s) on which the alleged discriminatory action(s) occurred.

4.160.22~~070.22~~ Disposition of Discrimination Complaints

When the local office receives a complaint of alleged discrimination and obtains A COMPLETE DISCRIMINATION COMPLAINT, ~~the information specified in 4.070.21 "Discrimination Complaint Procedure,"~~ it shall transmit a copy of the complaint to the FNS national office and/or the State Department within five (5) working days. The State Department shall file the complaint with the FNS national office on behalf of the complainant if the local office does not file the complaint with the FNS national office.

***

4.201 APPLICATION PROCESSING

A. LOCAL ~~County~~ offices shall not apply additional conditions or processing requirements that are beyond those prescribed by State SNAP~~Food Assistance~~ rules. The application process includes the filing and completion of an application form, being interviewed, and verifying certain information. Signs shall be posted in certification offices that explain the application processing standards and the right to file an application on the day of initial contact. Similar information about same-day filing shall be included in outreach materials and on the application form.

B. The local office shall act promptly on all applications and provide SNAP~~Food Assistance~~ benefits retroactive to the month of application to those households that have completed the application process and have been determined to be eligible.

***

D. The household may voluntarily withdraw its application at any time prior to a determination of eligibility. Once a determination of eligibility is made, the household may voluntarily terminate its participation. Any reason given by the household for withdrawal or termination shall be documented in the case file. A Notice of Action form, indicating voluntary withdrawal of application or voluntary termination of participation, shall be sent to the household within ten (10) calendar days of the decision, to confirm the action taken. The household shall be advised of its right to reapply at any time AFTER~~subsequent to~~ a withdrawal.

E. No household shall have its SNAP~~Food Assistance~~ benefits denied solely BASED ON~~on the basis of~~ its application to participate in another program being denied or its benefits under another program being terminated, without a separate determination by the local office that a household failed to satisfy a SNAP~~Food Assistance Program~~ eligibility requirement.

F. Households denied SNAP~~Food Assistance~~ that have an SSI application pending shall be informed on the notice of denial of the possibility of categorical eligibility if they become SSI recipients. Residents of public institutions who apply jointly for SSI and SNAP~~Food Assistance~~ benefits prior to their release from the institution shall not be eligible for SNAP~~Food Assistance~~ until the individual has been released from the public institution.

G. Local offices shall record in the automated system racial and ethnic data provided by an applicant household. The purpose of obtaining this information is not to affect the eligibility or the level of benefits, but rather to ensure that SNAPProgram benefits are distributed without regard to race, color, or national origin. In those instances when the information is not provided voluntarily by the household on the application form, the local office shall use alternative means of collecting the ethnic and racial data on households, such as by observation during the interview. Under no circumstance should an eligibility worker challenge or change a self-declaration made by a household member.

4.202 FILING AN APPLICATION

A. Regardless of what type of application system is used, the local office must provide a means for applicants to immediately begin the application process. The household shall be advised it may file an incomplete application form IFas long as the form contains a name, address, and is signed by a responsible household member or the household's authorized representative. Signatures include handwritten signatures, electronic signature techniques, recorded telephonic signatures, or documented gestured signatures. A valid handwritten signature includes a designation of an X. Local offices shall accept applications for Food Assistance during normal business hours and shall not be restricted to a certain day or time of day. The household shall be advised that it need not be interviewed before filing an application. The LOCAL OFFICEcounty department shall inform applicants that receiving SNAPFood Assistance will have no bearing on any other program's time limits that may apply to the household.

B. Persons who request information for SNAPFood Assistance must be advised of expedited service provisions and encouraged to APPLYsubmit an application so that eligibility processing can begin. County local offices shall encourage the filing of an application form on the same day the household or its representative contacts the local office in person or by telephone and expresses interest in obtaining SNAPFood Assistance, or indicates the household is without food or the means to obtain food.

C. Local offices shall make application forms readily accessible to applicant households, as well as to groups and organizations, and shall also provide an application form to anyone who requests the form. If a household contacting the local office by telephone does not wish to come to the appropriate office to file the application that same day and instead prefers receiving an application through the mail, the local office shall mail an application form to the household on the same day the telephone request is received. An application shall also be mailed on the same day a written request for SNAPFood Assistance is received.

***

E. Households must file applications by submitting the forms in person, through an authorized representative, by fax or other electronic transmission, by mail, or by completing an online electronic application. The local office must inform the applicant that they CANhave the opportunity to obtain a copy of their application and provide the household with a copy of their completed application upon the request of the client. A copy of a completed application can be a copy of the information provided by the client that was used or will be used to determine a household's eligibility and benefit allotment. At the option of the household, this may be provided in an electronic format.

F. Applications are valid for a period of sixty (60) calendar days OR UNTIL ELIGIBILITY HAS BEEN DETERMINED, WHICHEVER IS SOONER. ~~Households reapplying for benefits following a determination of ineligibility more than sixty (60) calendar days from the date of the original application date must submit a new application.~~ ONCE ELIGIBILITY HAS BEEN DETERMINED, HOUSEHOLDS MUST SUBMIT A NEW APPLICATION IF THE HOUSEHOLD:

1. FAILED TO ATTEND AN INTERVIEW IN THE FIRST THIRTY (30) DAYS OF THE APPLICATION, OR
2. WAS DETERMINED INELIGIBLE DUE TO HOUSEHOLD CIRCUMSTANCES

G. Local offices shall record in the automated system racial and ethnic data provided by an applicant household. The purpose of obtaining this information is not to affect the eligibility or the level of benefits, but rather to ensure that SNAP~~rogram~~ benefits are distributed without regard to race, color, or national origin. In those instances when the information is not provided voluntarily by the household on the application form, the local office shall use alternative means of collecting the ethnic and racial data on households, such as by observation during the interview. Under no circumstance should an eligibility TECHNICIAN~~worker~~ challenge or change a self-declaration made by a household member.

4.202.1 Public Assistance Applications and Processing

A. Households applying for PA~~public assistance (PA)~~ shall be notified of their right to apply for SNAP~~Food Assistance~~ at the same time~~,~~ and shall be allowed to apply for SNAP~~Food Assistance~~ at the same time they apply for PA~~public assistance~~ benefits.

B. The local office shall provide benefits using the original application and any other pertinent information occurring AFTER~~subsequent to~~ that application for any household filing a joint application for SNAP~~Food Assistance~~ and PA~~public assistance~~ benefits. The original application and relevant subsequent information shall also be used for households that are categorically eligible when they are determined eligible to receive PA~~public assistance~~ after being denied for SNAP~~Food Assistance~~. The local office shall not re-interview the household~~,~~ but shall use mail or telephone contact to obtain information about any changes.

C. Households whose PA~~public assistance (PA)~~ applications are denied shall not be required to file a new SNAP~~Food Assistance~~ application. The household shall have its SNAP~~Food Assistance~~ eligibility determined or continued based on the applications filed jointly for PA and SNAP~~Food Assistance~~ purposes and any other documented information obtained AFTER~~subsequent to~~ the application that may have been used in the PA determination.

4.202.2 Application Filing by Ineligible Individuals

The ineligibility of certain individuals for Program benefits will not prohibit the remaining household members from applying for and receiving SNAP~~Food Assistance~~. Ineligible individuals living in an applicant household shall not be considered eligible household members for SNAP~~Food Assistance~~ purposes; however the ineligible individual's income and resources are considered in the household's eligibility determination and benefit allotment.

When the eligible members of a household are all unemancipated minors and the only adult is an ineligible individual, the ineligible individual may APPLY~~make application~~ on behalf of the eligible minors without being considered as having applied for him/herself. However, if there is any other eligible adult of an une-

mancipated minor in the household, even though they would not normally be considered the household head, that eligible person should make application as the head of household.

4.202.3 SSI Households Submitting Food Assistance Applications to the SSA

A. Whenever a member of a household consisting only of SSI applicants or recipients transacts business at an SSA office, the member has a right to make a household application for Food Assistance at the SSA office or the local office. The SSA office is not required to accept applications for SSI applicants or recipients who are not members in a household consisting entirely of SSI recipients unless a county has outstationed a worker at the SSA office. The SSA office will refer non-SSI households to the correct local office. An applicant or recipient of SSI shall be informed at the SSA office of the availability of benefits under the Food Assistance Program and the availability of the Food Assistance application at the SSA office. The SSA office shall also complete joint SSI and Food Assistance applications for residents of public institutions who apply for SSI prior to their release from the institutions. The applicants shall be permitted to apply for Food Assistance at the same time that they apply for SSI.

B. The SSA office will accept and complete Food Assistance applications from SSI households and forward them, within one working day after receipt of a signed application, to the appropriate county local office. The SSA will use the Food Assistance application. The application will be transmitted to the local office with documentation of verification obtained. When an SSA office sends a Food Assistance application and supporting documentation to an incorrect local office, the application and documentation shall be sent to the correct office within one working day.

C. The SSA office is required to prescreen all Food Assistance applications for entitlement to expedited service and shall mark "expedited processing" on the first page of all applications of households that appear to be entitled to such processing. The SSA will inform households which appear to meet the criteria for expedited service that benefits may be issued a few days sooner if the household applies directly at the local office. The household may take the application from the SSA office to local office for screening, interviewing, and processing of the application. Each local office shall furnish the SSA office(s) serving its geographical area with a street map and/or map defining its boundaries together with the addresses of the certification offices in the project area.

D. The local office shall prescreen all applications received from the SSA office for entitlement to expedited service on the day the application is received at the correct local office. All households entitled to expedited service shall be certified in accordance with Sections 4.205.1 and 4.205.11, except that the expedited processing time standard shall begin on the date the application is received at a local office in the correct county. To prevent duplication, the local office shall develop and implement a method to determine if members of SSI households whose applications are forwarded by the SSA office are currently participating in the Food Assistance Program.

4.202.31 SSI Telephone Applications and Recertifications Completed by the SSA

A. If an SSA office takes an SSI application or redetermination on the telephone from a member of a pure SSI household, a Food Assistance application shall also be completed during the telephone interview and shall be mailed by the SSA office to the applicant for signature for return to the SSA office or to the local office. The SSA office shall then forward any Food

Assistance applications it receives to the local office. The local office shall not require the household to be interviewed again. The local office may contact the household further to obtain additional information for the eligibility determination.

B. The SSA office shall mail information of the client's right to file a Food Assistance application at the SSA office if they are members of a pure SSI household, or at their local office, and their right to an interview to be performed by the county department.

C. For households consisting entirely of applicants for, or recipients of, SSI who apply for Food Assistance certification at an SSA office, the application shall be considered filed for normal processing purposes when the application is received by the SSA.

4.202.32 SSI and Food Assistance Joint Processing

A. In those instances where the application has been completed at the SSA office, the local office shall ensure that information required by Section 4.502 is verified prior to certification for households initially applying, and households entitled to expedited certification services shall be processed in accordance with Sections 4.205.1 and 4.205.11. In those cases where the SSI household submits its Food Assistance application to the local office rather than through the SSA office, all verification, including that pertaining to SSA program benefits, shall be provided by the household, by SDX or BENDEX, or obtained by the local office rather than being provided by the SSA.

For those cases in which SSI and Food Assistance are being processed simultaneously, the local office shall question the household and/or use SDX listings to obtain information on SSI determinations. If the information cannot be obtained through SDX listings and/or questioning the households, a written inquiry may be made to the SSA office to obtain information of the status of SSI determinations. Within ten (10) calendar days of learning of the determination of the SSI application, the local office shall take action in accordance with Section 4.604.

B. The expedited processing time standard for applicants who filed prior to the release from a public institution will begin on the date that the individual is released from the public institution. The SSA shall notify the local office of the date of release of the applicant from the institution. Benefits shall be restored back to the date of an applicant's release from a public institution if, while in the institution, the applicant jointly applied for SSI and Food Assistance, but the local office was not notified on a timely basis of the applicant's release.

4.202.33 Outstationing Eligibility Workers in SSA Offices

If the county, with the approval of the State Department, chooses to outstation eligibility workers at SSA offices, with SSA's concurrence, the following actions shall be completed:

A. SSA will provide adequate space for Food Assistance eligibility workers in SSA offices;

B. The county shall have at least one outstationed worker on duty at all time periods during which households will be referred for Food Assistance application processing. In most cases, this would require the availability of an outstationed worker throughout normal SSA business hours;

~~C. The following households shall be entitled to file Food Assistance applications with, and be interviewed by, an outstationed eligibility worker:~~

~~1. Households containing an applicant for or recipient of SSI.~~

~~2. Households which do not have an applicant for or recipient of SSI but which contain an applicant for or recipient of benefits under Title II of the Social Security Act, if the county and the SSA have an agreement to allow the processing of such households at SSA offices.~~

~~D. Households shall be interviewed for Food Assistance on the day of application unless there is insufficient time to conduct an interview. The county shall arrange for the outstationed worker to interview applicants as soon as possible;~~

***

4.203.1 Designating a Head of Household

***

B. The local office shall not use the head of household designation to impose special requirements on the household, such as require that the head of household, rather than another responsible memberS of the household, appear at the local office to APPLY~~make application~~ for benefits. If the household is not able to select its head of household, or an eligible household does not choose to select its head of household, the local office may make a reasonable determination of the head of household with an understanding that the head of household is usually the household member who has the most knowledge of the household's financial circumstances. Such individualS must be a household member, except that, if the only adult in the SNAP~~Food Assistance~~ household is a non-household member, such individual may APPLY~~make application~~ on behalf of the household of minors as the authorized representative.

***

4.203.2 Designating Authorized Representatives

A. The head of the household, spouse or any other responsible household member may designate in writing someone to act on behalf of the household to APPLY~~make an application~~, obtain an EBT card, and/or use the EBT card to purchase food for the household. In instances where a household NEEDS~~is in need of~~ an authorized representative but is unable to obtain one, the local office will assist such a household in finding ONE~~an authorized representative~~. The local ~~certification~~ office will assure that authorized representatives are properly designated; that is, the name of the authorized representative and the justification for appointing a person outside the household shall be maintained as part of the household's permanent case record.

1. SUBMITTING~~Making~~ an Application

The authorized representative must be a person who is sufficiently aware of relevant household circumstances. Whenever possible, the head of the household or spouse should prepare or re-

view the application even though another household member or an authorized representative is the person interviewed.

The local office shall inform the household that the household will be held liable for any over-issuance which results from erroneous information given by the authorized representative.

2. Obtaining an EBT Card

An authorized representative may be designated to obtain an EBT card for the household at the time the household applies for participation. The authorized representative responsible for obtaining an EBT card may be the same individual designated to APPLY~~make application~~ for the household or may be another individual. Even if a household member CAN APPLY~~is able to make an application~~ and obtain an EBT card, the household should be encouraged to name an authorized representative responsible for obtaining an EBT Card in case of illness or other circumstances which might result in an inability to obtain SNAP~~Food Assistance~~ benefits.

***

4.203.21 Individuals Who Cannot Be an Authorized Representative

The following individuals cannot be an authorized representative unless otherwise stated:

A. LOCAL OFFICE~~County department~~ employees who are involved in Program eligibility determination and/or issuance processes, or the supervisors of such workers, unless the local office determines that no other representative is available.

B. Employees of FNS-authorized retailers and meal services that are authorized to accept SNAP~~Food Assistance~~ benefits, unless the local office determines that no other representative is available.

C. An individual disqualified for IPV~~Intentional Program Violation (IPV)~~/fraud shall not be an authorized representative during the period of disqualification unless the individual is the only adult in the household and the office is unable to arrange for another authorized representative. Local offices shall determine whether these disqualified individuals are needed to apply on behalf of the household, to obtain SNAP~~Food Assistance~~ benefits for the household, and to use the household's SNAP~~Food Assistance~~ benefits to purchase food.

***

4.203.22 Disqualification of an Authorized Representative

An authorized or emergency representative may be disqualified from representing a household in the SNAP~~Food Assistance Program~~ for up to one (1) year if the local office has obtained evidence that the representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household~~,~~ or has made improper use of SNAP~~Food Assistance~~ benefits. The local office shall send written notification to the affected household(s) and to the representative thirty (30) calendar days prior to the date of disqualification. The notification shall include the proposed action, the reason for the proposed action, the household's right to request a fair hearing, the telephone number of the office, and, if possible, the name of the person to contact for additional information.

***

4.204 Interviews

A. Interview Requirements

All applicant households shall undergo a ~~face-to-face or~~ phone OR FACE-TO-FACE interview with a qualified eligibility ~~worker~~ prior to initial certification and at least once every twelve (12) months. THE STATE DEPARTMENT RECOMMENDS PHONE INTERVIEWS AS THE DEFAULT OPTION WITH FACE-TO-FACE INTERVIEWS ONLY SCHEDULED UPON CLIENT REQUEST. IF AN INDIVIDUAL DOES NOT LIST A WORKING PHONE NUMBER ON THE APPLICATION, THEN A NUMBER FOR THE CLIENT TO CALL THE COUNTY OFFICE SHOULD BE PROVIDED.

A household certified for twenty-four (24) months is not required to complete an interview at the 12-month PRF or at twenty-four (24) month recertification, unless the household either requests an interview, is potentially going to be denied for SNAP~~Food Assistance~~ (24-MONTH HOUSEHOLDS ONLY) or has any outstanding issues or questions about the recertification process.

The applicant may include any person(s) he or she chooses for the interview. The individual interviewed may be the head of the household, spouse, or any other responsible member of the household, or an authorized representative.

A face-to-face interview may be conducted at the ~~county~~ local office or a mutually acceptable location, including the household's residence upon household request. If the interview is to be conducted at the residence, it must be scheduled in advance. The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview.

The eligibility TECHNICIAN~~worker~~ shall not simply review the information entered on the application, but shall explore and resolve with the household unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including the appropriate application processing standard and the household's responsibility to report changes. The interviewer must advise households which are applying for other PA~~public assistance~~ programs that any time limits and other requirements for the receipt of other PA~~public assistance~~ do not apply to the receipt of SNAP~~Food Assistance~~. Households may still qualify for SNAP~~Food Assistance~~ if they have reached a time limit, begun working, or lost benefits from another program for another reason.

Upon determination that a person should be referred to an Employment First Unit, the LOCAL OFFICE~~county department~~ shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work registered household members, and the consequences of failure to comply. The local office shall provide a written statement of these requirements to each work registrant in the household and to each previously exempt or new household member when that person becomes subject to the work registration and at recertification.

B. Scheduling Interviews

The local office must schedule an interview for all applicant households who are not interviewed on the same day they APPLY~~submit an application~~ to the LOCAL OFFICE~~county department~~. Interviews

shall be scheduled for a specific date and time and an appointment letter MUST BE PROVIDED~~shall be given~~ to the client AT THE ADDRESS ON FILE. All interviews, including the date and time of the interview, shall be documented in the case record.

IF THE LOCAL OFFICE FAILS TO SCHEDULE AN INTERVIEW WITH THE HOUSEHOLD BEFORE THE 30TH DAY AND NO LATER THAN THE 60TH DAY, THE ORIGINAL APPLICATION CAN BE USED AND BENEFITS ARE ISSUED FROM THE ORIGINAL DATE OF APPLICATION.

IF THE HOUSEHOLD REQUESTS AN INTERVIEW DATE AFTER THE 30TH DAY, THE LOCAL OFFICE WILL DENY THE APPLICATION ON THE 30TH DAY AND THE HOUSEHOLD MUST FILE A NEW APPLICATION.

C. Missed Interviews

If the household fails to attend its scheduled interview, the local office shall mail the household a notice of missed interview, informing the household that it missed the scheduled interview and that the household is responsible for rescheduling the interview. If the household does not schedule a subsequent interview for a date within ~~thirty (~~30~~)~~ calendar days after the application is filed, the application shall be denied by the local office on the ~~thirtieth (~~30th~~)~~ day following the date of application. The application shall not be denied before the ~~thirtieth (~~30th~~)~~ day. ~~If the household fails to appear for a rescheduled interview, no further action need be taken by the local office, unless requested by the household.~~

If a household misses its first interview, the household forfeits its right to expedited service, unless the second interview is rescheduled for a date within seven (7) days following the date of application.

~~If a household completes an interview any time after the thirtieth (30th) day but no later than the sixtieth (60th) day from the date of application, then the original application shall be used to determine eligibility, and the household shall not be required to complete a new application. However, the household's benefits will be prorated from the date the required action was taken within the second thirty (30) day period.~~

~~If the household makes contact with the agency after the sixtieth (60th) day following the date of application, the household shall be required to complete a new application.~~

D. Interviews for PA~~Public Assistance~~ Households

If a household is applying for both PA~~public assistance~~ and SNAP~~Food Assistance~~, the LOCAL OFFICE~~county department~~ shall conduct a single interview at initial application for both PA~~public assistance~~ and SNAP~~Food Assistance~~ purposes. The applicant household shall complete the combined application for PA~~public assistance~~ and SNAP~~Food Assistance~~. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for SNAP~~Food Assistance~~ and PA~~public assistance~~. A household's eligibility for an out-of-office interview for SNAP~~Food Assistance~~ purposes does not relieve the household of any responsibility for a face-to-face interview for PA~~public assistance~~ purposes. Except for households which may be eligible under basic categorical eligibility, the household's SNAP~~Food Assistance~~ eligibility and benefit level shall be based solely on SNAP~~Food Assistance~~ eligibility criteria, and all households shall be certified in accordance with the noticing, procedural, and timeliness requirements of the SNAP-

~~Food Assistance~~ regulations. The PA applicant household shall indicate on the single purpose application if it does not wish to apply for SNAP~~Food Assistance.~~

~~E. Interviews for SSI Households~~

~~Households in which all members are applying for SSI or receiving SSI and are applying and being interviewed for Food Assistance by SSA, will not be required to see a Food Assistance eligibility worker or otherwise be subjected to an additional certification interview. The local office shall accept SSA documentation and shall not contact the household to obtain additional information for the eligibility determination unless the application is improperly completed, mandatory verification required by Section 4.502 is missing, or the local office determines that certain information on the application is questionable. In no event shall the applicant be required to appear at the local office to finalize the eligibility determination. Further contact made in accordance with this paragraph shall not constitute a second Food Assistance certification interview.~~

***

4.205.2 Normal Processing Standards

A. The ~~county~~ local office shall process applications as expeditiously as possible and provide eligible households a written notification of their eligibility. The applicant household must receive a Notice of Action form, which will indicate the household's period of eligibility and SNAP~~Food Assistance~~ allotment. Eligible households shall be provided an opportunity to obtain benefits as soon as possible, but no later than thirty (30) calendar days following the date the application was filed. ~~Except for applications filed at an SSA office,~~ Aan application shall be considered filed the day a local office in the correct county receives a valid application containing the applicant's name, address, and signature.

Households found to be ineligible shall be sent a Notice of Action form denying the household as soon as possible, but no later than thirty (30) calendar days following the date the application was filed. Applicant households that refuse to cooperate in completing the application process shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly refuse to take actions that are required to complete the application process.

B. In cases where verification is incomplete, the local office shall provide the household with a statement of required verification on the state-prescribed notice form and offer to assist the household in obtaining the required verification. The office shall allow the household ten (10) calendar days to provide the missing verifications, unless the household missed the first appointment. If the household misses the first appointment and the interview cannot otherwise be rescheduled until after the twentieth (20th) day but before the thirtieth (30th) day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the thirtieth (30th) day. A household can be found ineligible or eligible for the month of application and for the following month based on one ~~(1)~~ application, if sufficient information for such determination is available. The state-prescribed notice form shall reflect specific months of eligibility and ineligibility.

~~B. Applications are valid for a period of sixty (60) calendar days. Households reapplying for benefits following a determination of ineligibility more than sixty (60) calendar days from the date of the original application must submit a new application.~~

4.205.3 Delays in Processing Beyond Thirty (30) Days

***

A. If a household has failed to complete a SNAP~~Food Assistance~~ application form even though the local office offered to assist the client in its completion, the household shall be at fault. If the local office failed to ASSIST~~offer assistance to~~ the household, the local office is at fault. If the local office offered the household assistance in completing the application but the household failed to cooperate or failed to complete the application process, the local office shall document in the case record its attempt to assist the household.

***

C. If requested verification is missing even though the local office offered ASSISTANCE~~to provide assistance~~ and a written notice of needed verification was provided and the household was allowed ten (10) calendar days to supply necessary verification, the household shall be considered at fault unless paragraph D of this section applies. If the local office did not request necessary verification through a written notice, or assist the client as required by these regulations, or give the client time to provide information, then the local office is at fault.

D. If the household failed to appear for the first (1st) interview, failed to schedule a second (2nd) interview and/or requested to postpone the ~~subsequent~~ interview until after the ~~thirtieth (~~30th~~)~~ day following the date of application, the delay shall be the household's fault.

4.205.31 Delays Caused by the Household

Any time the household requests a postponement which delays the thirty (30) calendar day processing, it shall be THE~~a~~ household'S fault. ~~If, by the thirtieth (30th) day, the local office cannot take further action on an application because the household has failed to take the required action requested by the local office, the household shall lose its entitlement to benefits for the month of application and shall be sent a notice of action form on the thirtieth day. However, the local office shall give the household an additional thirty calendar days to take the required action requested by the local office after the notice of denial is sent.~~

~~The local office shall reopen the case, without requiring a new application, i~~If the household PROVIDES REQUESTED VERIFICATION AFTER THE 30TH DAY AND ON OR BEFORE THE 60TH DAY FROM THE DATE OF APPLICATION, THE LOCAL OFFICE SHALL REOPEN THE CASE WITHOUT REQUIRING A NEW APPLICATION AND BENEFITS WILL BE PRORATED FROM THE DATE THE REQUESTED VERIFICATION IS PROVIDED. ~~takes the necessary action within sixty (60) calendar days following the date the application was filed. Any changes in the household situation must be taken into account for determining eligibility. If the household is found to be eligible during the second thirty (30) day period and still within the second (2nd) calendar month, the local office shall prorate benefits from the date verification/documentation is provided only for the month following the month of application. If the delay is beyond the second calendar month, but within the sixty day period, the benefits will be prorated for the third (3rd) calendar month from the date that action is taken.~~

4.205.32 Delays Caused by the LOCAL~~Food Assistance~~ Office

***

4.206 CATEGORIES OF ELIGIBILITY

A. Households applying for SNAP~~Food Assistance~~ must be determined eligible using one of the following categories of eligibility: Basic Categorical Eligibility (BCE), Expanded Categorical Eligibility (ECE) or Standard Eligibility.

B. SNAP~~Food Assistance~~ households that are applying for or receiving benefits from other assistance programs in addition to SNAP~~Food Assistance~~ are still required to meet the resource limits and follow the reporting and verification requirements of the other program. Requests for information and verification to determine eligibility for other programs shall not affect or delay the determination of SNAP~~Food Assistance~~ eligibility.

C. Eligibility

1. ~~Basic Categorical Eligibility (~~BCE~~)~~

a. ~~Basic categorically eligible~~ households are:

1. Households in which all members receive, or are authorized to receive, ~~Supplemental Security Income (~~SSI~~),~~ CW~~or benefits from the Colorado Works Program~~, Old Age Pension (OAP), Aid to the Needy Disabled (AND), Aid to the Blind (AB) or a combination of these benefits. The CW~~-Colorado Works~~, SSI, OAP, and/or AB program(s) need only to authorize benefits for participants ~~in order for~~ the household to be considered for BCE~~basic categorical eligibility~~. Individuals who are authorized to receive a benefit from one or more of these programs, but who are not paid such benefits because the grant is less than a minimum benefit or the benefits are suspended or are being recouped, are still considered eligible under BCE~~basic categorical eligibility~~ rules.

   Households not receiving, or authorized to receive, TANF~~Temporary Assistance for Needy Families (TANF)~~ Title IV-A or SSI benefits, who are entitled to Medicaid only, shall not be considered SSI or Title IV-A participants.

***

b. Households eligible under BCE~~basic categorical eligibility~~ have been deemed to have met the income and resource requirements of the program that confers eligibility; therefore, no further verification is required beyond that gathered by the program that confers eligibility. However, the agency must collect and verify eligibility factors~~,. If~~ these factors are not already collected and verified by the other program, are considered questionable, or are unavailable to the SNAP~~Food Assistance Program~~. This includes:

***

c. A household cannot be considered under BCE~~basic categorical eligibility~~ rules if, at the time of application:

1) Any member is disqualified for an SNAP IPV~~Intentional Program Violation of the Food Assistance Program~~.

2) Any member has been convicted of a drug-related felony where SNAP~~Food Assistance~~ benefits were used to purchase drugs.

d. Households that are ineligible for SNAP~~Food Assistance~~ benefits under BCE~~basic categorical eligibility~~ rules shall have their eligibility determined under ECE OR SE~~expanded or standard eligibility~~ rules.

2. Expanded Categorical Eligibility (ECE)

a. ECE~~Expanded categorical eligibility~~ households are:

***

b.Households eligible under ECE~~expanded categorical eligibility~~ have been deemed to have met the income and resource requirements of the program that confers eligibility; therefore, no further verification is required beyond that gathered by the program that confers eligibility. However, the agency must collect and verify eligibility factors~~., I~~f these factors are not already collected and verified by the other program, are considered questionable, or are unavailable to SNAP~~the Food Assistance Program~~. This includes:

***

c. A household's eligibility cannot be determined using ECE~~expanded categorical eligibility~~ rules if, at the time of application:

1) Any member is disqualified for an SNAP IPV~~Intentional Program Violation of the food assistance program~~.

2) Any member has been convicted of a drug-related felony where SNAP~~Food Assistance~~ benefits were used to purchase drugs.

d. Households that are ineligible for SNAP~~Food Assistance~~ benefits under ECE~~expanded categorical eligibility~~ rules shall have their eligibility determined under SE~~standard eligibility~~ rules.

3. Standard Eligibility (SE)

a. SE~~Standard eligibility~~ rules shall only be applied to the following households:

1) Households that include a member who is serving a disqualification for an IPV or a fraud conviction.

2) Households that include a member who has been convicted of a drug related felony where SNAP~~Food Assistance~~ benefits were used to purchase drugs.

3) Households that do not meet the criteria to be considered under BCE OR ECEbasic or expanded categorical eligibility rules.

b. Households having their eligibility reviewed under SEstandard eligibility rules must meet the following criteria:

1. Households that include a member who is AGED 60 AND OLDERelderly or a person with a disability must have a combined net income, after all applicable deductions, at or below one hundred percent (100%) of the federal poverty level. The household must have resources below the limit prescribed in Section 4.408.
2. Households that do not include a member who is AGED 60 AND OLDERelderly or a person with a disability must have a combined gross income at or below one hundred thirty percent (130%) of the federal poverty level. After all applicable deductions, the household's net income must be at or below one hundred percent (100%) of the federal poverty level. The household must have resources below the limit prescribed in Section 4.408.

***

c. Households, as defined in Section 4.304, that are found ineligible under SEstandard eligibility rules shall be considered ineligible for participation in SNAPthe Food Assistance Program.

D. If the circumstances which allowed the household to meet the criteria to be considered under BCE OR ECEbasic or expanded categorical rules change during the certification period or at the time of recertification or periodic report, the household's eligibility must be re-evaluated according to the appropriate category. If there is insufficient documentation to make an eligibility determination based on the new category of eligibility, the agency shall send the household a request for verification in accordance with Sections 4.604, Action on Reported Changes, and 4.604.1, Verification of Reported Changes.

E. Substantial lottery or gambling winnings from an individual will disqualify the entire SNAPFood Assistance household from eligibility in the month the winnings are received. The next time such a household reapplies and is certified for SNAPsnap after losing eligibility, the household would not be considered categorically eligible for the next eligible certification period. After receiving SNAPsnap as a SEstandard eligibility household, the SNAPsnap household will be re-evaluated for categorical eligibility at the next eligible certification period.

***

4.207.2 Initial Month Allotment Prorating

A. THE HOUSEHOLDA household's benefit level for the initial month of application shall be based on the day of the month it applies for benefits. Benefits for the initial month shall be prorated from the date of application to the end of the month. Applicant households consisting of residents of a public institution who apply jointly for SSI and SNAPFood Assistance prior to release from an institution will have their eligibility determined for the month in which the applicant household was released from the institution. The benefit level for the initial month of certification shall be based on the date of the month the household is

released from the institution and the household shall receive benefits from the date of the household's release through the end of the month. Eligible households are entitled to a full month allotment for all months except an initial month of application.

***

4.207.3 Benefit Allotment

A. After eligibility has been established, the monthly SNAP~~Food Assistance~~ benefit allotment will be determined. The state automated system will compute the household's allotment. The following formula shall be used to determine a household's benefit allotment.

***

B. If the calculation of benefits for an initial month yields an allotment of less than the federal minimum allotment referenced in 4.207.3~~, (~~D~~),~~ no benefits shall be issued to the household for the initial month.

For eligible households that are entitled to no benefits in their initial month of application, but are entitled to benefits in subsequent months, the LOCAL OFFICE~~county department~~ shall certify the household for a certification period beginning with the month of application.

Except for households that are eligible under BCE OR ECE~~basic or expanded categorical eligibility~~, households with three or more members who are entitled to zero benefits shall have their SNAP~~Food Assistance~~ application denied. This provision does not apply if zero benefits are due to the pro-ration requirements or due to the initial month's allotment being less than the federal minimum allotment referenced in 4.207.3~~,~~(D).

***

D. The SNAP~~Food Assistance~~ maximum and minimum monthly benefit allotment tables will be adjusted as announced by the USDA, FNS~~United States Department of Agriculture (USDA, Food and Nutrition Service (FNS))~~.

4.208 CERTIFICATION PERIODS

A. Certification periods shall conform to calendar months. Households shall be assigned the longest certification period possible based on the predictability of the household's anticipated income and other circumstances. At the expiration of each certification period, entitlement to SNAP~~Food Assistance~~ benefits ends. Further eligibility shall only be established on a newly completed application for RECERTIFICATION~~redetermination~~. Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility. The State-prescribed Notice of Action form provided to the applicant household shall indicate the period of certification if the household is determined to be eligible for benefits.

***

C. A delinquent PA redetermination shall not delay the SNAP~~Food Assistance~~ recertification beyond the date of the household's SNAP~~Food Assistance~~ certification period ending date.

4.208.1 Certification Period Guidelines [Rev. eff. 4/1/16]

Households will be assigned a six (6) month or twenty-four (24) month certification period as follows:

A. Twenty-Four (24) Month Certification Period

A twenty-four (24) month certification period shall be assigned to households that contain only members who are AGED 60 AND OLDER~~elderly~~ and/or have a disability and have no earned income, as defined in Section 4.403 at the time of certification.

***

4.208.2 Classification of Households as ~~Public Assistance (~~PA~~)~~ or ~~Non-Public Assistance (~~Non-PA~~)~~

A. ~~Public Assistance (~~PA~~)~~ Households

PA~~Public Assistance~~ households are those SNAP~~Food Assistance~~ households that contain only persons who receive the following:

1. CW~~Colorado Works~~ Basic Cash Assistance grant or any type of TANF payment or services under the CW~~Colorado Works~~ Program. The household will be considered a PA household if one (1) member received cash assistance or services, but the entire household benefits from the receipt of this cash or services, such as when one (1) individual in a household is authorized for family preservation; or,

***

B. ~~Non-public assistance (~~Non-PA~~)~~ Households

All other households are classified as NON-PA~~non-public assistance~~ households.

~~Any household that contains at least one member who does not receive a Public Assistance benefit, as listed in Subsection A, above, will be classified as Non-PA.~~ County General Assistance (GA), SSI with no Colorado Supplemental payment, and medical-only programs are not considered PA~~Public Assistance~~ benefits.

4.209 RECERTIFICATION PROCESS REQUIREMENTS

***

B. A household shall receive the notice of expiration not less than thirty (30) calendar days and not more than sixty (60) calendar days prior to expiration of its current certification period. If mailed, the notice shall be sent for the same timely receipt, allowing two (2) extra days for delivery delay.

All households that file on or before the fifteenth (15th) of the last month of their certification period will have timely reapplied. Notices which are mailed must specify a date that allows at least two (2) days mail time and still gives the household fifteen (15) calendar days to respond. Households that submit an application for recertification by the date specified on their notice of expiration shall be considered to have timely reapplied to prevent an interruption in SNAP~~Food Assistance~~ benefits.

4.209.1 Recertification Processing Standards and Timeframes

A. Timely Applications for Recertification~~s~~

1. Households that file an application for recertification on or before the fifteenth (15th) of the last month of their certification period will have ~~timely~~ reapplied TIMELY. A timely application for recertification shall be approved or denied prior to the end of the household's current certification period and shall provide eligible households with an opportunity to obtain their benefits by their normal issuance day of the month following the expiration of their certification period.

2. Households which have timely reapplied, but because of local office error are not determined eligible in sufficient time to permit normal issuance to the household in the following month, shall receive an immediate opportunity to participate upon being determined eligible. Such households shall be entitled to participate and receive a full month's allotment for the month following the expiration of the certification period.

B. UNTIMELY Applications for Recertification ~~that are not Timely~~

1. Households which file an application for recertification anytime between the sixteenth (16th) and the last day of the last month of the certification period shall not be considered as having timely reapplied. For households that have not timely reapplied, but have been found eligible, benefits may be delayed past the household's normal issuance day. The household shall be notified of approval or denial on a notice of action form within thirty (30) calendar days of when the application for recertification was submitted to the local office.

***

C. LATE Applications for Recertification ~~That are not Timely~~

12. If a household files an application form within thirty (30) calendar days after the end of the certification period, the application shall be considered as an application for recertification; however, the application shall be processed as an initial application in accordance with Section 4.201, C, and shall have the allotment for the initial month of application prorated from the day of application to the end of the month, unless the local office was at fault for the delay. For applications received within thirty (30) calendar days after the expiration of the certification period, verification requirements shall remain consistent with the verification requirements for applications which were filed prior to the expiration of the certification period as outlined at Section 4.502, B.

DC. If an application for recertification is denied for a failure of the household to take a required action, the local office shall reopen the case if the required action is taken by the end of the certification period and provide benefits for the first month of the new certification period.

If the household takes the required action after the end of the certification period, but within the next thirty (30) calendar days, the local office shall reopen the case and provide benefits retroactive to the date that the action was taken by the household.

ED. A household shall lose its right to uninterrupted benefits if one of the following occurs after the fifteenth (15th) day of the last month of the household's certification period:

1. A household fails to timely APPLYsubmit an application for recertification in accordance with Section 4.209.1, A; or,

2. A household timely files an application for recertification but fails to appear for a scheduled interview; or,

3. A household fails to submit all necessary verification by the date specified on the request for such verification. The request for verification shall allow the household no less than ten (10) days to provide the verification to prevent an interruption in benefits.

If the household is eligible after providing such verification(s), the county/district shall provide benefits within thirty (30) calendar days after the application was filed. If the local office is unable to provide benefits within thirty (30) calendar days due to the time allowed for providing verification, the office shall provide benefits within five (5) calendar days after the household supplies the missing verification. Households that refuse to cooperate in providing required information or taking the required actions to determine eligibility shall be denied.

4.210 PERIODIC REPORTING REQUIREMENTS

A. A household consisting solely of members who are persons with a disability and/or members who are AGED 60 AND OLDERelderly with no earned income can be certified for twenty-four (24) months. For households certified for twenty-four months, no interview during the certification period shall be required. Households with a twenty-four (24) month certification period are considered simplified reporting households and are required to report changes at the twelve (12) month interim reporting period and at redetermination.

B. A PRFperiodic report form shall be mailed to the household during the eleventh (11th) month of the certification period for the household to report all changes. If the PRFchange report form is not submitted to the local office by the fifth (5THTH) day of the twelfth (12th) month of the certification period, a reminder notice shall be sent advising the household that it has ten (10) calendar days plus one (1) calendar day for mailing to return the completed report. Households participating in ACPthe Address Confidentiality Program shall be afforded five (5) days mailing time. If the household has not submitted the completed FORMreport by THE extended due date on the reminder notice, the SNAPFood Assistance case shall be terminated effective the first day of the thirteenth (13th) month and a termination letter shall be mailed to the household. If the household submits a PRFperiodic report form or REPORTS CHANGESa change report from for any other PApublic assistance program within thirty (30) calendar days following the effective date of the termination notice and provides all required verification, benefits shall be ISSUED reinstated without proration FROM THE BEGINNING OF THE THIRTEENTH (13TH) MONTH.

C. The local office must act on all changes reported by those households filing a PRF~~periodic report~~. If the household files a complete PRF~~report~~ that results in A reduction or termination of benefits, the agency shall send an adequate notice. The adequate notice must be mailed at least two ~~(2)~~ business days prior to the date that benefits are normally received by the household. If the household fails to provide sufficient information or verification regarding a deductible expense, the county local office shall not terminate the household but shall instead determine the household's benefits without allowing the deduction.

D. THE HOUSEHOLD SHALL REPORT CHANGES IN CIRCUMSTANCES TO THE FOLLOWING ITEMS ON THE PERIODIC REPORT:

1. A CHANGE OF MORE THAN $100 IN THE AMOUNT OF UNEARNED INCOME.
2. A CHANGE IN THE SOURCE OF INCOME, INCLUDING STARTING A JOB.
3. ALL CHANGES IN HOUSEHOLD COMPOSITION, SUCH AS THE ADDITION OR LOSS OF A HOUSEHOLD MEMBER.
4. CHANGES IN HOME ADDRESS AND ANY RESULTING CHANGES IN SHELTER COSTS.
5. ACQUISITION OF A LICENSED VEHICLE THAT IS NOT FULLY EXCLUDABLE.
6. A CHANGE IN LIQUID RESOURCES, SUCH AS CASH, STOCKS, BONDS, AND BANK ACCOUNTS THAT REACH OR EXCEED THE RESOURCE LIMITS FOR ELDERLY OR DISABLED HOUSEHOLDS AND FOR ALL OTHER HOUSEHOLDS, UNLESS THESE ASSETS ARE EXCLUDED.
7. CHANGES IN THE LEGAL OBLIGATION TO PAY CHILD SUPPORT.
8. WHENEVER A MEMBER OF THE HOUSEHOLD WINS SUBSTANTIAL LOTTERY OR GAMBLING WINNINGS.

E. IF ALLOWABLE MEDICAL EXPENSES ARE REPORTED AND VERIFIED, THE CHANGE SHOULD BE ACTED UPON FOR THE REMAINDER OF THE CERTIFICATION PERIOD BUT ONLY IF THE CHANGE RESULTS IN AN INCREASE IN BENEFITS.

4.300 NON-FINANCIAL ELIGIBILITY CRITERIA

Non-financial criteria for eligibility shall apply to all households (including those receiving PA~~public assistance~~) and shall be considered prospectively for the issuance month based on the eligibility TECHNICIAN'S~~worker's~~ anticipation of circumstances at the time of application and when changes are made known to the local office. Non-financial criteria shall consist of:

***

4.302 SOCIAL SECURITY NUMBER REQUIREMENT

A. General Requirements

1. As a condition of SNAP~~Food Assistance~~ eligibility, each member of a household participating in or applying for participation in SNAP~~the Food Assistance Program~~ shall provide a Social Security Number (SSN), or proof that an application for aN SSN~~Social Security Number~~ has been submitted to the SSA~~Social Security Administration~~. The local office shall not require any household member to submit a Social Security card or other official documents as a means of verifying aN SSN~~Social Security Number~~. Household members who provide aN SSN shall not be denied benefits for failure or inability to present a Social Security card or

other official documentation. If individuals have more than one SSNSocial Security Number, all numbers shall be required.

2. The local office shall explain that a member is not required to provide aN Social Security Number (SSN), but the failure to provide one shall result in disqualification of the individual(s) for whom the number is not provided. The member who does not provide aN SSN shall still be required to provide other eligibility information such as income and resources that will affect eligibility of other members. The local office shall advise individuals that any SSN that is provided voluntarily will be used in the same manner as SSNs of eligible household members. The SSNs will be matched against federal and state databases to verify information. SSNs will be used for the initial application matching for duplicate participation.

3. If the household member required to provide aN SSN either refuses to supply his/her SSN at the time of application or fails to provide the local office with a form or letter as proof of application for aN SSN without good cause, he or she shall be ineligible to participate in SNAPthe Food Assistance Program. The disqualification applies to the individual(s) who refused to cooperate with the application process to obtain the SSN and not the entire household. The household member(s) disqualified may become eligible by providing the local office with a SSNSocial Security Number, or by providing verification that an application for aN SSN has been submitted to the SSA.

B. Individuals and Newborns Without aN SSNSocial Security Number

1. Those household members who do not have the required SSNSocial Security Number(s) shall obtain proof of application for aN SSN prior to being certified as a member of the household, unless the member is a newborn child. The applicant/recipient shall be instructed to obtain from the SSA proof that he or she has completed an application for aN SSNSocial Security Number and that the SSA has received that application. A specifically addressed letter from the SSA verifying that application for a SSN has been made is also acceptable proof of application for aN SSNSocial Security Number. The applicant/recipient shall be instructed to return the completed form as soon as possible to the eligibility TECHNICIANworker. A copy of the form shall be maintained in the case record.

***

2. Household members who provide the eligibility TECHNICIANworker with a copy of a form or a letter from THE SSA, or who demonstrate good cause for not providing the proof from SSA (e.g., difficulty in obtaining birth certificates) shall be allowed to continue to participate in SNAPthe Food Assistance Program as follows:

***

C. Determining Good Cause for Not Providing aN SSNSocial Security Number

1. In determining good cause, the local office shall consider information received from the household member and/or the SSASocial Security Administration. Documentary evidence or collateral information that the household has applied for the number or made every effort to supply the SSASocial Security Administration with the necessary information shall be considered good cause. If the household member can show good cause why an application has not been com-

pleted in a timely manner, that person shall be allowed to participate until good cause is no longer applicable or until the household's next recertification. If the household member(s) applying for aN SSNSocial Security Number has been unable to obtain the documents required by THE SSASocial Security Administration, the eligibility TECHNICIANworker should assist the individual(s) in obtaining these documents.

2. If an individual refuses to provide aN SSNSocial Security Number based on a sincere religious objection, all members of the household may participate in the Program, if otherwise eligible. In these situations, the local office may check with the SSASocial Security Administration to see if the household members already have SSNs, and may use any existing SSNs for verification and matching purposes without further notice to the household.

4.303 RESIDENCY REQUIREMENTS

***

B. Individuals may not participate in more than one household in THE SAMEany one (1) month unless they are a resident of a shelter for battered women and children, nor may a household participate in more than one (1) county or district in any month unless all household members are residents of a shelter for battered women and children.

Households on Indian reservations participating in the Commodity Food Distribution Program for a particular period shall not be allowed to participate in SNAPthe Food Assistance Program during the same period. Participation shall be limited to participation in the Commodity FOOD DISTRIBUTION Program or SNAPthe Food Assistance Program.

***

4.304 DETERMINING HOUSEHOLD COMPOSITION

A. All applications shall be submitted on behalf of a household. Some groups of individuals living together are required to be included in the same SNAPFood Assistance household in accordance with Section 4.304.1.

***

4.304.1 Persons Ineligible for Separate Household Status

***

C. A spouse of a member of a household shall not be a separate household.

1. Spouses refer to:

a. Persons who are defined as married to each other under state law. Same-sex spouses must be considered married if the marriage is recognized by the state in which the marriage was celebrated; or,

b. Persons who are living together, are free to marry, and are representing themselves as husband and wife to relatives, friends, neighbors, and trades people.

2. Spouses who are legally separated are eligible for separate household status, unless paragraph A of this section applies.

3. For purposes of SNAP~~the Food Assistance Program~~, partners in a same-sex marriage are not considered spouses, unless married in a state that recognizes the marriage. If, in a same-sex relationship the spouses are not considered married as specified in C, 1, of this section, and there is a child living in the home but only one (1) of the parents is the biological parent to the child, the non-biological parent does not have to be considered part of the household if the non-biological parent is not the natural parent or adoptive parent to the child and purchases and prepares meals separately from the rest of the household.

***

4.304.2 Shared Living Arrangements

A. In instances when two (2) households request SNAP~~Food Assistance~~ for the same child, the child shall be considered a member of the household that provides the majority of the child's monthly meals.

If only one (1) household is applying for or requesting SNAP~~Food Assistance~~ benefits for a child, then determining a majority of meals shall not be a factor when determining household composition.

B. If two (2) households request assistance for the same child and both households provide an equal number of meals to the child, and the households cannot agree on who should receive SNAP~~Food Assistance~~ benefits for the child for the duration of the certification period, then the household that applies for SNAP~~Food Assistance~~ benefits for the child first shall be able to receive benefits for the child.

B. In instances when an applicant or ongoing household requests benefits for a child who is already receiving SNAP~~Food Assistance~~ in another household, the household who provides the child with the majority of meals shall be eligible to receive benefits for the child.

4.304.3 Non-Household Members

***

D. Boarders

Boarders Individuals residing with others and paying reasonable compensation to others for lodging and meals. Boarders are not eligible to participate in SNAP~~the Food Assistance Program~~ as a separate household.

***

3. Boarder status shall not be granted to the following persons:

***

d.

***

1. Boarders, whose board arrangement is for more than two (2) meals per day, shall pay an amount which equals or exceeds the maximum SNAPFood Assistance allotment for the number of persons in the boarder household.

***

4.304.4 Persons Disqualified or Ineligible to Participate in SNAPthe Food Assistance Program

A. Disqualified individuals shall not be allowed to participate in SNAPthe Program as separate households. “Disqualified individuals” are individuals disqualified for:

1. IPVIntentional Program violation/fraud;

2. Failure to either provide or obtain aN SSNSocial Security Number;

3. Being an ineligible non-citizen as defined in Section 4.305.12;

4. Failure to comply with work requirements;

5. Being an able-bodied adult without dependents (ABAWD) who has been disqualified after receiving three (3) months of SNAPFood Assistance benefits within a period of thirty-six (36) months; or,

***

B. Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony shall not be considered eligible household members. If an individual is suspected of being a fleeing felon, either by their own admission or based on a report from law enforcement, the fleeing status must be verified in order to determine if the client is eligible for SNAPFood Assistance benefits.

The following four part test must be used to determine if the individual would be considered a fleeing felon for SNAPFood Assistance purposes:

C. .

1. For the purposes of this provision, actively seeking is defined as follows:
   1. A Federal, State, or local law enforcement agency informs the local Food Assistance office that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within twenty (20) days of submitting a request for information about the individual to the local office;
   2. A Federal, State, or local law enforcement agency presents a felony arrest warrant as provided in 4.304.4(B)(1); or
   3. A Federal, State, or local law enforcement agency states that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within thirty (30) days of the date of a request from a local Food

~~Assistance~~ office about a specific outstanding felony warrant or probation or parole violation.

D~~E~~. Residents of commercial and noncommercial boarding houses and institutions are not eligible to participate in the Program unless exempt in Section 4.304.41.

***

2. An institution is a place which has not been authorized by FNS to accept SNAP ~~Food Assistance~~ benefits but which provides its residents with MORE THAN FIFTY PERCENT (50%)~~the majority~~ of their daily meals as a part of its normal services. Residents of a halfway house for persons with a disability are ~~considered to be~~ residents of an institution if they are provided meals as part of their regular service.

***

4.304.41 EXEMPTIONS FROM THE BOARDING HOUSE AND INSTITUTION PROHIBITIONS

A. An individual who is a resident of federally subsidized housing for ~~elderly~~ persons AGED 60 AND OLDER under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act. ~~A person who is elderly is defined as a member of a household who is sixty (60) years of age or older.~~

~~*~~**

4.305 Citizenship and Non-Citizenship Status

Citizens of the United States are potentially eligible for participation in SNAP~~the Food Assistance Program~~, provided they meet other eligibility requirements. Most non-citizens must be in a qualified NON-CITIZEN~~alien~~ status and meet one (1) additional condition to be eligible for participation in the Program. Some classes of non-citizens are eligible for participation without having to meet an additional condition.

A. Citizens and Non-Citizen Nationals

***

2. Although not considered U.S. citizens, non-citizen nationals HAVE~~enjoy~~ the same potential eligibility for SNAP~~Food Assistance benefits~~ as U.S. citizens. Non-citizen nationals are those individuals born in an outlying possession of the United States (either American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals.

B. Non-Citizens

Non-citizens in a qualified ~~alien~~ status and certain groups of non-citizens who are not in a qualified alien status are eligible for participation under certain conditions. Some non-citizens in a qualified alien status must also meet an additional condition, as outlined in Section 4.305, B, 3, to be eligible for participation. Each of the following categories of eligible non-citizen status stands alone for the purposes of determining eligibility. If eligibility ex-

pires under one (1) eligible status, the local office shall determine if eligibility exists under another status.

1. Non-Citizens in a Qualified ~~Alien~~ Status

The following classes of non-citizens, based on the immigration status of an individual, are defined as a qualified status. The non-citizen shall be qualified as listed below at the time the non-citizen applies for, receives, or attempts to receive SNAP~~Food Assistance~~ benefits.

A non-citizen under the age of eighteen (18) that is in a qualified alien status, as outlined in paragraphs A and B of this subsection, shall be eligible for participation in the program without having to meet an additional requirement. Once the non-citizen turns eighteen (18), the eligibility of the non-citizen shall be reviewed.

a. A non-citizen in one (1) of the following qualified alien statuses is not required to meet an additional condition to be eligible for participation in the Program and is eligible for participation indefinitely from the date the non-citizen obtains status as a qualified alien or enters the U.S. in a qualifying status.

1) A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act (INA), which is codified throughout Title 8 of the United States Code. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection ~~during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203~~.

2) Victims of trafficking, under the Trafficking Victims Protection Act of 2000, as amended, certified by the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR). This person shall have a certification letter.

a. ORR issues a letter of eligibility for adults and children under the age of eighteen (18). A trafficked minor shall have either an interim assistance letter or an eligibility letter from ORR to be eligible for SNAP-~~Food Assistance~~. The local office shall accept these letters in place of Department of Homeland Security documentation.

b. Certification letters and eligibility letters do not expire; however, interim assistance letters that are provided to children are valid for ninety (90) calendar days from the effective date of the letter. ORR may extend the interim eligibility an additional thirty (30) calendar days. Children with an interim assistance letter can only receive SNAP~~Food Assistance~~ benefits until the expiration of the time period established in the interim letter.

***

3) Asylees granted asylum under Section 208 of the INA, which is codified throughout Title 8 of the United States Code. The U.S. Code does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for in-

spection ~~during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository~~.

***

b. Non-citizens in one (1) of the following qualified alien statuses are required to meet an additional condition (see Section 4.305, B, 3) to be eligible for participation in the Program.

1. Lawfully Admitted for Permanent Residence (LPRs) under the Immigration and Nationality Act (INA). LPRs are holders of Green Cards. If a non-citizen is in a qualified alien status as outlined in paragraph a. of this section and later adjusts to LPR status, the non-citizen does not have to meet an additional condition to be eligible for participation and shall remain eligible based on the previous qualified alien status.

***

4)

***

b) There is substantial connection between the battery or extreme cruelty and the need for SNAP~~Food Assistance~~ benefits; and

***

2. Eligible Non-Citizens Not in a Qualified ~~Alien~~ Status:

The following classes of non-citizens are not defined as having a qualified ~~alien~~ status, but are potentially eligible for participation in SNAP~~the Food Assistance Program~~ without having to meet an additional condition (see Section 4.305, B, 3). All other classes of non-citizens that are not in a qualified ~~alien~~ status are not eligible for participation in SNAP~~the Program~~.

***

3. Additional Conditions

Non-citizens in a qualified ~~alien~~ status as outlined in subsection 4.305, B, 1, are required to meet one additional condition in order to be eligible for participation in the Program. At the time the non-citizen applies for SNAP~~Food Assistance~~, he or she need only satisfy one of the following conditions to be eligible ~~for Food Assistance~~:

***

b) Forty (40) Qualifying Work Quarters

1.

***

c) Quarters credited from the work of the non-citizen's spouse. Quarters are only creditable to the non-citizen for work performed by his or her spouse if the couple is still legally married, or if the spouse becomes deceased while married to the non-citizen, and the work being credited to the non-citizen was performed after the marriage began.

If a couple divorces prior to determination of SNAPFood Assistance eligibility, a spouse may not get credit for quarters of their spouse. However, if the local office determines eligibility of a non-citizen based on the quarters of the spouse, and then the couple divorces, the non-citizen's eligibility continues until the next RECERTIFICATIONre-certification. At that time, the local office shall determine the non-citizen's eligibility without crediting the non-citizen with the former spouse's quarters of coverage.

2. The sum of work quarters cannot include:

a. Quarters in which not enough income was earned to qualify, or,

b. Quarters earned after December 31, 1996, cannot be counted if the non-citizen, during the quarter, received SNAPFood Assistance or any other federal means-tested public benefits, such as Medicaid, SSI, TANF, or state Children's Health Insurance Program.

***

e. Elderly bBorn on or before August 22, 1931 who lawfully resided in the U.S. on August 22, 1996.

f. Military Connection

***

3) The definition of "veteran shall also include:

***

c. The spouse of a veteran who served at least twenty-four (24) months in the Armed Forces. This includes the spouse of a deceased veteran, provided the marriage fulfilled the requirements of 38 U.S.C. 1304, and the spouse has not remarried. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203, or state publications depository; or

***

4.305.1 Non-Citizens Ineligible for Participation in SNAP~~the Program~~

The following non-citizens are not eligible to participate in SNAP~~the Food Assistance Program~~ as a member of any household.

***

B. Undocumented non-citizens (e.g., individuals who entered the country as temporary residents and overstayed their visas or who entered without a visa) ~~are not eligible for Food Assistance benefits~~;

***

I. Individuals with U Visas, including minor children under the age of eighteen (18), are ineligible ~~for Food Assistance~~ as they have temporary status and are not considered qualified NON-CITIZEN~~aliens~~. However, if the individual adjusts to qualified alien status, such as LPR or battered immigrant status, then the individual's non-citizen eligibility shall be reviewed under the new status.

***

4.305.2 Households Containing a Sponsored Non-Citizen Member

***

D. Calculating Sponsor Income

***

2.

***

b. An amount equal to the SNAP~~Food Assistance Program's~~ monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes; and,

3. If the sponsored non-citizen has already reported gross income information on his/her sponsor in compliance with the sponsored non-citizen rules of another state assistance program, and the local office is aware of the amounts that income amount shall be used for SNAP~~Food Assistance~~ deeming purposes. However, the local office shall limit allowable reductions to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the non-citizen. The only reduction will be twenty percent (20%) earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse and an

amount equal to the ity limit for a household person who is claimed dependent for federal

SNAPFood Assistance Program's monthly gross income eligibil- equal in size to the sponsor, the sponsor's spouse, and any other or could be claimed by the sponsor or the sponsor's spouse as a income tax purposes.

***

E. The counting of a sponsor's income and resource provisions do not apply to a non-citizen who is:

1. A member of his or her sponsor's SNAPFood Assistance household;

***

F. Verification Requirements

The local office shall verify the following information at the time of initial application and recertification:

1. The income and resources of the non-citizen's sponsor and the sponsor's spouse (if the spouse is living with the sponsor) at the time of the non-citizen's application for SNAP-Food Assistance.

***

H. Sponsored Non-Citizen's Responsibility

***

2. The local office will determine how many of such non-citizens are SNAPFood Assistance Program applicants or participants and initiate appropriate proration. The eligible sponsored non-citizen shall also be responsible for reporting the required information about the sponsor and sponsor's spouse should the non-citizen obtain a different sponsor during the certification period. The eligible sponsored non-citizen shall report changes in income should the sponsor or sponsor's spouse change or lose employment or become deceased during the certification period. The local office shall act on the information as a reported change in household circumstances as set forth in Section 4.604.

4.305.3 Reporting Undocumented Non-Citizens

A. The local office shall immediately inform the local INS office whenever personnel responsible for the certification or recertification of households determine that any member of a household is ineligible to receive SNAPFood Assistance because the member is present in the United States in violation of the Immigration and Nationality Act.

B. In determining whether the member is present in the United States in violation of the Immigration and Nationality Act, caution shall be exercised to ENSUREinsure that the determination is not

made merely on the non-citizen's inability or unwillingness to provide documentation of non-citizen status. When a person indicates inability or unwillingness to provide documentation of non-citizen status, the local office shall not continue efforts to obtain documentation other than that necessary to obtain information on the income and resources to be made available to remaining members of the household.

C. Because many non-citizens who are legally present in the United States are not eligible for SNAP~~Food Assistance~~, eligibility TECHNICIANS~~workers~~ are cautioned that a determination that a person is an ineligible non-citizen is not equivalent to a determination that a person is a~~n illegal~~ non-citizen PRESENT IN THE UNITED STATES IN VIOLATION OF IMMIGRATION LAWS.

D. When and if a SNAP~~Food Assistance~~ eligibility TECHNICIAN~~worker~~ is able, BASED ON~~on the basis of~~ information that becomes available to him/her in the process of reviewing a household's eligibility for SNAP~~Food Assistance~~, to determine that a member or members of that household are in fact ~~illegal~~ non-citizens present in the United States in violation of the immigration laws, the eligibility TECHNICIAN~~worker~~ will report the determination to his or her supervisor. The report to INS, if made, shall be in writing.

E. The failure to report a~~n illegal~~ non-citizen ILLEGALLY PRESENT IN THE UNITED STATES to INS will not be considered a quality assurance error or assessed as an administrative deficiency.

4.306 STUDENT ELIGIBILITY

A. Any person who is age eighteen (18) through forty-nine (49), physically and mentally fit, and enrolled at least half time in an institution of higher education shall not be eligible to participate in SNAP~~the Food Assistance Program~~ unless the person meets at least one of the criteria listed below.

***

4.306.1 Student Eligibility Criteria

To be eligible to participate in SNAP~~the Food Assistance Program~~, a student shall meet at least one (1) of the following criteria:

***

B. The student is participating in a state or federally financed work-study program. The student shall be approved for a work-study program at the time of application for SNAP~~Food Assistance~~. The work~~-~~study shall be approved for the school term and THE student shall anticipate actually working during that time. The student qualifies for this exemption the month the school term in which the work-study will occur begins or the month work-study is approved, whichever is later. The exemption will continue until the end of the school term or until it becomes known that the student has refused an assignment. The exemption shall not continue between terms when there is a break of one (1) full month or longer unless the student is participating in work-study during the break.

B. The student is responsible for ~~the~~ more than half of the physical care of a dependent household member under the age of six (6), or a full-time student who is a single parent with responsibility for the care of a dependent child under age twelve (12). The single parent provision applies in those situations where only one natural, adoptive, or stepparent regardless of marital status is in the same SNAP~~Food As-~~

~~sistance~~ household as the child. A full-time student in the same SNAP~~Food Assistance~~ household with a child who is under his/her parental control may qualify if he/she does not reside with his/her spouse.

***

F. The student is assigned to or placed in an institution of higher education through a program under the Workforce Innovation and Opportunity Act (WIOA), EF~~Employment First Program~~, a program under Section 236 of the Trade Act of 1974 (19 USC 2296), another program for the purpose of employment and training operated by the state or local government (program shall have at least one (1) component equivalent to the SNAP EF~~Food Assistance Employment First~~ Program), or as a result of participating in the JOBS program under Title IV of the Social Security Act.

***

4.307 STRIKER ELIGIBILITY

A. Households containing a striking member shall not be eligible for SNAP~~Food Assistance~~ unless the household was eligible for the Program the day before the strike and are otherwise eligible at time of the strike. Households where the striking member was exempt from work registration the day before the strike shall not be subject to these provisions and shall be certified if otherwise eligible, unless the exemption was based on the employment.

***

C. For SNAP~~Food Assistance~~ purposes, a striker is anyone involved in a strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Individuals will be deemed participants in a strike whether or not they personally voted for the strike.

***

4.308 VOLUNTARY QUIT

A. No individual who quit his or her most recent job without good cause or reduces work effort and, after the reduction, is working less than thirty (30) hours each week, without good cause, or earning less than the federal minimum wage multiplied by thirty (30) hours, shall be eligible for participation in SNAP~~the Food Assistance Program~~. At the time of application, the eligibility technician shall explain to the applicant the potential penalties if a household member quits his or her job or reduced hours or wages without good cause or if another member joins the household if that individual has voluntarily quit employment.

**

C. In the case of an applicant household, the local office shall determine whether any currently unemployed household member who is required to register for work or was exempt from registration for being employed has voluntarily quit his or her most recent job within the last sixty (60) days. If the local office learns that a household has lost a source of income after the date of application but before the household is certified, the local office shall determine whether a voluntary quit occurred.

The nonexempt individual who quit or reduced work hours will be ineligible to participate for the sanction period if the household is determined eligible for SNAPthe Food Assistance Program. The individual will be required to comply with EFEmployment First following the sanction period unless the individual becomes exempt from work requirements.

***

F. If the local office determines that the individual voluntarily quit his or her job or reduced his or her work hours without good cause while participating in SNAPthe Food Assistance Program, the local office shall provide the household with a Notice of Adverse Action within ten (10) calendar days after the determination of a voluntary quit is made. The notice shall contain the particular act of noncompliance, the proposed period of disqualification, the action to be taken at the end of the disqualification and shall specify that the individual may be included in the household after the disqualification period if the individual meets other work requirements.

4.309 HOUSEHOLDS WITH SPECIAL CIRCUMSTANCES

The following sections explain the application of SNAPFood Assistance criteria and certification procedures to the eligibility determinations for households with special circumstances pertaining to:

***

4.309.1 Dining Facilities and Homeless Meal Providers

Households with special circumstances, such as a person with disabilities, PERSONS AGED 60 AND OLDERelderly, or center residents, may be authorized to use SNAPFood Assistance benefits to buy food from authorized communal dining facilities, meals on wheels, drug or alcohol treatment and rehabilitation centers, and shelters for battered women and children.

Homeless households may also use SNAPFood Assistance benefits to purchase prepared meals from approved restaurants. Homeless SNAPFood Assistance households EXPERIENCING HOMELESSNESS may use food benefits for meals prepared for and served by an authorized provider (for example, soup kitchen or temporary shelter) that feeds homeless persons EXPERIENCING HOMELESSNESS.

4.309.3 Drug and Alcohol Treatment and Rehabilitation Centers

A. Residents of publicly operated community mental health centers or private non-profit organizations or institutions, operating a residential drug or alcohol treatment or rehabilitation program, are eligible to participate in SNAPthe Food Assistance Program. Applications shall be made through an authorized representative who is employed by the drug or alcohol treatment or rehabilitation facility and designated by the facility for that purpose. Individuals residing in a for profit facility are considered residents of an institution per Section 4.304.4(E).

B. The drug or alcohol treatment or rehabilitation center shall be approved by the Colorado Department of Human Services (CDHS), Office of Behavioral Health (OBH) before its residents are eligible for SNAPFood Assistance participation. The OBHOffice of Behavioral Health will ensure that the center is providing treatment that can lead to the rehabilitation of drug or alcohol addiction.

Before the certification of residents can be accomplished, the local office shall verify that the center has been approved by FNS as a retailer, is certified by the OBHOffice of Behavioral Health,

and such proof may be provided in the form of a license or an approval letter issued to the center by that agency, or is funded under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x, et seq.).

C. Residents and their children residing in an approved drug or alcohol treatment and rehabilitation center shall voluntarily elect to participate in SNAP~~the Food Assistance Program~~. Residents shall have their eligibility determined as one-person households unless children are residing with them at the center. Children of the residents in a drug and alcohol treatment center who live with their parents in the treatment center will qualify for SNAP~~Food Assistance~~. Meals served to the children are eligible for purchase with SNAP BENEFITS~~Food Assistance~~. The local office shall certify residents of drug/alcohol treatment centers by using the same provisions that apply to other applicant households.

***

E. Any applicant household containing a member who regularly participates in a drug or alcohol treatment program on a non-resident basis shall include this member when having its eligibility determined, complete the application process through the head of household or through an authorized representative, and shall meet all financial and non-financial criteria unless specifically exempt. Such households may use any part of their SNAP~~Food Assistance~~ benefits to purchase food prepared for or served to the individual during the ~~course of such~~ program, provided the program has been authorized by FNS for such purposes.

4.309.31 Responsibilities of the Center

***

C. The treatment center shall also report when the resident leaves the treatment center. The treatment center shall return to the issuing office any benefits received after the household has left the center.

The treatment center shall provide the residents with their EBT card when the household leaves the treatment and rehabilitation program. Once the household leaves the treatment center, the center is no longer allowed to act as that household's authorized representative. The departing resident shall receive his/her full allotment if already issued and if no benefits have been spent on his/her behalf.

If benefits have been issued and any portion has been spent on his/her behalf and the resident leaves prior to the sixteenth (16th) of the month, the center shall provide the resident with one half of his/her monthly allotment; on or after the sixteenth (16th), and benefits have already been used, the resident shall not receive any benefits.

Under no circumstances shall the center pull benefits from an EBT card after the resident has left the facility. The drug or alcohol treatment center shall return the authorized representative EBT card, and the resident’s card if it was left behind, to the issuing office within five (5) calendar days of the resident’s departure.

The center shall provide the household with a change report form as soon as it has knowledge the household plans to leave the facility and advise the household to return the form to the local ~~Food Assistance~~ office within ten (10) days of any change the household is required to report.

D.The organization or institution shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. ~~As an authorized representative, t~~The organization or institution shall be knowledgeable about household circumstances WHEN SERVING AS AN AR. THE ORGANIZATION OR INSTITUTION should carefully review those circumstances with residents prior to applying on their behalf.

E. The organization or institution may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The certification office shall promptly notify the state DEPARTMENT~~office~~ when it has reason to believe that an organization or institution is misusing SNAP~~Food Assistance~~ benefits in its possession. However, no action shall be taken against the organization or institution prior to an FNS investigation. The certification office shall establish a claim for over-issuance of Food Assistance benefits held on behalf of resident clients if any over-issuances are discovered BECAUSE~~as a result~~ of an FNS investigation or hearing. If FNS disqualifies an organization or institution as an authorized treatment center, the certification office shall suspend its authorized representative status for the same period.

4.309.4 Residents of Group Living Arrangements

A. Group living arrangements are residential settings that are considered alternatives to institutional living. Institutional settings are not included in this provision. To be eligible as residents of a group living arrangement, the person must be a person with disabilities. In addition, the local office shall verify that the group living arrangement is a public or private nonprofit facility with no more than sixteen (16) residents, and is certified as a group living arrangement by the Colorado Department of Public Health and Environment and the STATE DEPARTMENT~~Colorado Department of Human Services~~ under Section 1616(e) of the Social Security Act. FNS may also certify under standards determined by the USDA that are comparable to standards implemented BY~~BY~~ the state under 1616(e) of the Social Security Act (codified at 42 USC). Copies of the federal laws are available for inspection ~~during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository~~. Individuals residing in a for profit facility are considered residents of an institution per Section 4.304.4(E).

B. Residents of group living arrangements may elect to participate in SNAP~~the Food Assistance Program~~.

Residents shall either apply and be certified through an authorized representative, who is employed and designated by the group living arrangement, or apply and be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for SNAP~~Food Assistance~~ on his/her own behalf; the determination shall be based on the resident's physical and mental capability to handle his/her own affairs.

1. If residents apply USING~~through the use of~~ the facility's authorized representative, ~~their~~ eligibility shall be determined as A one-person household~~s~~. The group living arrangement may either:

a) R~~r~~eceive and spend the allotment on food prepared by and/or served to the eligible resident, or

b) A~~a~~llow the eligible resident to use all or any portion of the allotment on his/her own behalf.

2. The group living facility employee designated to serve as an authorized representative shall be responsible for obtaining their own Electronic Benefit Transfer (EBT) card and Personal Identification Number (PIN) with which to access benefits from the resident's account while the resident remains a resident of the facility.

3. The resident's EBT card shall be stored in a secure area while the resident resides in the group living facility. The group living facility shall not have access to, or knowledge of, the PIN for the resident's own EBT card.

42. If the residents apply on their own behalf, the applications shall be accepted for any individual applying as A one-person household or for any grouping of residents applying as a household. If residents are certified on their own behalf, the allotment may be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents, used by eligible residents to purchase and prepare food for their own consumption, and/or to purchase meals prepared and served by the group living arrangement.

C. Applications for residents of group living arrangements shall be processed using the same standards that apply to all other SNAP~~Food Assistance~~ households including that residents entitled to expedited service shall have benefits available for spending no later than seven (7) calendar days following the date the application was filed. Required verification shall be obtained prior to further benefits being issued.

C. The local office shall process changes in household circumstances and recertifications by using the same standards that apply to all other SNAP~~Food Assistance~~ households, and resident households shall be afforded the same rights all other SNAP~~Food Assistance~~ households enjoy, including the right to notices of adverse action, fair hearings, and entitlement to lost benefits.

4.309.41 Responsibilities of Group Living Arrangements

***

C. When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application), shall provide residents with their EBT card. The household, not the group living arrangement, shall be allowed to receive his/her authorized issuance. Also, the departing household shall receive its full allotment if no benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.

However, if the benefits have already been issued and any portion spent on behalf of the individual and the household leaves the group living arrangement prior to the sixteenth (16th) of the month, the facility shall provide the resident with one half of his/her monthly allotment. If the household leaves on or after the sixteenth (16th) of the month and the benefits have already been issued and used, the household does not receive any benefits.

Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative. Under no circumstances shall the group living arrangement pull benefits from an EBT card after the resident or group of residents have left the facility. The facility shall return the authorized representative

EBT card, and the resident's card if it was left behind, to the issuing office within five (5) calendar days of the resident's departure.

The group living arrangement shall provide the household with a change report form as soon as it has knowledge OF the household plans to leave the facility and advise the household to return the form to the local ~~Food Assistance~~ office within ten (10) days of any change the household is required to report.

D. When acting as the authorized representative, a group living arrangement shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. ~~As an authorized representative, t~~The facility shall be knowledgeable about household circumstances AS AN AUTHORIZED REPRESENTATIVE and should carefully review those circumstances with residents prior to applying on their behalf. The facility shall be strictly liable for all losses or misuse of benefits held on behalf of resident households and for all over-issuances that occur while the households are residents of the treatment center. However, the resident applying on his/her own behalf shall be responsible for over-issuance as would any other household.

E. The group living arrangement may purchase and prepare food to be consumed by eligible residents on a group basis if residents normally obtain their meals at a central location as part of the group living arrangement services or if meals are prepared at a central location for delivery to the individual residents. If residents purchase and/or prepare food for individual consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's SNAP~~Food Assistance~~ benefits are used for meals intended for that resident. If the resident retains use of his/her own allotment, he/she may either use the benefits to purchase meals prepared for them by the facility or to purchase food to prepare meals for their own consumption.

4.309.42 Disqualification of the Group Living Arrangements

A group living arrangement facility authorized by FNS may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The local office shall promptly notify the STATE DEPARTMENT~~Colorado Department of Human Services, Division of Food and Energy Assistance~~, when it has reason to believe that a facility is misusing benefits. However, the local office shall take no action prior to FNS action against the facility. The local office shall establish a claim for over-issuances of SNAP~~Food Assistance~~ benefits held on behalf of resident clients if any over-issuances are discovered during an investigation or hearing procedure for redemption violations.

If the facility loses its authorization from FNS to accept SNAP~~Food Assistance~~ benefits, or is no longer certified by the Colorado Department of Public Health and Environment as a group living arrangement, residents using the facility as an authorized representative shall no longer be able to participate. The residents are not entitled to a Notice of Adverse Action, but shall receive a written notice explaining the termination and when it shall become effective.

***

4.310 GENERAL WORK REQUIREMENTS

As a condition of eligibility for SNAP~~Food Assistance benefits~~, each household member not determined exempt must comply with the following work requirements:

A. Register for work at the time of initial application and ATate every recertification by signing the application for assistance or RECERTIFICATIONredetermination. The application must be signed by the member required to register, an authorized representative, or by another adult household member;

***

4.310.2 Informing the Household of General Work Requirements

At the point of initial application and RECERTIFICATIONredetermination, when an interview is required, SNAPFood Assistance households must receive from the eligibility staff written notice and a verbal explanation of:

A. The SNAPFood Assistance general work requirements;

***

4.310.3 General Work Requirement Exemptions

***

D. A student enrolled at least half-time, as defined by the educational facility, in any recognized school, training program, or institution of higher education;

1. A student who is enrolled in an institute of higher education must meet student eligibility requirements to receive SNAPFood Assistance.
2. Students who are eligible for SNAPFood Assistance remain exempt from work requirements during normal periods of class attendance and school breaks.

***

4.310.5 Voluntary Quit

***

B. A level sanction will be imposed if voluntary quit occurred within sixty (60) calendar days prior to the date of application or after the date of application but prior to eligibility determination and the voluntary quit was without good cause.

1. Individuals who voluntary quit are ineligible to participate in SNAPthe Food Assistance Program and shall be treated as a disqualified member. If the disqualified member joins another household, the ABAWD disqualification period for that individual shall continue until the ABAWD disqualification period is completed.

***

4.310.8 Level Sanction Periods

A. If the local office determines that an individual has voluntarily quit or failed to accept suitable employment without good cause, that individual shall be ineligible to participate in SNAPthe Food Assistance

~~Program~~ and shall be treated as a disqualified member. If the disqualified member joins another household, the disqualification period for that individual shall continue until the disqualification period is completed.

***

C. If the level sanction disqualified individual is the sole member of the SNAP~~Food Assistance~~ household and then becomes exempt, the newly exempt individual can reapply for benefits. The newly exempt individual will be eligible based on the date of the application or, if in the case of reinstatement, the date exemption information was provided to the LOCAL~~county~~ office.

~~If the level sanction disqualified individual is in a Food Assistance household with other eligible members and then becomes exempt, the newly exempt individual will be eligible based on the date exemption information was provided to the county office.~~

D. IF THE LEVEL SANCTION DISQUALIFIED INDIVIDUAL IS IN A SNAP HOUSEHOLD WITH OTHER ELIGIBLE MEMBERS AND THEN BECOMES EXEMPT, THE NEWLY EXEMPT INDIVIDUAL WILL BE ELIGIBLE BASED ON THE DATE EXEMPTION INFORMATION WAS PROVIDED TO THE LOCAL OFFICE.

***

4.311.1 ABAWD Exemptions

While ABAWDs can be exempt under general work requirement exemptions, these individuals could also meet one of the following ABAWD exemptions:

A. AGE EIGHTEEN (18) THROUGH THE AGE OF FORTY-NINE (49)~~Younger than eighteen (18) years of age or older than forty-nine (49) years of age~~. The month of the household member's birthday is not a countable month;
B. Exempt from the general work requirements;
C. Is residing in a SNAP~~Food Assistance~~ household where a household member is under age 18;
D. Pregnancy;
E. Exempt under a waiver approved by the USDA, FNS;
F. Exempt using Colorado defined state exemptions as identified in the current SNAP~~Food Assistance~~ Employment and Training State Plan.

4.311.2 Changes in ABAWD Exemption Status

ABAWDs are not required to report changes in their exemption status during a certification period. However, if the ABAWD loses their exemption status during a certification period, the months the ABAWD was not exempt will count toward their three countable months in a thirty-six (36) calendar month period. Any remaining months of benefits received during that certification period are not considered OVER-ISSUANCES~~overpayments~~ and claims will not be established.

4.311.3 ABAWD Time Limits

ABAWDs are not eligible to participate in SNAP~~Food Assistance~~ if they have received SNAP~~Food Assistance~~ benefits for more than three countable months during a thirty-six (36) month period.

However, ABAWDs may be eligible for up to three additional consecutive months after regaining eligibility In accordance with paragraph (C) of this section.

A. Countable months

Countable months are accrued when an ABAWD received SNAP~~Food Assistance~~ benefits for the full benefit month but did not:

***

D. Regaining Eligibility

***

4. If an individual regains eligibility but then fails to continue meeting these requirements, the individual shall remain eligible for a consecutive three-month period after the individual notifies the LOCAL OFFICE~~county department~~. The individual can only have this provision applied for a single three-month period in the thirty-six (36) calendar month period.

4.312 Employment First (EF)

In Colorado, the Employment and Training program is called EF. The purpose of the program is to assist members of households participating in SNAP~~the Food Assistance Program~~ in gaining skills, training, work, or experience that will increase their ability to obtain employment.

CDHS must submit an annual Employment and Training State Plan for approval by the USDA, Food and Nutrition Service. A copy of the CDHS Employment and Training plan is available for inspection ~~during normal working hours by contacting the SNAP Director, Food and Energy Assistance Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203~~.

The EF program is a voluntary work program for SNAP~~Food Assistance~~ applicants and recipients. Failure to participate with the EF program will not result in a work requirement disqualification.

4.312.1 County Administration Requirements for EF

LOCAL OFFICES~~A county department~~ choosing to administer an EF program shall submit a county plan as prescribed by CDHS and shall operate their EF program in alignment with the CDHS Employment and Training plan. Failure to adhere to the requirements as described in the CDHS Employment and Training plan will result in a Corrective Action Plan (CAP).

LOCAL OFFICES~~A county department~~ may enter into a contractual agreement for all or any part of the EF program service delivery. These contractual agreements shall be reviewed by CDHS for adherence to the program requirements before implementation.

***

4.313 Colorado Workfare Program

***

CDHS must submit an annual Section 20 Workfare State Plan for approval by the USDA, Food and Nutrition Service. A copy of the CDHS Section 20 Workfare plan is available for inspection ~~during normal working hours by contacting the SNAP Director, Food and Energy Assistance Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203~~.

4.313.1 County Administration Requirements for Workfare

LOCAL OFFICES~~A county department~~ choosing to administer a Colorado Workfare program shall submit a county plan as prescribed by CDHS and shall operate their Workfare program in alignment with the CDHS Section 20 Workfare plan. Failure to adhere to the requirements as described in the CDHS Section 20 Workfare plan will result in a Correct Action Plan (CAP).

4.400 FINANCIAL ELIGIBILITY CRITERIA

Income shall be considered prospectively for the issuance month based on the eligibility TECHNICIAN'S~~worker's~~ determination of the household's reasonably anticipated monthly income, and for households eligible under SE~~standard eligibility~~ as outlined in Section 4.206, the value of its resources is considered.

4.401 Income Eligibility Standards

A. Income eligibility is determined based on the composition of the household. A household shall meet the gross and net MONTHLY INCOME ELIGIBILITY STANDARDS AS OUTLINED IN THIS SECTION. SEE SECTION 4.401.1 AND 4.401.2 FOR THE GROSS AND NET PERCENTAGES OF THE FEDERAL POVERTY LEVELS~~MONTHLY income eligibility standards as outlined IN THIS SECTION. SEE SECTION 4.401.1 AND 4.401.2 FOR THE GROSS AND NET PERCENTAGES OF THE FEDERAL POVERTY LEVELS~~.

1. ECE~~Expanded categorically eligible~~ households must have gross income below two hundred percent (200%) of the federal poverty level.

2. BCE~~Basic categorically eligible~~ households shall be deemed as having met gross and net income limits.

3. Households which are not considered ECE OR BCE~~expanded or basic categorically eligible~~ and instead subject to SE~~standard eligibility~~ rules shall meet income eligibility standards as follows:

a. Households that do not include a member who is AGED 60 AND OLDER~~elderly~~ or a person with a disability shall have gross income at or below one hundred thirty percent (130%) of the federal poverty level and have a net income at or below one hundred percent (100%) of the federal poverty level.

b. Households that include a member who is AGED 60 AND OLDER~~elderly~~ or a person with a disability shall have a net income at or below one hundred percent (100%) of the federal poverty level.

4. For household members who are persons that are AGED 60 AND OLDER~~elderly~~ and/or have a disability, who are unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act, or a non-disease related,

severe, permanent disability, may be considered, together with his or her spouse if the spouse is living in the same home, a separate household from the others with whom the individual lives. The combined income of the others with whom the individual who is AGED 60 AND OLDERelderly and a person with disabilities resides (excluding the income of the individual who is AGED 60 AND OLDERelderly and a person with disabilities and his or her spouse) must not exceed one hundred sixty five percent (165%) of the poverty level. See Sections 4.401.1 and 4.401.2 for the gross and net income levels for 165% of the federal poverty level.

***

4.402 HOUSEHOLD INCOME ELIGIBILITY

A. Determining Income

1. Income eligibility shall be determined prospectively based on the eligibility TECHNICIAN'Sworker's anticipation of income at the time of application and when changes are made known to the local office.

***

B. Variations in Date of Pay

1.Regular ongoing earned income that is received early or late by a household due to a holiday, a weekend, or pay dates being changed will have income COUNTEDcourted based on the regular pay schedule instead of the actual date of pay.

***

3. Household income shall mean all earned and unearned income received or anticipated to be received by household members from whatever source, unless specifically exempted for SNAPFood Assistance eligibility and budgeting purposes, per Section 4.405. Income of household members, including the amount of the disqualified person's income attributed to the household, shall be counted as income in the month received or the month it becomes available, unless the income is averaged over the certification period.

***

4.402.1 Prospective Budgeting

A. Prospective budgeting is the process of computing a household's allotment based on anticipated income and circumstances during the issuance month. All SNAPFood Assistance households and all situations require prospective budgeting determinations, including public assistance households under the Title IVA (TANFTemporary Assistance to Needy Families/Colorado Works) Program.

4.402.2 Averaging Income

***

B. The types of households listed above shall have their self-employment income, contract income, or educational monies annualized or prorated, and added to other household income to determine monthly ~~Food Assistance~~ income FOR SNAP.

B. To average income prospectively, the eligibility TECHNICIAN~~worker~~ shall use the household's anticipation of income, considering fluctuations, to obtain a monthly average amount for the period of certification. The number of months used to arrive at the average income need not be the same as the number of months in the certification period, such as the known income from two (2) previous months may be averaged and projected for each month of a certification period that is longer than two (2) months. Refer to Section 4.403.11 for more information on computing self-employment income.

Fluctuating income that has been averaged may be adjusted if verification of a change in circumstances is received.

4.403 COUNTABLE EARNED INCOME

The following shall be considered as earned income~~.:~~

A. Wages and Salaries

***

2. Earned income includes government payments from Agricultural Stabilization and Conservation Service and wages of AmeriCorps Volunteers in Service to America (VISTA) workers. VISTA payments are excluded if the client was receiving SNAP~~Food Assistance~~ BENEFITS when he or she joined VISTA. If the client was not receiving SNAP BENEFITS~~Food Assistance~~ when he or she joined VISTA, the VISTA payments shall count as earned income. Temporary interruptions in SNAP~~Food Assistance~~ participation shall not alter the exclusion once an initial determination has been made (see Section 4.405.2, A, 3). Temporary interruptions shall be defined as a period of time where a household or individual missed a full month of benefits, excluding instances where the lapse in benefits is due to the local office not taking timely action in accordance with the processing standards outlined in Sections 4.604, 4.205, or 4.209.1.

3. Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received, if reasonably anticipated. However, wages held by the employer as a general practice shall not be counted as income unless the household anticipates that it will receive income from such wages previously withheld by the employer.

When an advance on wages is subsequently repaid from current wages, only the ~~amount of~~ wages received is considered as income. The amount of repayment is disregarded, even if the wage-earner was not a SNAP~~Food Assistance~~ participant at the time of the advance.

***

E. Self-Employment

The method of ascertaining the self-employment income to be considered for SNAP~~Food Assistance~~ purposes is often difficult and the guidelines set forth in Sections 4.403.1–4.403.12 are meant to clarify and aid the process.

***

2. Monies received from the sale of capital goods, services, and property connected to the self-employment enterprise. Proceeds of sales from capital goods or equipment are to be treated as income rather than as capital gains.

The term “capital gains”, as used by the Internal Revenue Service (IRS), describes the handling of the profit from the sale of capital assets such as, but not limited to, computers and other electronic devices, office furniture, vehicles, and equipment used in a self-employment enterprise; or securities, real estate, or other real property held as an investment for a set TIME period ~~of time~~. For SNAP~~Food Assistance~~ purposes, the total amount received from the sale of capital goods shall be counted as income to the household.

F. Owners of Limited Liability Corporations (LLC) and S-Corporations

For SNAP~~Food Assistance Program~~ purposes, owners of LLCs or S-Corporations are considered employees of the corporation and, therefore, cannot be considered self-employed. Because they are not considered self-employed, they are not entitled to the exclusion of allowable costs of producing self-employment income. The income from these types of corporations should be treated as regular earned income, not self-employment income.

***

4.403.11 Determining Monthly Income from Self-Employment

***

D. Anticipating Capital Gains and Other Self-Employment Income

When self-employment income is calculated on an anticipated basis, any capital gains that the household anticipates receiving in the next twelve (12) months, beginning with the date the application is filed, are added and divided by twelve (12). This amount is used in successive certification periods over the next twelve months unless a change occurs. A new average monthly amount must be calculated over this twelve month period if the anticipated amount of capital gains changes. The anticipated monthly amount of capital gains and the anticipated monthly self-employment income then are added and the anticipated cost of producing the income deducted. The cost is calculated by anticipating the monthly allowable costs of producing the self-employment income.

The monthly net self-employment income will be added to any other earned and unearned income received by the household to determine eligibility of self-employed SNAP~~Food Assistance~~ applicants.

For those households with self-employment income which is not annualized, the eligibility TECHNICIAN~~worker~~ shall anticipate income. Any anticipated proceeds from the sale of capital gains shall be used as income in the month the proceeds are anticipated to be received.

4.404 Countable Unearned Income

***

I. Substantial Lottery or Gambling Winnings

Substantial lottery or gambling winnings will be counted as unearned income in the month received. If multiple individuals shared in the purchase of a ticket, hand, or similar bet, then only the portion of the winnings allocated to the member of the SNAP~~snap~~ household would be counted in the eligibility determination.

***

4.405 Exempt Income

Income from certain sources will be excluded for SNAP~~Food Assistance~~ eligibility purposes under mandate of law. Only the following will not be considered as income:

***

H. Vendor Payments

***

7. Energy assistance payments, other than for the Low-Income Energy Assistance Program (LEAP) or a one-time payment under federal or state law for weatherization or to repair/replace an inoperative furnace or other heating or cooling device, that are made under a state or local program shall be counted as income. The exclusion will still apply if a down payment is made and is followed by a final payment upon completion of work. If a state law prohibits the household from receiving a cash payment under state or local general assistance (or comparable program), the assistance would be excluded. This applies to either an energy assistance payment or other type of payment.

Energy assistance payments for an expense paid on behalf of the household under a state law shall be considered an out-of-pocket expense incurred and paid by the household. Energy assistance payments made under Part A of Title IV of the Social Security Act (42 U.S.C. 601, et seq.) is included as income. The Act does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection ~~during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository~~.

***

4.405.2 Income Excluded by Other Federal Statutes

The following government payments are received for a specific purpose and are excluded as income by federal law. Copies of the federal laws are available for inspection ~~during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203~~.

A. General

***

3. Any payment to volunteers under Title II (RSVP, Foster Grandparents and others) of the Domestic Volunteer Services Act of 1972, as amended, (P.L. No. 93-113).

Payments under Title I (AmeriCorps Volunteers in the Service of America/VISTA - including University Year for Action and Urban Crime Prevention Program) to volunteers shall be excluded for those individuals receiving SNAP~~Food Assistances~~ or PA~~public assistance~~ at the time they joined the Title I Program, except that households which are receiving an income exclusion for a VISTA or other Title I Subsistence Allowance at the time of conversion to the Food Assistance Act of 1977 shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in SNAP~~Food Assistance~~ participation shall not alter the exclusion once an initial determination has been made. New applicants who are not receiving PA~~public assistance~~ or SNAP~~Food Assistance~~ at the time they joined VISTA shall have these volunteer payments included as earned income.

***

5. P.L. No. 93-288, Section 312(d), the Disaster Relief Act of 1974, as amended by P.L. No. 100-707, Section 105(i), the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income for SNAP~~Food Assistance~~ purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

***

6. Payments, allowances and earnings under the Workforce Innovation and Opportunity Act (WIOA) are excluded as income. Earnings paid for on-the-job training are still counted for SNAP~~the Food Assistance Program~~. On-the-job training payments for members under nineteen (19) years of age who are participating in WIOA Programs and are under the parental control of an adult member of the household shall be excluded as income. The exclusion shall apply regardless of school attendance and/or enrollment as outlined in Section 4.405, C. On-the-job training payments under the Summer Youth Employment and Training Program are excluded from income.

***

18. Payments made from the Agent Orange Settlement Fund (P.L. No. 101-201). All payments from the Agent Orange Settlement fund or any other fund established pursuant to the set-

tlement in the Agent Orange product liability litigation are excluded from income retroactive to January 1, 1989.

The veteran with disabilities will receive yearly payments. Survivors of deceased veterans with disabilities will receive a lump-sum payment. These payments were disbursed by the AETNA insurance company.

P.L. No. 101-239, 12/19/89, the Omnibus Budget Reconciliation Act of 1989, Section 10405, also excludes payments made from the Agent Orange settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) from income in determining SNAP eligibility or the amount of SNAP benefits ~~under the Food Assistance Program~~.

P.L. No. 102-4, Agent Orange Act of 1991, 2/6/91, authorized veterans' benefits to some veterans with service connected disabilities resulting from exposure to Agent Orange. These VA payments are not excluded by law.

19. P.L. No. 101-508, Section 5801, which amended Section 402(i) of the Social Security Act, 11/5/90. At-risk block grant child care payments made under section 5801 are excluded from being counted as income for SNAP~~Food Assistance~~ purposes and no deduction may be allowed for any expense covered by such payments.

***

27. P.L. No. 103-322, Section 230202, 9/13/94, Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provides in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay:

a. Such crime victim compensation program shall not pay that compensation.
b. The other program shall make its payments without regard to the existence of the crime victim compensation program.

Based on this language, payments received under this Program must be excluded from income for SNAP~~Food Assistance~~ purposes.

***

B. American Indian or Alaska Native

***

13. P.L. No. 98-500, Section 8, 10/17/84, Old Age Assistance Claims Settlement Act, provides that funds made to heirs of deceased Indians under this Act shall not be considered as income nor otherwise used to reduce or deny SNAP~~Food Assistance~~ benefits except for per capita shares in excess of two thousand dollars ($2,000). The first two thousand dollars ($2,000) of each payment is excluded.

***

4.407 DEDUCTIONS AND EXCLUSIONS FROM INCOME

A. Allowable deductions are subtracted from total monthly gross income to determine the household's monthly net SNAP~~Food Assistance~~ income. The monthly income shall be rounded down to the lower dollar if it ends in one (1) through forty-nine (49) cents and rounded to the next dollar amount if it ends in fifty (50) through ninety-nine (99) cents before deductions are considered.

***

4.407.2 Earned Income Deduction

A. A household with earned income shall receive a deduction of twenty percent (20%) of its gross nonexempt earned income, which is ~~been~~ rounded down to the lower dollar if it ends in the one (1) through forty-nine (49) cents and rounded up to the next dollar amount if it ends in fifty (50) through ninety-nine (99) cents. The twenty percent (20%) deduction shall also apply to prorated income earned by the disqualified member and attributed to the household.

***

4.407.3 Excess Shelter Deduction

***

B. A shelter deduction cap, as specified below, applies to households that do not contain A person who is AGED 60 AND OLDER~~elderly and/~~or a person with a disability as defined in Section 4.304.41. Those households containing a person who is AGED 60 AND OLDER~~elderly~~ and/or a person with a disability shall receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

***

D. A household may claim both the costs of its actual residence and those for a home that is not occupied by the household because of employment or training away from home; or Illness; or abandonment caused by a natural disaster or casualty loss.

For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for SNAP~~Food Assistance~~ purposes; and the home must not be leased or rented during the absence of the household.

4.407.31 Four-Tiered Mandatory Standard Utility Allowance

***

A. Heating and Cooling Utility Allowance (HCUA)

***

2. A SNAPFood Assistance household, which incurs or anticipates a heating or cooling costs on an irregular basis, may continue to receive the HCUA between billing periods.

4.407.6 Excess Medical Deduction

A household shall receive a deduction for total medical expenses MORE THAN in excess of thirty-five dollars ($35) per month, incurred by any household member(s) who is AGED 60 AND OLDERelderly or a person with disabilities. Other household members who are not AGED 60 AND OLDERelderly or a person with disabilities, including spouses and dependents, cannot claim costs of their medical treatment and services.

A. The following medical costs, less the cost of reimbursements from another source, are allowable:

***

7. Reasonable transportation and lodging to obtain medical treatment or services. Mileage expenses shall be calculated based on the prevailing Internal Revenue Service (IRS) COMMERCIALCOMMERCIAL mileage rate.

***

B. Non-allowable medical costs include, but are not limited to:

***

6. Medical expenses carried forward from past billing periods unless one of the following conditions is met:

a. The amount is being carried forward pending reimbursement information; or,

b. The household has ARRANGEDmade arrangements to make monthly installments on the past due bills. The past due amount must be due to missed payments under a previous repayment agreement with the medical provider, and the payment plan is now being renegotiated with the provider. The negotiation of a payment plan with a collection agency will not be accepted as a renegotiated payment plan; or,

c. Households that become categorically eligible for SNAPfood assistance by reason of becoming a pure SSI household shall be entitled to excess medical expenses for the period for which they are authorized to receive SSI or from the date of the SNAP-food assistance application, whichever is later. Restored benefits shall be issued if appropriate; or,

d. Medical expenses that occur after the date an application is filed and reported at the subsequent application for redetermination or periodic report shall be considered if the medical expense has not previously been reported and allowed as a medical deduction. If at recertification the household provides previously unreported medical expenses that occurred prior to the last certification period that

are past due, the LOCAL OFFICEcounty department shall review the medical expenses under provisions a through c of this subsection.

***

4.407.61 Determining Monthly Medical Expenses

A. A household that contains a member who is eligible for a medical expense deduction is eligible for a deduction using either the Standard Medical Expense Deduction (SMED) or using actual medical expenses. Beginning October 1, 2016, the SMED is one hundred sixty five dollars ($165).

The SMEDsmed is used if the total verified medical expenses are greater than thirty five dollars ($35) and less than or equal to the SMEDsmed. The household may claim actual expenses if the total verified expenses, after deducting the first thirty five dollars (35), exceed the SMEDsmed.

***

4.408 RESOURCE ELIGIBILITY STANDARDS

***

D. As a result of the Food, Conservation and Energy Act of 2008, adjustments to the SNAPFood Assistance resource limit will be subject to change annually according to the Consumer Price Index. There are currently two (2) resource limits:

1. One established for households that do contain a member who is AGED 60 AND OLDERelderly and/or a person with a disability; and,
2. Another established for households that do not contain a member who is AGED 60 AND OLDERelderly and/or a person with a disability.

E. The resource limits are as follows:

Effective October 1, 2017, the resource limit for households that do contain a member who is AGED 60 AND OLDERelderly and/or a person with a disability is three thousand five hundred ($3,500). The resource limit for households that do not contain a member who is AGED 60 AND OLDERelderly and/or a person with a disability is two thousand two hundred fifty dollars ($2,250).

4.408.1 Determining the Value of Resources

The value of nonexempt household resources at the time the application is FILEDflied must be determined from applicant statements, documents, and/or from collateral contacts when household assessment is uncertain or questionable.

***

4.408.1 Determining the Value of Resources

The value of nonexempt household resources at the time the application is FILED~~filed~~ must be determined from applicant statements, documents, and/or from collateral contacts when household assessment is uncertain or questionable.

***

B. Valuation of Non-Liquid Resources

Except for real property, non-exempt non-liquid resources shall have a fair market value as determined from the best source available (such as, but not limited to, blue book, local dealer, or equivalent verifiable Internet web site) less verified encumbrances. If warranted, the eligibility TECHNICIAN~~worker~~ should adjust the market value for poor or unusable condition of the property before assigning a resource value. The eligibility TECHNICIAN~~worker~~ shall annotate the case record to show source and computation used to determine resource value.

The value of real property, such as buildings, land, or vacation property, unless exempt as income producing may be obtained by using the actual value reported by a county assessor or, if not reported, the current assessed valuation, accomplished in accordance with state law, and dividing the value by the appropriate percentage rate of assessment for real property to derive fair market value and subtracting the amount the household currently owes on the property.

4.408.2 Transfer of Resources

At the time of application, households not eligible under expanded or basic categorical eligibility rules shall be asked to provide information regarding any resources which any household member, ineligible non-citizen, or disqualified person whose resources are being considered available to the household has transferred within the three (3) month period immediately preceding the date of application. Households that have transferred resources knowingly for the purpose of qualifying or attempting to qualify for SNAP~~Food Assistance~~ benefits shall be disqualified from participation in the program for up to one (1) year from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three (3) month period prior to application, or if they are transferred knowingly after the household is determined eligible for benefits.

A. Eligibility for the program shall not be affected by the following transfers:

***

4. Resources that are transferred for reasons other than qualifying or attempting to qualify for SNAP~~Food Assistance~~ benefits, for example a parent placing funds into an educational trust fund.

B. In the event the local office establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for SNAP~~Food Assistance~~ benefits, the household shall be sent a notice of denial explaining the reason for and length of disqualification. The period of disqualification shall begin in the month of application. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for and the length of disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the notice of adverse action has expired, unless the household has requested a fair hearing and continued benefits.

***

4.410 EXEMPT RESOURCES

***

D. Household Goods, Personal Effects, and Retirement Accounts

***

3. All tax DEFERREDpreferred education accounts are exempt resources. The two types of tax DEFERREDpreferred education savings accounts are:

G. Resources with No Significant Return

Resources that, as a practical matter, the household is unlikely to be able to sell for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great, shall be considered inaccessible. A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. Verification of the value of a resource to be excluded shall not be required unless IT IS DETERMINEDthe Food Assistance worker determines that the information provided by the household is insufficient to permit a determination of the resource value or the worker believes that the information is questionable.

This provision regarding no significant return does not apply to negotiable financial instruments. A significant return or a significant amount of funds shall be any return/funds after estimated costs of sale or disposition and taking into account the ownership interest of the household. A significant return or a significant amount of funds is an amount that is estimated to be more than one thousand five hundred dollars ($1,500).

***

J. Government Payments

The following government payments are received for a specific purpose or services and shall be excluded as a resource for SNAPFood Assistance eligibility.

1. P.L. No. 89-642. Section 11b) of the Child Nutrition Act of 1966 excludes the value of assistance to children under this Act from resources for SNAPFood Assistance purposes.

***

3. Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended: for example, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration, Section 312(d) of Disaster Relief Act of 1974.

The Disaster Relief Act of 1974. P.L. No 93-288 as amended by P.L. No. 100-707, Section 105(i). the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income or resources for SNAP~~Food Assistance~~ purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

***

12. A federal earned income tax credit received either as a lump sum or as payments under Section 3507 or the Internal Revenue code for the month of receipt and the following month for the individual and that individual's spouse (P.L. No. 101-508).

A federal, state, or local Earned Income Tax Credit (EITC) would be exempted for twelve (12) months from receipt for any household member if the individual receiving the EITC was participating in SNAP~~the Food Assistance Program~~ when the EITC was received and participation continues for twelve (12) months. Temporary non-participation due to administrative reasons, such as a delayed recertification, shall not affect the twelfth (12th) month participation requirement (P.L. No. 103-66, Mickey Leland Childhood Hunger Relief Act of 1993).

***

15. P.L. No. 103-322. Section 230202, 9/13/94. Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provide in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay:

a. Such crime victim compensation program shall not pay that compensation;

b. The other program shall make its payments without regard to the existence of the crime victim compensation program.

Based on this language, payments received under this program must be excluded from income for SNAP~~Food Assistance~~ purposes.

***

4.411.1 Treatment of Income and Resources of Disqualified and/or Sanctioned Members

A. Individual household members may be disqualified for being ineligible non-citizens, for failure or refusal to obtain or provide a ~~Social Security Number (~~SSN~~)~~, for IPV~~intentional Program violation~~/fraud, for being a fleeing felon, for failing to comply with a work requirement, or for being a sanctioned ABAWD ~~(Able Bodied Adult Without Dependents)~~ who has received three (3) months of SNAP~~Food Assistance~~ benefits within a thirty-six (36) month period.

B. During the period IN WHICH~~of time~~ a household member is disqualified, the eligibility and benefit level of any remaining members shall be determined as follows:

1. Households containing members disqualified for IPV~~Intentional Program Violation~~ or fraud, or a work requirement sanction, or classified as a fleeing felon:

a. Income, Resources, and Deductible Expenses

The income and resources of the disqualified household member(s) shall be counted in their entirety. Resources shall only be considered if the household is required to meet the resource standard. The allowable earned income, standard, medical, dependent care, and shelter deductions shall be allowed in their entirety.

b. Eligibility and Benefit Level

The disqualified member shall not be included when determining the household's size for purposes of assigning a benefit level to the household. The disqualified household member will not be included when determining the household size for comparison against any eligibility standard, THIS~~which~~ includes the gross income and net income eligibility limits or the resource eligibility limits.

2. Households containing members disqualified for being an ineligible non-citizen, for failure or refusal to obtain or provide aN ~~Social Security Number (~~SSN~~)~~, or sanctioned as an ~~able bodied adult without dependents (~~ABAWD~~)~~ who has received three (3) months of SNAP~~Food Assistance~~ benefits in a thirty-six (36) month period:

***

4.411.2 Treatment of Income and Resources of Other Non-Household Members

***

C. A person who is an ineligible student for SNAP~~Food Assistance~~ purposes shall be treated as a non-household member. The other members of a household containing the ineligible student may be certified. The income and resources of the ineligible student shall not be considered available to the other household members for determining the household's income resources and deductions nor shall the student be considered in determining the household's allotment.

***

4.500 VERIFICATION AND DOCUMENTATION

***

B. The case record shall consist of statements and documentation regarding the sources and results of verification used to determine a household’s eligibility. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility TECHNICIAN’S~~worker's~~ determination. When ~~making a decision of~~ ineligibility IS DETERMINED, the case record must clearly indicate the reason for denial or termination and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record.

The case record shall also contain all correspondence pertaining to fair hearings and administrative disqualification hearings.

Information to retain in the case record for fair hearings shall include, at a minimum, the household's request for a fair hearing, the scheduling notice with the hearing date and time, all decisions pertaining to the fair hearing, and any exceptions filed by the LOCAL OFFICE~~county department~~ or the household.

***

4.501 Prudent Person Principle (PPP)

The rules contained herein are intended to be sufficiently flexible to allow the eligibility TECHNICIAN~~worker~~ to exercise reasonable judgment in executing his/her responsibilities WHEN DETERMINING SNAP ELIGIBILITY, ALSO KNOWN AS PPP.

~~In this regard, the prudent person principle may be applied. The term prudent person principle refers to reasonable judgments made by an individual in a given case.~~ In making an eligibility decision, the eligibility TECHNICIAN~~worker~~ should consider whether his/her judgment is reasonable, based on experience and knowledge of SNAP~~the program~~.

4.502 VERIFICATION REQUIREMENTS AT APPLICATION, RECERTIFICATION~~REDETERMINATION~~, AND PERIODIC REPORT

A. Verification Requirements at Application

***

3.The household shall be given a reasonable opportunity to submit verification of certain expenses ~~in order~~ to receive expense deductions and exclusions.

If a deductible expense must be verified and obtaining verification may delay the household's certification, the local office shall advise the household that the household's eligibility and benefit level will be determined without providing a deduction or exclusion for the claimed but unverified expense.

If the expense cannot be verified within thirty (30) calendar days of the date of application, the local office shall determine the household's eligibility and benefit level without providing a deduction or exclusion for the unverified expense. THESE EXPENSES ARE:

a. Allowable medical expenses less reimbursement;
b. Legally-obligated child support payments;
c. Dependent care expenses; and,
d. SHELTER EXPENSES, IF QUESTIONABLE AND VERIFICATION HAS BEEN REQUESTED.

4. For households eligible under basic or expanded categorical eligibility rules, verification of resources, gross and net income, SSN information, sponsored non-citizen information, and residency beyond that gathered by the PA~~public assistance~~ program that confers eligibility shall not be required unless these eligibility factors are not already collected and verified by the other program, are considered questionable, or are unavailable to SNAP~~the~~

~~Food Assistance Program~~. The local office shall verify that each member receives benefits or services from the program that confers basic or expanded categorical eligibility.

5. For households subject to an asset test, the household's written declaration of resources MORE THAN~~in excess of~~ the resource limit is an acceptable form of verification. ~~Verification Requirements at Redetermination and Periodic Report~~

~~B.~~ Verification Requirements at Recertification ~~and Periodic Report~~

***

2. A change in total monthly ~~earned~~ income of FIFTY~~one hundred~~ dollars ($50~~100~~) or more for each member must be verified at redetermination. IF THE SOURCE OF INCOME HAS NOT CHANGED AND IF THE AMOUNT IS UNCHANGED OR HAS CHANGED BY FIFTY DOLLARS ($50) OR LESS, VERIFICATION IS NOT REQUIRED UNLESS THE INFORMATION IS UNCLEAR, QUESTIONABLE, OR OUTDATED.

3. At redetermination, all households shall verify the following information if the source has changed or the amount has changed by more than twenty-five dollars ($25) since the last time they were verified:

a. DEPENDENT CARE EXPENSES~~Changes in unearned income~~;
b. Allowable medical expenses;
c. Legally-obligated child support;
~~d. Dependent care expenses;~~
~~e. Verification of the above factors, is optional if information is unchanged or changes by twenty five dollars ($25) or less.~~

4. A reported Social Security Number(s) not verified at initial certification and newly obtained Social Security Numbers shall be verified through the IEVS OR~~OR~~ SOLQ-I.

5. For households subject to an asset test, the household's written declaration of resources MORE THAN~~in excess of~~ the resource limit is an acceptable form of verification.

C. VERIFICATION REQUIREMENTS AT PERIODIC REPORT

1. THE HOUSEHOLD SHALL VERIFY THE FOLLOWING CHANGES IN CIRCUMSTANCES AT THE TIME OF PERIODIC REPORT:
   a. A CHANGE OF MORE THAN $100 IN THE AMOUNT OF UNEARNED INCOME.
   b. A CHANGE IN THE SOURCE OF INCOME, INCLUDING STARTING A JOB.
   c. ACQUISITION OF A LICENSED VEHICLE THAT IS NOT FULLY EXCLUDABLE, IF RESOURCE LIMITS APPLY.
   d. A CHANGE IN LIQUID RESOURCES, UNLESS EXCLUDED, IF RESOURCE LIMITS APPLY.
   e. CHANGES IN THE LEGAL OBLIGATION TO PAY CHILD SUPPORT.
   f. IF A MEMBER OF THE HOUSEHOLD WON SUBSTANTIAL LOTTERY OR GAMBLING WINNINGS.
   g. ALLOWABLE MEDICAL EXPENSES TO RECEIVE AN INCREASE IN THE ALLOWED EXPENSE OR ADD A MEDICAL EXPENSE.

2. PREVIOUSLY REPORTED MEDICAL AND SHELTER EXPENSES USED TO ESTABLISH THE 24-MONTH CERTIFICATION SHOULD CONTINUE THROUGH THE END OF 24-MONTH CERTIFICATION PERIOD UNLESS:

a. AN INCREASE IN MEDICAL EXPENSES IS VERIFIED, OR
b. AN INCREASE IN SHELTER EXPENSES IS REPORTED.

4.503 Case Documentation

The case record shall consist of statements and documentation regarding the sources and results of verification used to determine eligibility and ineligibility. Such statements shall be entered into a physical case file and/or the statewide automated system. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility TECHNICIAN'S~~worker's~~ determination. When ~~making a decision of~~ ineligibility IS DETERMINED, the case record must clearly indicate the reason for denial or termination and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record.

***

4.504 Sources of Verification

The local office shall accept any pertinent documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application, redetermination, PRF~~periodic report form~~, or REPORTED CHANGES~~change report form~~. If written verification cannot be obtained, the eligibility TECHNICIAN~~worker~~ shall substitute an acceptable collateral contact.

4.504.2 Collateral Contacts

****

B. Confidentiality shall be maintained when talking with collateral contacts. The local office shall disclose only the information that is ~~absolutely~~ necessary to get information being sought. When talking with collateral contacts, the local office SHALL NOT SHARE~~shall avoid disclosing~~ that the INDIVIDUAL OR household has applied for SNAP~~Food Assistance~~.

C. If the household fails to provide a collateral contact or provides a contact that is unacceptable to the eligibility TECHNICIAN~~worker~~, the TECHNICIAN~~worker~~ may select a collateral contact that can provide information that is needed.

***

4.504.5 Colorado Income Eligibility Verification System (IEVS)

A. The Colorado Income and Eligibility Verification System (IEVS) provides for the exchange of information on SNAP~~Food Assistance Program~~ recipients with the Social Security Administration (SSA), Internal Revenue Service (IRS), and the Colorado Department of Labor and Employment (DOLE).

B. At initial certification and redetermination, all applicants for SNAP~~Food Assistance benefits~~ shall be notified through a written statement provided on or with the application form of the following information:

***

4.504.6 Information Considered Verified Upon Receipt

***

B. Information that is considered VUR~~verified upon receipt~~ shall be acted upon for ALL~~both simplified reporting households and non-simplified reporting~~ households. Information considered VUR~~verified upon receipt~~ shall be acted on at the time of application, recertification, periodic report, and during a household's certification period if the information causes a change in the SNAP~~Food Assistance~~ benefit amount. A household shall not be convicted of fraud for not reporting a change in the information it is not required to report.

***

D. The local office shall consider only the following information as verified upon receipt:

***

5. Information that is reported and verified to a PA~~public assistance~~ program which results in a change to the PA benefit amount and that meets the SNAP~~Food Assistance regulations for~~ verification REQUIREMENTS.

***

10. Changes in household composition that are reported and verified and result in one or more members being removed from one SNAP~~Food Assistance~~ household and added to a new or existing SNAP~~Food Assistance~~ household.

Duplicate benefits shall not be issued for a particular individual when removing that individual from one SNAP~~Food Assistance~~ household and adding him/her to a new SNAP~~Food Assistance~~ household.

11. Changes in household composition that are reported and verified by child welfare agencies and result in a child being removed from one SNAP~~Food Assistance~~ household and added to a new or existing SNAP~~Food Assistance~~ household.

12. The disqualification of a household member who is determined to be a fleeing felon or a probation or parole violator.

4.504.61 Information Not Considered Verified Upon Receipt

A. Some information received from sources other than the household are not considered verified. Such information shall be subject to independent verification prior to taking adverse action to reduce, suspend, terminate, or deny a household's SNAP~~Food Assistance~~ benefits during the certification period.

B. The following sources of information shall not be considered as verified upon receipt:

1. Death information received from a source other than the Burial Assistance program.

2. Veterans Assistance (VA) benefit amounts obtained through the IEVS.

3. Wage data obtained through the IEVS and the DOLE.

4. IRS income and asset information obtained through the IEVS.

5. Information regarding railroad retirement benefits obtained through IEVS~~the ievs~~.

6. Information received from the Public Assistance Reporting and Information System (PARIS).

7. Prisoner information received during the certification period.

8. Information received from the National Database of New Hires (NDNH).

9. Social Security benefit amounts reported via an award letter given by the household.

10. IPV/disqualification data from another state as reported through the disqualified recipient database.

4.505 VERIFICATION OF NON-FINANCIAL INFORMATION

A. Some information received from sources other than the household are not considered verified.

Such information shall be subject to independent verification prior to taking adverse action to reduce, suspend, terminate, or deny a household's SNAP~~Food Assistance~~ benefits during the certification period.

***

4.505.1 Verification of Identity

~~*~~**

C. When obtaining an ~~Electronic Benefit Transfer (~~EBT~~)~~ card, a household shall not be required to provide verification beyond what was utilized to establish identity when determining SNAP~~Food Assistance~~ eligibility. This includes verification through a collateral contact.

***

4.505.3 Verification of Residency

***

B. If the eligibility TECHNICIAN~~worker~~ and applicant have made reasonable efforts to verify residency and it has proved impossible, the household may be certified, if otherwise eligible. If an in-

dividual's county residency cannot be verified, but the individual's Colorado residency is not questionable, then the individual shall be certified if otherwise eligible and not participating in another SNAPFood Assistance household.

***

4.505.4 Verification of Household Composition

***

C. A household or applicant that requests benefits for a child that is already receiving benefits in another household is responsible for verifying that they provide the child with a majority of his or her meals prior to receiving benefits for that child. When determining majority of meals for shared living arrangements, acceptable documentation includes, but is not limited to: custody arrangements, school enrollment forms, dependent care forms, a statement from each household, or any other document that can reasonably be used to determine meals.

One household's written or verbal statement regarding its provision of MOST OFthe majority of the meals shall not be the only verification used when the statement results in removing a child from one SNAPFood Assistance household and placing the child in another SNAPFood Assistance household. A calendar completed by the household showing how many meals it provides a child shall be considered a written statement from the household. If both households that are requesting assistance for a child each provide a verbal or written statement regarding how many meals each provideS, then both households' statements shall be used as verification to determine who provides MOSTthe majority of the child's meals.

***

4.505.51 Verification of Questionable Citizenship

***

B. Application of the above criteria by the eligibility TECHNICIANworker must not result in discrimination based on race, religion, ethnic background or national origin, and groups such as migrant farm workers or American Indians shall not be targeted for special verification. The eligibility TECHNICIANworker shall not rely on a surname, accent or appearance that seems foreign to find a claim to citizenship questionable. Nor shall the eligibility TECHNICIANworker rely on a lack of English speaking, reading or, writing ability as grounds to question a claim to citizenship.

***

4.505.6 Verification of Non-citizen Status

A. All applicants for SNAPFood Assistance benefits shall be notified on the application form that the non-citizen status of any household member will be subject to verification by the U.S. Citizenship and Immigration Service (USCIS) through the submission of information from the application to the USCIS. The information received from the USCIS may affect the household's eligibility and level of benefits. The application shall contain a statement signed by an adult representative from each household which attests, under penalty of perjury, to citizenship or non-citizen status of each member.

***

C.

***

2. If the proper USCIS documentation is not available, the non-citizen may state the reason and submit other conclusive verification. The local office shall accept other forms of documentation or corroboration from the USCIS that the non-citizen is classified pursuant to Section 207, Section 208, or Section 243(h) of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act, which is codified throughout Title 8 of the United States Code. The federal references do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection ~~during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository~~.

***

4.505.61 Verification of SSA Forty Work Quarters

The SSA~~Social Security Administration's~~ Quarters of Coverage History System (QCHS) is available for purposes of verifying whether a lawful permanent resident has earned or can receive credit for forty (40) qualifying quarters. If the individual does not have documentation, he/she cannot participate until verification of forty (40) quarters of work is received from either the ~~Social Security Administration (~~SSA~~)~~ or the individual.

If the SSA~~Social Security Administration~~ determines that its existing records do not verify that an individual claiming forty (40) credits or quarters in fact has the forty (40) credits or quarters and the individual believes the SSA~~Social Security Administration~~ records are not correct, the SSA~~Social Security Administration~~ will work with the individual to determine whether the additional credits or quarters can be established. The individual should be advised that he/she has the option of working with the SSA~~Social Security Administration~~ and that if he or she exercises this option and obtains a statement from SSA indicating that the number of credits or quarters is under review, he/she can continue to receive SNAP ~~BENEFITS-Food Assistance~~ for up to six (6) additional months from the date of the original determination of insufficient quarters.

A. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to a non-citizen if the non-citizen, parent of the non-citizen, or spouse of such non-citizen ~~actually~~ received any federal means-tested public benefit during the period for which such qualifying quarter of coverage is so credited.

B. The local office must evaluate quarters of coverage and receipt of federal means-tested public benefits on a calendar year basis. The local office must first determine the number of quarters creditable in a calendar year, then identify those quarters in which the non-citizen (or the parent(s) or spouse of the non-citizen) received federal means-tested public benefits and then remove those quarters from the number of quarters of coverage earned or credited to the noncitizen in that calendar year. However, if the non-citizen earns the fortieth (40th) quarter of coverage

prior to applying for SNAPFood Assistance or any other federal means-tested public benefit in that same quarter, the local office must allow that quarter toward the forty (40) qualifying quarters total.

***

4.505.7 Verification of Non-citizen Sponsorship

A. The local office shall verify the following information at the time of initial application and recertification:

1. The income and resources of the non-citizen's sponsor and the sponsor's spouse (if living with the sponsor) at the time of the non-citizen's application for SNAPFood Assistance.

***

4.505.8 Verification of Disqualified Member Data

At the time of application and when adding a new member to a SNAPFood Assistance household, the office shall verify data with the national IPV/disqualification database for all household members ageD eighteen (18) or older to determine if any members have an active intentional Program violation (IPV)/ disqualification from another state which requires a portion, or the entirety of, the disqualification period to be served in Colorado. Application processing shall not be delayed while awaiting verification from another state.

The local office shall ensure that:

***

C. States shall be given twenty (20) calendar days to respond to a request for verification. If verification cannot be provided by the other state, then the disqualification shall not be acted upon. Local offices shall be given twenty (20) calendar days to respond to another state's request of obtaining verification of a Colorado IPV. If the LOCAL OFFICEcounty department cannot provide verification, then steps shall be taken to remove the IPV from the national database.

D. Once independent verification is received, adverse action shall be granted prior to benefits being reduced, suspended, denied, or terminated; and,

E. The disqualified individual shall be provided an opportunity to appeal any adverse action.

If the local office issues benefits ARE ISSUED BY THE LOCAL OFFICE to an individual while awaiting verification of an IPV disqualification, the benefits issued while awaiting such verification may be claimed back if it is determined that the individual was disqualified from the program at the time the benefits were issued.

4.506 VERIFICATION OF INCOME

***

A. Responsibility

1. Applicants are primarily responsible for furnishing income verification documents, a collateral contact, or the authorization needed to secure sufficient information to allow written or verbal verification by the eligibility TECHNICIANworker. For public assistance (PA) recipients, the PA case record will normally be used as the source of verification.

***

4. In some instances, however, all attempts to verify income may be unsuccessful because the person or organization has failed to cooperate with the household. A cooperating applicant shall not be denied solely because a third party refuses to provide verification. The eligibility TECHNICIANworker shall, in consultation with the applicant or other sources, arrive at a figure to be used for certification purposes and annotate the household's case record with information used to make an eligibility determination.

***

C. Self-Employment

Self-employment verification may consist of tax documents, self-employment ledgers maintained by the household, receipts, or other documents used for verifying and documenting the household's self-employment income and expenses. If, at the time of initial certification, a household is recently self-employed or does not have adequate documentation of the household's self-employment income and expenses, the eligibility TECHNICIANworker shall use the best information available to determine the household's monthly income. The household shall be encouraged to keep records of income and expenses for subsequent certifications. No specific verification shall be required and the dDocumentation provided by the household shall be accepted unless questionable. NO SPECIFIC VERIFICATION SHALL BE REQUIRED.

***

F. Cases of No Reported Income

1. In addition to verifying reported income, the eligibility worker may have occasion to explore the possibility of unreported income. Prior to determining the eligibility of households who report no income or income so low as to place them at the maximum benefit level without consideration of deductible expenses, the eligibility worker must, through in-depth interviewing techniques, determine how the household maintains its existence and meets ongoing maintenance expenses. Collateral contact with a person or persons knowing the household's circumstances is recommended. The existence of resources, UNPAID BILLS, AND/OR CREDIT might be an explanation of how the household exists WITH NO INCOME OR INCOME SO LOW AS TO PLACE THEM AT THE MAXIMUM BENEFIT LEVEL WITHOUT CONSIDERATION OF DEDUCTIBLE EXPENSES. THE APPLICANT'S STATEMENT OF NO INCOME IS ACCEPTABLE, UNLESS OTHERWISE QUESTIONABLEat the level of income reported.
2. When exploring the possibility of unreported income or how the household is meeting its expenses, the local office shall not initiate a request for verification of such information, but shall explore how the household is meeting its needs through an interview. If, at the time of recertification, the local office needs to explore the possibility of unreported income or how the household is meeting its needs, the household shall be contacted by telephone to resolve the discrepancy. If

~~the household cannot be contacted, then the interview process outlined in Section 4.204 can be initiated.~~

***

4.601 General Requirements for Reporting Changes

***

B. Households shall be required to report the increase in income no later than ten (10) calendar days from the end of the calendar month in which the change occurred. ~~The local office has up to ten (10) calendar days to act on the information from the date the change is considered reported.~~

***

4.603 HOUSEHOLD RESPONSIBILITY TO REPORT CHANGES

A. Applicant households shall report all changes related to their SNAP~~Food Assistance~~ eligibility and benefits at the certification interview, including any changes that occurred between the date an application is submitted and the date of the interview. If a change is reported in an initial month and the application has not yet been processed, the local office shall act on the most current information.

***

4.604 ACTION ON REPORTED CHANGES

Changes shall be acted on in accordance with the following guidelines:

A. General Requirements

Changes to a household's circumstances shall be acted on prospectively and processed within ten (10) calendar days from the date the change is ~~considered to be~~ reported. Changes reported by households shall be documented in the SNAP~~Food Assistance~~ case record to indicate the change and the date that the change was reported. If the reported change causes a change to the household's allotment, a notice of action form shall be issued to inform the household of a new basis of issuance and/or a supplemental allotment. If a supplemental allotment is to be issued, the amount of the supplemental allotment shall be the difference between the allotment the household is eligible to receive, due to the reported change, and the allotment the household ~~actually~~ received for the current month. The household's total monthly allotment shall be increased for all subsequent months of the certification period that are affected by the change.

***

C. Changes Resulting ~~I~~In an Increase

1. The county local office shall act on any change reported by the household that will increase benefits. The increased allotment shall be made no later than the first allotment issued ten (10) or more calendar days after the change is ~~considered to be~~ reported. Any increase in benefits resulting from a change shall take effect the month following the month the change is considered re-

ported. Therefore, if such a change is reported after the twentieth (20th) of a month, and it is not possible to adjust the following month's allotment before the household's next normal issuance day, a supplemental allotment (in addition to the previously authorized monthly allotment) must be issued within ten (10) calendar days from the date the change was ~~considered to be~~ reported. A supplemental allotment shall not be issued for the month in which the change occurred.

2. Changes that result in increased SNAP~~Food Assistance~~ benefits for a household must be verified by the household within ten (10) calendar days from the date the change is reported. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained. Changes that result in increased SNAP~~Food Assistance~~ benefits for a household must be verified prior to adjusting the household's allotment.

***

G. Changes in Household Composition

***

2. Individuals Disqualified During the Certification Period

When an individual is disqualified during the household's certification period, the LOCAL~~Food Assistance certification~~ office shall determine the eligibility or ineligibility of the remaining household members based on information contained in the case record. If information in the case record is insufficient, additional information shall be obtained as needed.

***

4.604.1 Verification of Reported Changes

BEFORE ACTION IS TAKEN ON REPORTED CHANGES AND TO DETERMINE THE EFFECT ON BENEFITS, ADDITIONAL VERIFICATION IS REQUIRED IN THE FOLLOWING INSTANCES:~~Changes that affect an allotment may require additional verification prior to taking action.~~

A. Unclear Information

1. If the local ~~county~~ office receives information about changes in a household's circumstances but cannot determine if or how the change will affect the household's benefits and the unclear information is:

a. Fewer than sixty (60) days old relative to the current month of participation; and

b. Was required to have been reported per simplified reporting rules; or

c. Appears to present significantly conflicting information about the household's circumstances from that used by the agency at the time of certification, including changes to the household's categorical eligibility tier, then;

The local office shall send a verification request notice requesting the household to provide the specific information or verification within the ten (10) calendar days plus one (1) additional calendar day for mailing ~~time period~~. Households partici-

pating in the Address Confidentiality Program (ACP) shall receive five (5) additional calendar days for mailing time. The local office shall ASSIST THE CLIENT ~~offer assistance~~ in obtaining the verification if the household cannot obtain the information.

If the household fails or refuses to provide the verification or to request assistance with obtaining the verification within the ten (10) calendar days plus one (1) additional calendar day for mailing timeframe, or five (5) additional calendar days mailing time for ACP households, the process for closing the case shall be initiated. The Notice of Action Form shall advise the household that a change occurred that could not be acted upon, that the case is being closed, and that the household must provide the needed verification if it wishes to continue participation in the program. The household may be required to reapply if the household takes the required action after a break in benefits of more than thirty (30) calendar days.

***

3. Changes which result in increased SNAP~~Food Assistance~~ benefits for a household shall be verified prior to adjusting the household's allotment. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained.

B. Computer Matches Not Considered Verified Upon Receipt

When information is received from a Prisoner Verification System indicating an individual is currently being held in a federal, state, or local detention or correctional institution for more than thirty (30) days or information is received from a Deceased Matching System indicating a household member has recently died, a notice of match shall be sent to the affected household prior to taking action to adjust or terminate the household's benefits.

The notice of match shall explain what information is needed to challenge the match and the consequences of failing to respond. The notice shall provide the household with ten (10) calendar days plus one (1) additional calendar day for mailing time to respond. Households participating in the ~~Address Confidentiality Program (~~ACP~~)~~ shall be provided five (5) additional calendar days for mailing time.

If the household substantiates the match, fails to respond to the notice, or fails to provide sufficient verification to challenge the match results, the agency shall remove the subject individual from the SNAP~~Food Assistance~~ household and adjust benefits accordingly following the procedures outlined in Section 4.604.

If the household provides sufficient verification that the match is invalid, no further action shall be taken to remove the subject individual or adjust the household's benefits. The case record shall be documented accordingly.

4.605 FAILURE TO REPORT CHANGES

If SNAP~~Food Assistance~~ benefits are over-issued because a household fails to timely report changes as required, a claim shall be established and a notice of overpayment and a repayment agreement will be

mailed. If the discovery is made within the certification period, the household must be given advance notice of adverse action if its benefits are to be reduced.

4.606 ~~HANDLING PUBLIC ASSISTANCE (~~PA~~)~~ HOUSEHOLD CHANGES

A. Households that receive PA~~public assistance~~ benefits which report a change in circumstances to the PA~~public assistance~~ worker shall be considered to have reported the change for SNAP~~Food Assistance~~ purposes. Information that is reported and verified to a ~~public assistance (~~PA~~)~~ program which results in a change to the PA benefit amount and that meets the SNAP~~Food Assistance~~ rules for verification shall be considered VUR~~verified upon receipt~~. The date the change is considered reported and verified is the date the PA~~public assistance~~ program processes the change and authorizes the new PA benefit amount. When acting on information considered VUR~~verified upon receipt~~, advance notice of adverse action is required, except as noted in Section 4.608.1.

B. When there is a change in a PA~~public assistance~~ case and the county has sufficient information to make the corresponding SNAP~~Food Assistance~~ adjustment, the county shall follow the guidelines listed below.

1. If the change in household circumstances requires a reduction or termination of both PA~~public assistance~~ and SNAP~~Food Assistance~~, the following action will be required:
   1. Send NOA~~Notices of Adverse Action~~ for both programs simultaneously with both notices bearing the same effective date.
   2. If a household requests a fair hearing any time prior to the effective date of the Notice of Adverse Action, and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action, unless the household specifically waives continuation of benefits. Continued benefits shall not be issued for a period beyond the end of the current certification period.
   3. If the household appeals only a PA adverse action and is granted interim relief, SNAP~~Food Assistance~~ benefits authorized prior to the adverse action shall continue or be restored. However, the household must reapply if the SNAP~~Food Assistance~~ certification period expires before the hearing process is completed.
   4. If the household does not appeal the adverse action to decrease the PA~~public assistance~~ or SNAP~~Food Assistance~~ benefits within the adverse action period, the changes shall be made in accordance with timeframes outlined in Section 4.603.
2. If the change requires a reduction or termination of PA BENEFITS~~public assistance~~ and/or increases in SNAP~~Food Assistance~~, the following action will be required:
   1. A PA~~public assistance~~ Notice of Adverse Action shall be issued to the household and SNAP~~Food Assistance~~ benefits shall not be increased until the adverse action period expires. If the household does not appeal, the increase shall be effective in accordance with Section 4.604. The time limit for taking the action to increase SNAP~~Food Assistance~~ benefits shall be calculated from the date the PA Notice of Adverse Action expires. The Notice of Adverse Action expires eleven (11) calendar days from the date it is issued or fifteen (15) calendar days for households participating in the address confidentiality program (ACP).
   2. If the household requests a PA state appeal and is granted interim relief, the household is entitled only to SNAP~~Food Assistance~~ benefits that were authorized immediately prior to the PA adverse action and action must be taken to correct the current basis of issuance. A SNAP~~Food Assistance~~ claim must be made against the household if there was an overissuance for the period pending the appeal decision.

3. When there is a change in a PA case which results in a termination of PA but there is insufficient information to determine SNAPFood Assistance eligibility, the county shall follow the guidelines listed below:

1. The PA Advance Notice of Adverse Action and a verification request notice are issued simultaneously. The PApublic assistance notice makes the action effective on the last day of the month the notice is sent (or the last day of the following month, as appropriate, to allow for the required advance notice period). The routine extension on SNAPFood Assistance notices allows the household time to reapply for benefits at the appropriate local office.

The verification request notice shall advise the household of the information that needs to be verified for the household to continue to receive SNAPFood Assistance benefits. The ELIGIBILITY TECHNICIANworker shall not take any further action until the PA Notice of Adverse Action period expires or until the household requests a fair hearing. If the household does not appeal the PA action and request a continuation of benefits, the agency may resume action on the reported change.

Depending on the response or non-response to the verification request, the ELIGIBILITY TECHNICIAN worker shall adjust the household's benefits if the verification of the household circumstances ISare received, or issue a Notice of Adverse Action to close the household's case if the household does not respond or refuses to provide information.

b. Households requesting a SNAPFood Assistance appeal may be entitled to continued benefits.

b. If the household requests only a PApublic assistance state appeal and is granted interim relief, SNAPFood Assistance benefits authorized immediately prior to the adverse action will continue or be restored.

4. If the situation does not require a PA Notice of Adverse Action, the county local office shall ACTtake action based on the normal change reporting processing time frames and provide proper noticing as described in this section.

C. Local offices shall ensure that there is no increase in SNAPFood Assistance benefits to households as the result of a penalty being imposed for an intentional program violation (IPV) or failure to comply with program requirements for a federal, state, or local means-tested program that distributes publicly funded benefits.

The local office shall calculate the SNAPFood Assistance allotment using the benefit amount that would be issued by that program if no penalty had been imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in SNAPFood Assistance benefits shall also not be affected by these provisions.

4.607 MASS CHANGES

There are certain changes that occur which are not caused by the household and which affect a mass portion of the SNAPFood Assistance caseload simultaneously. Such adjustments go into effect for all

households at a specific point in time, and the local office will have full prior knowledge of the change. Such changes are generally initiated BECAUSE~~as a result~~ of a change in state or federal regulations. When such changes occur, the local office shall be responsible for making the appropriate adjustments in the household's eligibility or allotment as directed by the State Department and noticing the client as outlined below:

A. Federal adjustments to eligibility standards, allotments, and deductions; state adjustments to the Standard Utility Allowance; and any federal reduction, cancellation, or suspension of SNAP~~Food Assistance Program~~ benefits.

***

B. Mass changes in public assistance grants, such as state-only OAP~~Old Age Pension~~ and AND~~Aid to the Needy Disabled~~; and Cost of Living Adjustments (COLA) and increases in federal RSDI, SSI benefits (Title XVI), and SSA (Title II).

These mass changes shall require a Notice of Adverse Action when SNAP~~food assistance~~ benefits are decreased or terminated. Such notice for these mass changes shall be provided to the household as much before the household's scheduled issuance date as reasonably possible, although the notice need not be given any earlier than the time required for advance Notice of Adverse Action, per Section 4.608. Mass changes shall be processed prospectively for all households.

1. At a minimum, affected households shall be informed of:

***

e. The household's right to receive a continuation of benefits if the following criteria are met:

1. The household has not specifically waived its right to a continuation of benefits;
2. The household requests a fair and the request for a hearing is based upon improper computation of SNAP~~Food Assistance~~ eligibility or benefits, or upon misapplication or misinterpretation of state rules, or federal law or regulation.

2. Processing Mass Changes in ~~Public Assistance (~~PA~~)~~

PA~~Public assistance~~ grant cost-of-living increases and SSA/SSI cost-of-living increases are treated as mass changes in SNAP~~the Food Assistance Program~~. Mass changes shall be processed prospectively for all households. SNAP~~Food assistance~~ benefits shall be RECALCULATED~~recomputed~~ and the change shall be effective in the same month as the change in the PA grant. If the local office has at least thirty (30) calendar days' advance knowledge of the amount of the PA~~public assistance~~ adjustment, the SNAP~~Food Assistance~~ benefits shall be RECALCULATED~~recomputed~~ and the change shall be effective in the same month as the change in the PA grant. In cases where the local office does not have thirty (30) calendar days' advance notice, the SNAP~~Food Assistance~~ change shall be made effective no later than the month following the month in which the PA grant was changed.

4.608 ADVANCE NOTICE OF ADVERSE ACTION

***

D. The participant household may also, prior to the effective date of the Notice of Adverse Action, either before or after the conference, appeal the proposed action. Households that timely request a hearing may be entitled to continued benefits. The eligibility TECHNICIANworker shall explain to the household that a demand will be made for the amount of any benefits determined by the hearing officer to have been over-issued.

4.608.1 Changes Not Requiring Advance Notice of Adverse Action

Advance Notice of Adverse Action may be given, but is not required in the following situations:

A. The STATE DEPARTMENTFood Assistance Program Division initiates mass changes outlined in Section 4.607, paragraph A. Such changes must be publicized in advance. Announcements may be handed out or mailed to affected participant households.

***

F. The household applied for public assistance (PA) and SNAPFood Assistance jointly and has been receiving SNAPFood Assistance benefits pending the approval of the PA grant and was notified at the time of certification that SNAPFood Assistance benefits would be reduced upon approval of the PA grant.

***

J. Converting a household from cash and/or SNAPFood Assistance repayment for claims to allotment reduction BECAUSEas a result of a failure to make agreed-on repayments.

***

L. A change that is reported at redetermination for a household certified for six (6) months, or at periodic report for a household certified for twenty-four (24) months, which results in a decrease to the household's SNAPFood Assistance allotment.

4.609 TRANSITIONAL FOOD ASSISTANCE (TFA)

4.609.1 GENERAL ELIGIBILITY GUIDELINES [Rev. eff. 2/1/16]

A. Households that receive SNAPFood Assistance and CWColorado Works basic cash assistance that become ineligible for continued receipt of CWColorado Works basic cash assistance BECAUSEas a result of changes in household income are eligible to receive Transitional Food Assistance (TFA), as provided for within this section. CWColorado works diversion payments are not considered basic cash assistance. CWColorado works basic cash assistance is defined in Section 3.601 of the Code of Colorado Regulations (9 CCR 2503-6).

B. Households that are eligible to receive TFATransitional Food Assistance will have the SNAPFood Assistance benefit amount continued for five (5) months. The household's SNAPFood Assistance allotment will be continued in an amount based on what the household received prior to when the household's income made them ineligible for CWColorado Works basic cash assistance. Only the following four (4)

changes will be acted upon when determining the SNAPFood Assistance allotment that is to be continued.

1. The loss of the CWColorado Works cash grant;
2. Changes in household composition that result in a household member leaving and applying for SNAPFood Assistance in another household;
3. Updates to the SNAPFood Assistance eligibility standards that change each October 1 BECAUSEas a result of the annual cost-of-living adjustments (see Section 4.607); and,
4. Imposing an IPVintentional program violation disqualification.

C. When the SNAPFood Assistance benefit amount is continued, the household's existing certification period shall end, and the household shall be assigned a new five (5) month certification period. The recertification requirements that would normally apply when the household's certification period ends must be postponed until the end of the five (5) month transitional certification period.

D. Households who are denied or not eligible for TFATransitional Food Assistance must have continued eligibility and benefit level determined in accordance with Section 4.604.

E. The following households are not eligible to receive TFATransitional Food Assistance:

1. Households leaving the CWColorado Works program due to a CWColorado Works sanction; or,
2. Households that are ineligible to receive SNAPFood Assistance because all individuals in the household meet one of the following criteria:
    1. Disqualified for IPVintentional program violation;

***

f. Disqualified for receiving SNAPFood Assistance benefits in more than one household in the same month;

***

h. ABAWDSAble-bodied adults without dependents who fail to comply with the requirements of Section 4.310.

4.609.4 HOUSEHOLDS WHO RETURN TO COLORADO WORKS (CW) DURING THE TRANSITIONAL PERIOD [Rev. eff. 2/1/16]

If a household receiving TFATransitional Food Assistance returns to CWColorado Works during the transitional period, the local office shall complete the recertification process for SNAPFood Assistance to determine the household's continued eligibility and benefit amount. If the household remains eligible for SNAPFood Assistance, the household shall be assigned a new certification period.

4.609.5 HOUSEHOLDS WHO REAPPLY FOR SNAPFOOD ASSISTANCE DURING THE TRANSITIONAL PERIOD [Rev. eff. 2/1/16]

A. At any time during the transitional period, the household may APPLYsubmit an application for recertification to determine if the household is eligible for a higher SNAPFood Assistance allotment. In de-

termining if the household is eligible for a higher allotment, all changes in household circumstances shall be acted upon.

***

4.609.6 TRANSITIONAL NOTICE REQUIREMENTS [Rev. eff. 2/1/16]

When a household is approved for TFA~~Transitional Food Assistance~~, the household shall be notified of the following information:

***

C. A statement that if the household returns to CW~~Colorado Works~~ during its TFA~~transitional benefit~~ period, the household must undergo the recertification process to determine the household's continued eligibility and NEW SNAP~~Food Assistance~~ allotment ~~for Food Assistance~~; and,

***

4.610 REINSTATEMENT OF BENEFITS

~~***~~

If eligible for reinstatement, the local office will prorate SNAP~~food assistance~~ benefits from the date the household took all required action(s) to reestablish eligibility.

***

4.700 SNAP~~FOOD ASSISTANCE~~ BENEFIT ISSUANCE

~~The Colorado Electronic Benefits Transfer System (~~CO/EBTS~~)~~ will allow electronic debiting of benefits onto an ~~Electronic Benefit Transfer (~~EBT~~)~~ card for certified eligible households. Every household must be informed of the issuance accommodations that are available.

Local offices must provide an adequate number of issuance locations and hours of operation to allow all eligible households to receive their ~~Electronic Benefit Transfer (~~EBT~~)~~ cards.

As SNAP~~the Food Assistance Program~~ is a national program, ~~food~~ benefits issued to eligible households may be used for the purchase of eligible food in every state.

4.701 PROVIDING BENEFITS TO PARTICIPANTS

***

B. Those households COMPOSED~~comprised~~ of persons who are AGED 60 AND OLDER~~elderly~~ or persons with a disability who have difficulty reaching issuance offices and households which do not reside in a permanent dwelling or have a fixed mailing address, and those in remote, rural areas shall be given assistance in obtaining their EBT card. LOCAL OFFICES~~Food assistance offices~~ shall assist these households by arranging for the mail issuance of EBT cards to them, by

assisting them in finding authorized representatives who can act on their behalf, or by using other appropriate means.

B. The eligibility TECHNICIAN~~worker~~ shall be sufficiently familiar with issuance operations to answer any questions the household may have about when, where, and how to access one's benefits from the EBT card.

4.701.2 EBT Cards

***

D. LOCAL OFFICES~~Food assistance offices~~ shall limit issuance of EBT cards to the time of initial certification, with replacements made only in instances when the EBT card is lost, mutilated, destroyed, or if there are changes in the person authorized to obtain benefits, or when the office determines that a new EBT card is needed. Whenever possible, the office shall collect the EBT card that it is replacing. The issuance unit must be notified of a replacement EBT card to assure that only the most recently issued EBT card is used for benefit issuance.

***

4.702.1 Eligibility for Restoration of Lost Benefits

A. To be eligible for restored benefits, the household must have had its SNAP~~Food Assistance~~ benefits wrongfully delayed, denied, or terminated. Delay shall mean that an eligibility determination was not accomplished within processing timeframe standards.

B. A restoration of benefits is warranted when a household has received fewer benefits than it was eligible to receive due to:

1. An error by the local office;
2. A court decision overturning or reversing a disqualification for IPV~~intentional program violation~~; or

***

4.702.4 Errors by the ~~Social Security Administration (~~SSA~~)~~ Office

The local office shall restore to the household any benefits lost as the result of an error by the local office or by the SSA~~Social Security Administration~~ through joint processing.

Benefits shall be restored back to the date of an applicant's release from a public institution if, while in the institution, the applicant jointly applied for SSI and SNAP~~Food Assistance~~, but the local office was not notified on a timely basis of the applicant's release.

***

4.705 WHEN AN INCREASE TO SNAP~~FOOD ASSISTANCE~~ BENEFITS SHOULD NOT BE ISSUED

A. Local offices shall ensure that there is no increase in SNAP~~Food Assistance~~ benefits to households as the result of a penalty being imposed for an ~~intentional Program violation (~~IPV~~)~~ or for failure to comply with work requirements or for failure to comply with another program requirement for a federal, state, or local means-tested program that distributes publicly funded benefits.

B. To determine the SNAP~~Food Assistance~~ allotment when there is such a decrease, the local office shall calculate the ~~Food Assistance~~ allotment using the benefit amount which would be issued by that program if no penalty had been imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in SNAP~~Food Assistance~~ benefits shall also not be affected by these provisions.

4.706 REPLACEMENT ISSUANCES TO HOUSEHOLDS DUE TO MISFORTUNE

A. A household may request a replacement issuance if food purchased with program benefits was destroyed in a household misfortune, such as, but not limited to, fire or flood. Replacement issuances shall be provided in the amount of the loss to the household, not to exceed one month's allotment, unless the issuance includes restored benefits that shall be replaced up to their full value. To qualify for a replacement, the household shall report the destruction to the local office within ten (10) calendar days of the incident.

The household shall sign and return a statement or an Affidavit for Food Destroyed in Misfortune to the local office within ten (10) calendar days of the date of the report, or benefits shall not be replaced. If the tenth (10th) day falls on a weekend or holiday, and the statement or Affidavit for Food Destroyed in Misfortune is received the day after the weekend or holiday, the local office shall consider the statement or affidavit timely received.

The statement or affidavit shall:

1. Attest to the destruction of the food purchased with the household's SNAP~~Food Assistance~~ benefits;

***

B. Upon receiving a request for replacement of SNAP~~Food Assistance~~ benefits for food reported as destroyed in an individual household misfortune, the local office shall:

***

3. Document in the case record the date and reason that a replacement has been provided.

This provision shall apply in cases of an individual household misfortune, such as a fire, as well as in natural disasters affecting more than one (1) household. No limit on the number of replacements shall be placed on food purchased with SNAP~~Food Assistance~~ benefits that were subsequently destroyed in a household misfortune.

4.706.1 Disaster and Replacement Allotments

Where USDA/FNS has issued a disaster declaration of individual assistance, individuals in a household who are eligible for emergency SNAP~~Food Assistance~~ benefits shall not receive both the disaster allotment and a replacement allotment.

4.706.2 Replacement of EBT Cards Lost in the Mail or Stolen Prior to Receipt by the Household

LOCALFood assistance offices shall comply with the following procedures in replacing EBT cards reported lost in the mail or stolen from the mail prior to receipt by the household.

A. Determine if the EBT card was actually mailed, if sufficient time has elapsed for delivery or if the card was returned in the mail back to the local office.

B. Issue a replacement EBT card and new PIN.

C. Take other action, such as correcting the address on the master issuance file by updating the households mailing and/or home address within the automated system.

4.706.3 Request for Replacement Issuances after Receipt of EBT Card

Households cannot receive a replacement allotment of SNAPFood Assistance benefits that have been reported as stolen and used from the EBT card by someone without the household's knowledge and consent. An EBT CCard received by a household and subsequently mutilated or found to be improperly manufactured shall be replaced.

4.706.4 Authorized Number of Replacement Issuances

No limit on the number of replacements shall be placed on the replacement of benefits if the food purchased with SNAPFood Assistance benefits was destroyed in a household misfortune.

The local office shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent.

When a local office intends to deny or delay a replacement of SNAPFood Assistance benefits for any reason, the local office shall notify the household of the delay or denial through use of a Notice of Action form. The household shall be informed of its right to a county dispute resolution conference or state-level fair hearing to contest the denial or delay of a replacement issuance. Replacement shall not be made while the denial or delay is being appealed.

Replacement issuances shall be provided to households within ten (10) calendar days after report of loss (fifteen days if issuance was by certified or registered mail) or within two (2) working days of receiving the signed household statement, whichever date is later.

When a request for replacement is made late in an issuance month, the replacement will be issued in a month AFTERsubsequent to the month in which the original allotment was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement.

4.707 SNAPFOOD ASSISTANCE ISSUANCE AND ACCOUNTABILITY

A. LOCAL OFFICESFood assistance offices shall establish issuance and accountability systems to comply with these rules and to ensure that only certified eligible households receive benefits, EBT cards are accepted, stored, and protected after delivery to receiving points, benefits are timely distributed in the correct amounts, and that benefit issuance and reconciliation are properly conducted and accurately reported.

B. Electronic benefit issuance shall be handled through CDHSthe Colorado Department of Human Services, Food Assistance Programs Division, and at designated contractor sites through the Colorado Electronic Benefit Transfer System (CO/EBTS).

C. LOCALFood assistance offices shall assure a separation of certification functions from issuance functions and thereby provide for internal controls and prevention of fraud. Certification functions include determining eligibility for a household and ensuring that the eligibility is current and accurate. Eligibility shall be updated and maintained in the automated system. It shall be the responsibility of the certification unit to complete all necessary actions in the automated system to authorize the issuance of benefits. Data entry of case information may be completed by either the certification unit or a separate data entry unit, but not by the issuance unit.

D. Issuance offices are responsible for the timely and accurate issuance of SNAPFood Assistance benefits to eligible participant households. An approved accountability and benefit issuance delivery system shall be established to ensure that eligibility information is data entered, that the automated system has an issuance available, and only certified households receive benefits.

4.707.1 Security Procedures

The electronic benefit issuance area shall be physically separated, such as, but not limited to, the cage, counter, and railing, from both participants and other employees of the office who are not responsible for benefit issuance and accountability. Persons not specifically responsible for benefit issuance accountability shall also be barred from the electronic benefit card storage area.

LOCALFood assistance offices, including contract issuers, shall take all precautions necessary to avoid acceptance, transfer, negotiation, or use of counterfeit food benefits and to avoid any unauthorized use, transfer, acquisition, alteration or possession of benefits. Electronic Benefit Transfer (EBT) cards shall be safeguarded from theft, embezzlement, loss, damage, or destruction.

Issuance supervisors shall give each cashier a daily supply of blank EBTElectronic Benefit Transfer cards from the bulk card inventory. On high volume issuance days, the cashier's supply may need to be replenished during issuance hours from an office vault. Such a vault containing bulk card inventory shall remain locked unless opened to withdraw cards. Keys and lock combinations shall be controlled and restricted to as few individuals as possible. Combinations and locks should be changed whenever an individual who has received them leaves the employ of the office.

***

4.707.2 Security Program and Types of Prevention of Theft

***

In addition to a security officer, each office shall distribute written instructions to all employees concerning appropriate behavior in the event of a robbery attempt and procedures for reporting the theft to law authorities and the STATE DEPARTMENTFood Assistance Programs Division.

***

4.707.21 Reporting a Robbery or Burglary

The local law enforcement agency shall be notified immediately by one of the persons who have been designated to carry out the reporting of a robbery or burglary. The STATE DEPARTMENT~~Food Assistance Programs Division~~ shall also be notified immediately and will be responsible for informing USDA/FNS.

***

4.707.3 EBT Requisition

***

Arrangements have been made for local issuance offices with sufficient issuance volume to receive shipments of EBT cards directly from USDA/FNS. Offices with low issuance volume will receive EBT card shipments from the STATE DEPARTMENT~~Food Assistance Programs Division~~ storage vault by fully insured registered mail.

***

Those offices which receive their EBT card supply from the STATE DEPARTMENT~~Food Assistance Programs Division~~ storage vault shall requisition EBT cards in accordance with the instructions submitted from the STATE DEPARTMENT~~Food Assistance Programs Division~~. The instructions will advise of procedures for ordering from the contractual provider.

4.707.4 Designated Personnel and Receiving Locations

A. LOCAL~~Food assistance~~ offices ordering EBT cards shall designate at least two persons who are authorized to receive EBT cards. The STATE DEPARTMENT~~Food Assistance Programs Division~~ shall be notified by letter of the following:

***

C. Receipt of EBT Cards from USDA, FNS~~Food and Nutrition Service~~

When a shipment of EBT cards is received from USDA/FNS, an original and three copies of Form FNS 261 (Advice of Shipment) are mailed to the consignee. If the shipment is in order, the receiving agent shall complete Form FNS 261. If the shipment is not in order, immediately notify the STATE DEPARTMENT~~Food Assistance Programs Division~~. The receiving agent will then be instructed to annotate Form FNS 261, describing the EBT card discrepancy or damaged condition of the EBT cards Form FNS 261 must be signed, dated and submitted in the normal manner.

D. Receipt of EBT Cards from the State DEPARTMENT~~Office~~

When a shipment is received from the STATE DEPARTMENT~~Food Assistance Programs Division~~, Form FNS 300 (Advice of Transfer) is mailed to the consignee in the original and three copies. If the shipment is in order, the original and all copies of Form FNS-300 are signed and dated by the receiving agent. If the shipment is not in order, immediately notify the STATE DEPARTMENT~~Food Assistance Programs Division~~.

***

4.707.5 Inventory Records

***

B. Improperly Manufactured or Mutilated EBT Cards in Shipment

If EBT cards are improperly manufactured or mutilated, Form FNS-471 shall be completed. The EBT cards are cancelled immediately and destroyed at the end of the month in accordance with Section 4.708.5.

If one or more boxes of EBT cards were improperly manufactured, local offices shall contact the STATE DEPARTMENT~~Food Assistance Programs Division. The Division~~ WHO will contact USDA/FNS on the instructions for disposition of the destructible EBT cards. EBT cards must be destroyed within thirty (30) calendar days from the close of the month in which the EBT cards were received. For disposition of mutilated EBT cards returned by participants, refer to Section 4.708.5.

***

4.707.6 Benefit Issuance Locations and Storage Facilities

A. Issuance locations shall be established by every local office to accomplish the issuance of EBT cards to certified SNAP~~Food Assistance~~ households.
B. The STATE DEPARTMENT~~Food Assistance Program in the Food and Energy Assistance Division~~ shall be notified of all issuance locations and EBT card shipment receiving points created, changed, or terminated at least thirty (30) calendar days prior to THE effective date of action.
C. Whenever an issuance office or bulk storage point is terminated, the STATE DEPARTMENT~~Food Assistance Programs Division~~ will complete a closeout accountability audit within thirty (30) calendar days of the termination. The findings of the audit shall be forwarded to USDA/FNS immediately. The STATE DEPARTMENT~~Food Assistance Programs Division~~ shall perform an actual count of EBT cards on hand and transfer the inventory to another issuance office or bulk storage point preferably within the same project area. The actual inventory and transfer shall be properly documented and reported on Form FNS250.
D. At least thirty (30) calendar days prior to closure of an issuance location, SNAP~~Food Assistance Program~~ participants shall be notified of the impending closure. Notification shall include alternative issuance locations and information concerning available public transportation. A notice of closure shall also be prominently displayed in the issuance office. All necessary action shall be taken to maintain participant service without interruption.
E. The transfer of EBT cards between project areas is allowed only in emergency situations and only when authorized by the STATE DEPARTMENT~~Food Assistance Programs Division~~. The transferring office initiates Form FNS-300, retains copy 4 and forwards all other parts to the receiving office with EBT card shipment. On verification of shipment, Form FNS-300 is dated and signed by the receiving office and copy 3 is returned to the transferring office. The counties involved in “transferring out” and “transferring in '' must properly document the transaction on Form FNS-250 submitted at the end of the month.

4.707.7 Monitoring of EBT Card Issuers

The STATE DEPARTMENT~~Food Assistance Programs Division~~ shall conduct an onsite review of each EBT card issuer and bulk storage point at least once every three (3) years. All offices or units of an EBT

card issuer are subject to this review requirement. The STATE DEPARTMENT~~Food Assistance Programs Division~~ shall base each review on the specific activities performed by each EBT card issuer or bulk storage point. A physical inventory of EBT cards shall be taken at each location, and count compared with perpetual inventory records and the monthly reports of the EBT card issuer or bulk storage point. This review may be conducted at branch sites as well as the main offices of each issuer and bulk storage point that operates in more than one office.

4.707.8 Division of Issuance Responsibilities

~~Over-the-counter~~ OVER THE COUNTER and mail issuance responsibilities shall be divided between a cashier and another issuance employee.

A. It is not always feasible for the duties of the cashier to be performed by separate employees because of a low issuance volume at an issuance location. Therefore, any county that can justify deviation from the requirement, and is willing to assume the additional risk, may obtain permission for one-person issuance through written request to the STATE DEPARTMENT~~Food Assistance Programs Division~~ (refer to Section 4.707).

***

4.707.84 Control of Issuance Documents

LOCAL~~Food assistance~~ offices shall control all issuance documents that establish household eligibility while the documents are transferred and processed within the local office. The LOCAL office shall use numbers, batching, inventory control togs, or similar controls from the point of initial receipt through the issuance and reconciliation process. All Notices of Action that initiate or terminate the Master Issuance file and blank EBT cards shall have access limited to authorized personnel.

4.707.9 Issuance Methods

The issuance office may mail EBT cards to all eligible households or establish OVER THE COUNTER ~~over-the-counter~~ issuance with optional mail issuance at the request of the household. Certified households must be issueD EBT cards by the end of the month~~,~~ except when benefits are suspended, cancelled, or reduced.

***

4.707.91 Mail Issuance

A. Exclusive Mail Issuance

LOCAL~~Food assistance~~ offices which rely exclusively on mail issuance shall ensure that participants receive allotments on a timely basis and eligible households, either destitute of income or with no income, receive expedited issuance in accordance with Sections 4.205 and 4.701.

***

E. SNAP~~Food Assistance~~ Mail Issuance Report

Form FNS-259 reports shall be submitted by local offices for each unit using a mail issuance system. LOCALFood assistance offices shall submit Form FNS-259 reports so that they are received by the fifteenth (15th) day following the end of each month.

***

4.708.1 EBT Card Responsibility and Liability

LOCALCounty offices shall be liable to USDA/FNS for the face value of EBT card loss that occurS BECAUSE as a result of thefts, embezzlements, AND cashier error, unless the investigation was reported directly to USDA/FNS prior to the loss and unexplained causes. The LOCALcounty offices shall not be liable for the value of EBT cards issued for those duplicate issuances in the correct amount that are the result of authorized replacement issuances.

4.708.2 Inventory Reporting to THE STATE DEPARTMENTFood Assistance Programs Division

Form FNS-250 (EBT Card Accountability Report) shall be executed monthly by EBT card issuers and bulk storage points,. THE FNS-250and shall be signed by the EBT card issuer or appropriate official, certifying that the information is true and correct to the best of that person's knowledge and belief.

FNS-250 is an automated report available through automated system and needs to be data entered by the 15th of the month. Supporting documentation to Form FNS-250 (EBT Card Accountability Report) shall be submitted to the STATE DEPARTMENTFood Assistance Programs Division which will verify the monthly report. Documentation shall consist of documents supporting EBT card shipments (FNS-261), EBT card transfers (FNS-300), and destruction of EBT cards (FNS-135 and FNS-471).

4.708.3 State Monthly EBT Card Accountability

The STATE DEPARTMENTFood Assistance Programs Division shall establish an accounting system to review Form FNS-250 completed by all LOCALcounty offices and determine the propriety and reasonableness of EBT card inventories, issuance activities and reconciliation records. All records of EBT card requisition, EBT card receipt, returned mail EBT card issuances, replacements of EBT cards lost in the mail or improperly manufactured or mutilated as well as the supporting remarks and documentation for monthly over-issuance and under-issuance shall be used by the Division to assure the accuracy of monthly reports.

4.708.4 Issuance Reconciliation Reporting

Form FNS-46 (Issuance Reconciliation Report) shall be submitted by each local office operating an issuance system. The report shall be prepared at the level where the actual reconciliation of the record for issuance and master file occurs.

LOCALFood assistance offices shall identify and report the number and value of all issuances that do not reconcile with the record-for-issuance and master issuance file.

In addition to the above requirement, local offices will continue to reconcile inventory levels against issuances each month on Form FNS-250 (SNAPFood Assistance Accountability Report) and attach Form FNS259 (SNAPFood Assistance Mail Issuance Report) for reconciliation.

4.708.5 Destruction of Unusable EBT Cards Returned by Households

Unusable EBT cards shall be destroyed by the LOCAL~~county~~ office provided that the destruction is accomplished by burning, shredding, or tearing and two (2) persons witness the EBT card destruction.

Form FNS-471 (EBT Card and Destruction Report) shall be completed and signed by the required witnesses and mailed to the STATE DEPARTMENT~~Food Assistance Programs Division~~.

***

LOCAL~~County~~ offices must report the destruction of improperly manufactured or mutilated EBT cards on Form FNS-471 (EBT Card and Destruction Report) and submit it with Form FNS-250 for the appropriate month. For EBT cards received from recipients, the original copy of Form FNS-135 must be attached to a copy of Form FNS-471 and retained in the office for future review and audit purposes. The destruction of EBT cards received from claims collections that are the result of payment of household claims must be reported on Form FNS-471.

***

4.708.6 Undeliverable or Returned EBT Cards

LOCAL~~County~~ offices shall exercise the following security and controls for EBT cards that are undeliverable or returned during the valid issuance period. Forms FNS-471 and FNS-135 shall be completed by the office as appropriate.

***

4.708.8 State EBT Card Issuance and Participation Reporting

The STATE DEPARTMENT~~Food Assistance Programs Division~~ shall make estimations with data from the automated system ON BB~~enefit I~~~~I~~ssuance and PP~~articipation E~~~~E~~stimates.

4.709 COLORADO ELECTRONIC BENEFIT TRANSFER SYSTEM AND PROCESSING

All issuance systems shall maintain a composite of data for all certified households and provide complete information on participating households for review sampling purposes, statistical summary, and reporting requirements. The automated system is a direct-access system that allows online issuance access to the Master Issuance File. The automated system provides for online issuance system.

Colorado Electronic Benefit Transfer System (CO/EBTS) will provide access USING~~through the use of~~ a plastic debit card to recipients of SNAP~~Food Assistance~~ and PA~~public assistance~~ programs. The overall rules for CO/EBTS are in the Special Projects rule manual, Section 12.100, et seq. (12 CCR 2512-2).

Eligibility determinations in the automated system will be processed nightly to make SNAP~~Food Assistance~~ benefits available the following day for initial certification. Ongoing cases will have benefits posted during a ten (10) calendar day cycle with the ~~Social Security Number (~~SSN~~)~~ as the basis. The ending number of the SSN will indicate the date for the posting of benefits. An SSN ending with one (1) will be posted on the first day of the month, two (2) on the second day of the month, etc. AN SSN ending with zero (0) will be posted on the tenth (10th) day of the month.

4.709.1 Card/PIN Issuance Accountability

A. LOCAL OFFICES~~The county department of social/human services~~ will establish procedures for issuance of CO/EBTS debit cards and Personal Identification Numbers (PINs). The household will be issued a debit card within seven (7) calendar days from the date of application for expedited cases and within thirty (30) calendar days for non-expedited cases.

B. LOCAL OFFICES~~The county department of social/human services~~ shall maintain debit cards on site at its primary location and satellite offices. The EBTS contractor will provide counties with an initial supply of sequentially numbered cards with pre-embossed primary account numbers. Local offices must reorder cards to ALWAYS ensure an adequate supply ~~at all times~~. The cards will be secured and accounted for through appropriate inventory and distribution forms.

B. The household PIN will be issued through encryption devices supplied by the STATE DEPARTMENT~~Colorado Department of Human Services, Food Assistance Programs Division~~.

4.709.2 EBT Card Replacement

***

B. LOCAL OFFICES~~County departments of social/human services~~ may have replacement cards over the counter or through a transmission to the CO/EBTS contractor requesting mail issuance. LOCAL OFFICES~~County departments~~ shall not charge a fee if the replacement is issued by mail or the original card is inoperable due to no fault of the cardholder. LOCAL OFFICES~~County departments~~ shall not charge a fee if the client is being recertified, and if, during the period of non-participation, the client has destroyed, lost, or damaged the original card.

C. LOCAL OFFICES~~County departments~~ shall not collect replacement fees by debiting a recipient's SNAP~~Food Assistance~~ account.

4.800 CLAIMS, APPEAL PROCESS, AND FRAUD

Pursuant to Section 15(d) of the Food Stamp Act, benefits are an obligation of the United States within the meaning of 18 United States Code (USC) 8. The provisions of Title 18 of the United States Code, “Crimes and Criminal Procedure, Relative to Counterfeiting, Misuse and Alteration of Obligations of the United States” are applicable to SNAP~~Food Assistance~~ benefits. Copies of the U.S. Code are available for ~~public~~ inspection ~~by contacting the Food Assistance Director during regular business hours at the Colorado Department of Human Services, Food Assistance Program, 1575 Sherman Street, Denver, Colorado 80203; or at a state publications depository library~~. No later editions or amendments are incorporated.

Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of SNAP~~food assistance~~ benefits may subject an individual, partnership, corporation, or other legal entity to prosecution.

4.801 CLAIMS AGAINST HOUSEHOLDS

A claim shall be established when a household is over- issued benefits. An over-issuance means the amount by which SNAP~~Food Assistance~~ benefits issued to a household exceeds the amount the household was eligible to receive.

4.801.1 Classification of Claims

Claims shall be classified as follows:

A. "Agency Error Claims" - A claim shall be handled as an agency error claim if the over-issuance is caused by an error on the part of the local office. Instances that may result in an agency error claim include, but are not limited to, the following:

1. The local office failed to take prompt action on a change reported by the household;
2. The local office incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;
3. The local office continued to provide a household SNAP~~Food Assistance~~ benefits after its certification period expired without a redetermination of eligibility.
4. The local office failed to provide a household a reduced level of SNAP~~Food Assistance~~ benefits when its PA~~public assistance~~ grant changed.

B. "Inadvertent Household Error Claims" - A claim shall be handled as an inadvertent household error claim if the over-issuance was caused by a misunderstanding or unintentional error on the part of the household. Instances that may result in an inadvertent household error claim include, but are not limited to, the following:

***

4. The household was receiving SNAP~~Food Assistance~~ solely because of basic categorical eligibility and the household was subsequently determined ineligible for CW~~Colorado Works~~ or ~~Supplemental Security Income (~~SSI~~)~~ during the time that the benefits were being received. The claim must be based on a change in net income and/or household size.

5. The SSA~~Social Security Administration~~ failed to take action that resulted in the household's basic categorical eligibility and improper receipt of SSI. The claim must be based on change in net income and/or household size.

C. "IPV~~Intentional Program Violation~~/Fraud Claims" - A claim shall be handled as an IPV~~intentional program violation~~/fraud claim only if:

1. An administrative disqualification hearing official or a court of appropriate jurisdiction has found a household member has committed AN IPV~~intentional program violation~~ or fraud; or,
2. A signed waiver of IPV~~intentional program violation~~ is received; or
3. A signed disqualification consent agreement has been obtained.

Prior to a waiver or consent agreement being signed or the determination of IPV~~intentional program violation~~/fraud, the claim against the household shall be handled as an inadvertent household error claim.

4.801.2 Establishing Claims Against Households

A. Establishing a claim

1. The local office shall establish claims in accordance with the thresholds outlined below.

a. For participating households, the LOCAL OFFICE~~county department~~ shall not establish a claim for overpayment due to Administrative Error (AE) or Inadvertent Household Error (IHE), except in the following circumstances:

1. When the amount of the claim is greater than $200; or
2. When the OVER-ISSUANCE~~overpayment~~ is identified through a federal or state level quality control review; or,

3. When the IHE claim is being pursued as an ~~intentional program violation (~~IPV~~)~~, except that if the IHE claim does not result in an IPV, collection shall not be pursued.

b. For households not participating in SNAP~~the Food Assistance program~~, the LOCAL OFFICE~~county department~~ shall not establish a claim for OVER-ISSUANCES~~overpayment~~ except in the following circumstances:

1. When the amount of the AE claim is greater than $400; or
2. When the amount of the claim is due to an IHE and is greater than $200; or
3. When the OVER-ISSUANCE~~overpayment~~ is identified through a federal or state level quality control review.

***

3. Claims shall be established for benefits that are trafficked. The trafficking of benefits means:

a. The buying, selling, stealing, or otherwise affecting an exchange of SNAP~~Food Assistance~~ benefits issued and accessed via EBT~~Electronic Benefit Transfer~~ cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; or,

b. The exchange of SNAP~~Food Assistance~~ benefits or EBT cards for firearms, ammunition, explosives, or controlled substances; or,

c. A SNAP~~Food Assistance~~ participant, including the participant's designated authorized representative, who knowingly transfers SNAP~~Food Assistance~~ benefitS to another who does not, or does not intend to, use the SNAP~~Food Assistance~~ benefits for the SNAP~~Food Assistance~~ household for whom the ~~Food Assistance~~ benefits were intended; or,

d. The reselling of food that was purchased with SNAP~~Food Assistance~~ benefits for cash; or,

e. Obtaining a cash deposit when returning water or other containers that were purchased with SNAP~~Food Assistance~~ benefits. Purchasing water containers is an eligible food item that can be paid for with SNAP~~Food Assistance~~ benefits; however, when the container is returned, the deposit should be returned to the client's EBT card and not given to the client in cash; or,

f. Attempting to buy, sell, steal or otherwise affect an exchange of SNAP~~Food Assistance~~ benefits and accessed via ~~Electronic Benefit Transfer (~~EBT~~)~~ cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

4. Claims shall be established against the following individuals:

a. All adult household members ageD eighteen (18) years of age or older at the time the over-issuance occurred, even if one or more of the adult household members are participating in another SNAP~~Food Assistance~~ household at the time the claim is established;

b. A person connected to the household, such as an authorized representative, who ~~actually~~ traffics or otherwise causes an over-issuance to occur.

B. Timeframe to Establish a Claim

Local offices shall establish all claims before the last day of the quarter following the quarter in which the OVER-ISSUANCE~~overpayment~~ or trafficking incident was discovered.

***

4.801.3 Calculating the Amount of a Claim

A. Compromising Claims

***

Claims should be compromised if the household demonstrates need, such as the inability to repay the claim within three (3) years, or if the household proves that financial, physical, or mental hardship would exist if forced to pay the full amount of the original claim. Some circumstances include, but are not limited to medical hardships, high shelter costs, loan payments, and other extraordinary expenses. A compromise based on hardship may be applied to a SNAP~~Food Assistance~~ case IF~~whether or not~~ the household is OR IS NOT still receiving SNAP~~Food Assistance~~ benefits.

***

C. Agency Error and Inadvertent Household Error Claims

***

2. The claim must also be offset against restored benefits owed to:

a. Any household that contains a member who was an adult member of the original household;
b. Any household that contains an authorized representative that caused the OVER-IS-SUANCE~~overpayment~~ or trafficking.
c. In no circumstance may the local office collect more than the amount of the claim.

3. For households eligible under BCE~~basic categorical eligibility~~, a claim shall only be determined when it can be computed on the basis of changed household net income and/or household size. A claim shall not be established if there was not a change in net income and/or household size.

If a household receives both ~~Temporary Assistance for Needy Families (~~TANF~~)~~ and SNAP~~Food Assistance~~ and mis-reports information to TANF in accordance with the TANF reporting requirements, and the mis-report of information to TANF resulted in the household being over paid TANF or ineligible for TANF, any resulting SNAP~~Food Assistance~~ claim should be based on the actual TANF issued.

4. The correct allotment shall be calculated using the same methods applied to an actual certification. The twenty percent (20%) earned income deduction shall not be applied to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim; therefore, any portion of the claim that is due to earned income being reported in an untimely manner will be calculated without allowing the twenty percent (20%) earned income deduction. The actual circumstances of the household shall be used to calculate the claim. In instances when a claim is caused by the household's failure to report information as required, the amount of the claim is based on the allotment difference from what the household ~~actually~~ received compared to what the household would have received if the

household would have reported the information as required. For example, if a simplified reporting household did not report income at initial application as required, the income used to calculate the OVER-ISSUANCE~~overpayment~~ would be the income that the household ~~actually~~ received in the month of application, as this would have been used to determine the household's ongoing monthly amount. Actual income received each subsequent month is not required to calculate each month of the claim, as any fluctuation in monthly income that was received by the household after the initial month of application was not required to be reported by the household. If the household failed to report a change in household circumstances that would have resulted in an increase in benefits during the ~~time~~ period of the claim, the local office shall act on the change in information as of the date the change was reported to the local office.

5. When a household certified below 130% FPL fails to report an increase in household income over 130% FPL. The local office shall establish the claim for each month in which an over-issuance of SNAP~~Food Assistance~~ has occurred.

a. In cases involving household failure to report an increase in income within the required timeframes, the first (1st) month affected by the household's failure to report shall be the first (1st) month in which the change would have been effective had it been timely reported. However, in no event shall the determination of the first (1st) month in which the change would have been effective be any later than two (2) months from the month in which the change occurred. For purposes of calculating the claim, the local office shall assume that the change would have been reported properly and timely acted upon by the local office.

b. If the household timely reported an increase in income but the local office failed to act on the change within the required timeframes, the first (1st) month affected by the local office's failure to act shall be the first (1st) month the office would have made the change effective had it acted timely. If a Notice of Adverse Action WERE~~was~~ required, the local office shall assume, for the purpose of calculating the claim, that the Notice of Adverse Action period would have expired without the household requesting a fair hearing.

D. IPV Claims

***

2. For each month that a household received an over-issuance due to an act of IPV~~intentional program violation~~/fraud, the local office shall determine the correct amount of SNAP~~Food Assistance~~ benefits, if any, the household was entitled to receive. If the household member is determined to have intentionally failed to report a change in its household's circumstances, the claim shall be established for each month in which the failure to report would have affected the household's SNAP~~Food Assistance~~ allotment.

***

4.801.4 Collecting Payments on Claims

A. Claim Liability
1. Liable Individuals

All adult household members ageD eighteen (18) years or older at the time the overissuance occurred, sponsors, or other persons, such as an authorized representative who actually trafficked or otherwise caused an OVER-ISSUANCE~~overpayment~~ or trafficking to occur, that are connected with the household shall be jointly and severally liable for the value of any over-issuance of benefits to the household.

2. Initiating Collection Action

a. Local offices shall initiate collection action against ~~any and~~ all of the adult members or persons connected to the household at the time an over-issuance occurred. Under no circumstances shall the office collect more than the amount of the claim.

b. The local office may pursue collection action against any household that has a member that was connected to the household that received or created an over- issuance.

c. The local office shall initiate collection action for an unpaid or partially paid IPV claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. Collection action shall be initiated unless the household has already repaid the over-issuance BECAUSE~~as a result~~ of an inadvertent household error demand letter or the local office has documentation that shows the household cannot be located.

****

D. Negotiating Payment Plans

***

1. Establishing a Payment Plan

The local office shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid through a lump sum payment or through allotment reduction. Payments shall be accepted in regular installments. The household may use SNAP~~Food Assistance~~ benefits as full or partial payment of any installment. The local office shall ensure that the negotiated amount of any payment schedule to be repaid each month through installment payments is not less than the amount that could be recovered through an allotment reduction. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment. However, both the local office and the household shall have the option to initiate renegotiation of the payment schedule if they believe that the household's economic circumstances have changes enough to warrant such action.

***

E. Determining Delinquency

***

2. Claims shall not be considered delinquent under the following circumstances:

a. If another SNAP~~Food Assistance~~ claim for the same household is currently being paid, either through an installment agreement or an allotment reduction, and the local office expects to begin collection on the claim once the prior claim(s) is settled;

***

F. Joint Collections Received for a Combination SNAP~~Food Assistance~~ and PA~~Public Assistance~~ Claim

An unspecified joint collection is when funds are received in response to correspondence or a referral that contained both the SNAP~~Food Assistance~~ and other program claims, and the debtor does not specify to which program to apply the payment. The local office shall ensure that unspecified joint collections are pro-rated among the programs involved. When an unspecified joint collection is received for a combined public assistance and SNAP~~Food Assistance~~ claim, each program shall receive its pro-rated share of the amount collected.

4.801.41 Methods of Collecting Payment on Claims

***

B. SNAP~~Food Assistance~~ Allotment Reduction

1. The local office shall collect payments for claims from households currently participating in the Program by reducing the household's SNAP~~Food Assistance~~ allotment. For claims where there is a court-ordered judgment for repayment, allotment reduction shall not occur.

   Prior to reduction, the local office shall inform the household of:

a. The appropriate formula for determining the amount of SNAP~~Food Assistance~~ to be recovered each month; and,
b. The amount of SNAP~~Food Assistance~~ the local office expects will be recovered each month; and,

***

3. The amount of SNAP~~Food Assistance~~ to be recovered each month through allotment reduction shall be determined as follows:

a. For AE claims and IHE claims, the amount of SNAP~~Food Assistance~~ to be recovered each month from a household shall either be ten percent (10%) of the household's monthly allotment or ten dollars ($10) each month, whichever is greater.
b. For IPV claims, the amount of SNAP~~Food Assistance~~ benefit reduction shall either be twenty percent (20%) of the household's monthly allotment or twenty dollars ($20) per month, whichever is greater.

***

C. Benefits FF~~rom~~ an EBT Account

***

3. When a local office pursues payment on a claim by applying SNAP~~Food Assistance~~ benefits from the household's stale EBT account, prior written notice shall be given to the household of the existing stale EBT account that may be applied to an outstanding claim. The county shall notify the household that the benefits will be applied to the claim unless the household objects to this offset. The household must be given ten (10) calendar days to object before the benefits can be applied as a payment to the claim. A stale EBT account means an account that has benefits but has not been accessed for at least three (3) consecutive calendar months.

D. Offset Against Taxpayer's State Income Tax Refund

1. The state DEPARTMENT and LOCAL OFFICE~~county departments~~ may recover OVER-ISSUANCES~~overpayments~~ of PA~~public assistance~~ benefits through the offset (intercept) of a taxpayer's state income tax refund. Rent rebates are subject to the offset procedure. This method may be used to recover OVER-ISSUANCES~~overpayments~~ that have been:

***

2. Pre-Offset Notice

Prior to certifying the taxpayer's name and other information to the Department of Revenue, the STATE DEPARTMENT~~Colorado Department of Human Services~~ shall notify the taxpayer in writing at his or her last known address that the state intends to use the tax refund offset to recover the OVER-ISSUANCE~~overpayment~~. The pre-offset notice shall include the name of the local office claiming the OVER-ISSUANCE~~overpayment~~, a reference to SNAP~~Food Assistance~~ as the source of the OVER-ISSUANCE~~overpayment~~, and the current balance owed.

3. Household Objection to Pre-Offset Notice

The taxpayer is entitled to object to the offset by filing a request for a local-level conference or state-level hearing within thirty (30) calendar days from the date that the state department mails its pre-offset notice to the taxpayer. At the hearing on the offset, the LOCAL OFFICE~~county department~~ or ALJ~~Administrative Law Judge~~ shall not consider whether an OVER-ISSUANCE~~overpayment~~ has occurred, but may consider, if raised by the taxpayer in his or her request for a hearing, whether:

a. The taxpayer was properly notified of the OVER-ISSUANCE~~overpayment~~;
b. The taxpayer is the person who owes the OVER-ISSUANCE~~overpayment~~;
c. The amount of the OVER-ISSUANCE~~overpayment~~ has been paid or is incorrect;
d. The debt created by the OVER-ISSUANCE~~overpayment~~ has been discharged through bankruptcy;

***

E. Federal Treasury Offset Program (TOP)

The Treasury Offset Program, including the Federal Salary Offset Program (FSOP), is a mandatory government-wide delinquent debt matching and payment offset system in which ~~the~~ Colorado SNAP~~Food Assistance Program~~ participates.

The Treasury Offset Program allows collection of delinquent debts by intercepting any allowable payment from the federal government. Federal payments eligible for offset include federal income tax refunds, federal employee salary, federal retirement payments (including military), contractor or vendor payments, and federal benefits such as Social Security and railroad retirement.

1. Claims Submitted for Offset

a. A delinquent claim may be submitted to the USDA, Food and Nutrition Service (FNS) for the Treasury Offset Program (TOP). ~~In order t~~To submit a claim to the Federal TOP~~Treasury Offset Program~~, the claim must be determined to be past due and legally enforceable. To determine that a claim is past due and legally enforceable, it must be determined that notification and collection attempts have taken place.

b. For purposes of the Federal ~~Treasury Offset Program (~~TOP~~)~~, a delinquent claim is one which is past due more than one hundred twenty (120) calendar days, as set forth in the United States Code regarding delinquent claims.

c. A claim is not considered delinquent if a fair hearing is pending concerning the claim; or the claim has either been discharged by bankruptcy or is subject to the automatic stay of the bankruptcy; or the claim is not considered delinquent as described within Section 4.801.4, E, 2.

***

2. Processing Fee

TOP, including the Federal Salary Offset Program (FSOP), is authorized to apply a processing fee each time a successful offset for collection occurs. Federal payroll offices participating in the TOP process may add another separate processing fee. The delinquent SNAP~~Food Assistance~~ debtor is responsible for the fee each time it is applied. A TOP offset taken in error and later refunded will have the processing fee refunded, except for partially refunded offsets.

3. Notifying a Household of the Treasury Offset Program

***

b. The individual has been notified about the claim and prior collection efforts have been made. The claim is past due and legally enforceable. All adults are liable for the OVER-ISSUANCE~~overpayment~~ of SNAP~~Food Assistance~~ if they were household members when the SNAP~~Food Assistance~~ benefits were over-issued. False statements concerning such liability may subject individuals to legal action (see Section 4.801.4, A); and,

***

6. In some circumstances, the married individual may want to contact IRS before filing his/her income tax return. This is true if the individual is filing a joint return and his or her spouse is not responsible for the SNAP~~Food Assistance~~ claim, and has income and withholding and/or estimated federal income tax payments. In such cases, the spouse may receive his or her portion of any joint return based on procedures prescribed by the IRS.

***

8. The OOA~~Office of Appeals~~ within the CDHS~~Colorado Department of Human Services~~ will review the proposed offset. The Office of Appeals shall find that the claim is past due and legally enforceable unless the household can provide documentation to show:

   a. The claim is not delinquent or was already paid, and the individual provides proof of payment.

   b. The individual is not the person that is liable for the claim.

   c. A bankruptcy action prohibits collection of the claim because the automatic stay under Section 362 of the Bankruptcy Code is in effect with respect to the individual or his or her spouse, or that the claim was discharged by a bankruptcy proceeding.

   d. There is some other reason that the claim is not delinquent or is not legally enforceable.

9. The decision by the OOA~~Office of Appeals~~ will be issued by means of written findings regarding the review. The written findings shall include notice to the individual who requested the review regarding the following:

   a. If the OOA~~Office of Appeals~~ determines that the claim is past due and legally enforceable:

      1) The individual shall be notified that the claim will continue to be referred for the offset; and,

      2) The individual is entitled to have the Food and Nutrition Service (FNS) review the OOA~~Office of Appeal's~~ decision. FNS must receive a request to do so within thirty (30) calendar days after the date of the state agency's notice of review decision. A request for FNS review shall include the individual's SSN. The notice shall also provide the address of the regional office including the phrase “Tax Offset Review” in the address.

   b. If the OOA~~Office of Appeals~~ determines that the claim is not past due or legally enforceable, it shall notify the individual and the local office that the claim will not be referred for the offset.

   c. While the OOA~~Office of Appeals~~ or FNS is conducting a review of the debt, the debt is not eligible for the referral to TOP.

***

4.801.5 Claims Discharged Through Bankruptcy

****

B. Local offices shall act on behalf of, and as an agent of, FNS in any bankruptcy proceedings against bankrupt households owing SNAP~~Food Assistance~~ claims. Local offices shall possess any rights, priorities, liens, and privileges and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, local offices shall have the power and authority to file objections to discharge proof of claims, exceptions to discharge, petition for revocation of discharge, and any other documents, motions, or objections which FNS might have filed.

***

4.801.6 Interstate Claims Collection

In cases where a household moves out of the state, the local office that last handled the case involving a claim may initiate or continue collection action against the household for any over-issuance that occurred while the household was under that local office's jurisdiction. Counties may transfer a claim to another state or Colorado county ~~department~~ if the other state or Colorado county ~~department~~ accepts the transfer.

Counties are not obligated to accept the transfer of a claim from another state or Colorado county ~~department~~, but have the option of accepting the claim and pursuing collection on that claim. Counties that accept the transfer of a claim shall pursue collection activities and retain appropriate incentives for the collection.

***

4.801.8 Submission of Claim Payment Activity to USDA, FNS

The FS-209 Report (Status of Claims against Households) is an automated report and is run quarterly. The report is utilized to reflect all claims activities during a quarter and reflects all the payments made during the quarter. SNAP~~Food Assistance~~ benefits received as a claim payment shall be recorded in the automated system and any corrections that need to be made to payments are made through the automated system.

***

4.802.1 Time Period for Requesting an Appeal

A. A household shall be allowed to request a local-level dispute resolution conference or state-level fair hearing on the following:

1. Any action by the local office that occurred in the previous ninety (90) calendar days.
2. A loss of benefits that occurred in the previous ninety (90) calendar days. Such SNAP~~Food Assistance~~ action shall include a denial of a request for restoration of benefits lost more than ninety (90) calendar days but less than a year prior to the request.

***

4.802.2 Continuation of Benefits Pending Final Agency Decision

A. Eligibility for Continuation of Benefits

***

3. When benefits are reduced or terminated as a result of a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that SNAP~~Food Assistance~~ eligibility or benefits were improperly computed or that federal regulations or state rules were misapplied or misinterpreted by the local office.

***

4.802.21 Households Disputing Restoration of Lost Benefits

***

C. To be eligible for restored benefits, the household shall have had its SNAP~~Food Assistance~~ benefits wrongfully delayed, denied, or terminated. The term denial shall include the situation where, through certification office error, the net income was larger than required under proper determination, and because of this improperly set net income, the household was unable to get the proper allotment. Delay shall mean that eligibility determination was not accomplished within the prescribed time limits set forth in Section 4.205.2.

4.802.3 Rights During an Appeal

A. A household is entitled to the following:

1. Be represented by an authorized representative, such as legal counsel, relative, friend, or other spokesman, or s/he may represent her/himself at the conference.
2. Adequate opportunity to examine the case file and all documents and records used by the local office in making its decision and all documents and records that are to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing.

   The contents of the case file including the application form and documents of verification used by the local office to establish the household's ineligibility or eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge; or the nature or status of pending criminal prosecutions; or confidential informants; or privileged communications between the LOCAL OFFICE~~county department~~ and its attorney is protected from disclosure.

***

4.802.5 Local-Level Dispute Resolution Conferences

A. ~~The local office, prior to taking action to deny, terminate, reduce, or recover Food Assistance benefits, shall, at a minimum, provide the household an opportunity for a dispute resolution conference.~~ BEFORE TAKING ACTION TO DENY, TERMINATE, REDUCE, OR RECOVER SNAP BENEFITS, THE LOCAL OFFICE SHALL PROVIDE THE HOUSEHOLD AN OPPORTUNITY FOR A DRC. The individual may choose to bypass the dispute resolution process and appeal directly to the office of administrative courts for a state-level fair hearing.

***

D. The local office may consolidate the SNAP~~Food Assistance~~ conference with disputes regarding other assistance payments programs, the Colorado Works Program, or disputes concerning Medicaid eligibility, if the facts are similar and consolidation will facilitate resolution of all disputes.

4.802.51 Management of Local-Level Dispute Resolution Conference

***

C. Location

The local dispute resolution conference shall be held in the LOCAL OFFICE~~county department~~ or agency where the proposed decision is pending and before a person who was not directly involved in the initial determination of the action in question. The local-level conference may be conducted either in person or by telephone. If a telephonic conference is requested, it shall be agreed upon by the applicant or participant. In the event the household does not speak English or is visually or hearing impaired, an interpreter or translator shall be provided by the local office.

***

E. Joint Dispute Resolution Processes

Two (2) or more LOCAL OFFICES~~county departments~~ may establish a joint dispute resolution process. If two or more counties establish a joint process, the location of the conference need not be held in the county or agency taking the action, but the conference location shall be convenient to the applicant or participant.

F. Notice of Dispute Resolution Conference Decision

***

2. At the conclusion of the conference, the person presiding shall reduce to writing the agreement entered into by the parties. Such agreement shall be signed by the parties and/or their representatives and shall be binding upon the parties. A copy of the written decision shall immediately be provided to the applicant or participant and/or his or her representative. The local office shall also forward a copy of the decision to the STATE DEPARTMENT~~Colorado Department of Human Services, Food Assistance Program~~, within five (5) working days of the hearing, regardless of whether or not the client was in agreement with the outcome.

***

4.802.63 State-Level Hearing Decisions

***

G. Acting on Decisions

***

2. The state DEPARTMENT or LOCAL OFFICE~~county department~~ shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The ACTING department/OFFICE shall comply with the decision, even if reconsideration is requested, unless the effective date of the agency decision is postponed by order of the Office of Appeals or a reviewing court.

3. If IF IT IS RULED~~the State Department~~ rules that the household had its SNAP~~Food Assistance~~ benefits wrongfully delayed, denied or terminated, the local office shall provide retroactive benefits. If IT IS DECIDED~~the State Department~~ decides that benefits were over-issued BEFORE~~previous to~~ and during the pendency of the determination of final agency action, a claim for over-issued benefits will be prepared.

***

4.803 IPV~~INTENTIONAL PROGRAM VIOLATIONS~~ AND FRAUD [Rev. eff. 1/1/16]

***

E. The local office shall inform the household in writing of disqualification penalties for IPV~~intentional program violation~~ each time it applies for Program benefits. The penalty warning will appear in clear, boldface lettering on the SNAP~~Food Assistance~~ application forms and shall serve as notification to the household.

***

4.803.2 Determination of an IPV~~Intentional Program Violation~~/Fraud [Rev. eff. 1/1/16]

***

B. For purposes of determining, through administrative disqualification hearings, whether or not a person has committed an IPV~~intentional program violation~~, the determination shall be based upon whether the person intentionally:
    1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or,
    2. Committed any act that constitutes a violation of the Food and Nutrition Act of 2008, as amended, these SNAP~~Food Assistance Program~~ rules, Federal SNAP~~Food Assistance Program~~ regulations, or any state statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP~~Food Assistance~~ benefits, authorization cards or reusable documents as part of an automated benefit delivery system access device.

***

F. Disqualification periods shall be imposed based on the following:

***

3. Court Decisions

If an individual is determined through a court to be disqualified for an IPV/fraud, but the date for initiating the disqualification period is not specified, the LOCAL OFFICE~~county department~~ shall initiate the disqualification period for currently eligible individuals within forty five (45) calendar days of the date the disqualification was ordered. Any other court imposed disqualification shall begin within forty five (45) calendar days of the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud.

***

4.803.3 Time Period and Types of Disqualifications [Rev. eff. 1/1/16]

~~A.~~ IPV~~Intentional Program Violations~~

Individuals who have waived a hearing for IPV~~intentional program violation~~ or who have been found to have committed an IPV~~intentional program violation~~ through a local-level or state administrative IPV~~intentional program violation~~ decision shall be ineligible to participate in SNAP~~the Food Assistance Program~~ for twelve (12) months for the first (1st) IPV~~intentional program violation~~; twenty-four (24) months for the second (2nd) IPV~~intentional program violation~~; and permanently for the third (3rd) IPV~~intentional program violation~~/fraud.

B. Receiving Duplicate Benefits

Individuals who misrepresent their identity or residency to receive duplicate benefits shall be ineligible to participate in SNAP~~the Food Assistance Program~~ for a period of ten (10) years. Receiving duplicate benefits is considered an attempt to receive or the receipt of more than one original allotment of benefits during a calendar month. A permanent disqualification for a third (3rd) offense would override the disqualification period for duplicate benefits.

C. Trafficking Benefits

1. The penalties for trafficking SNAP~~Food Assistance~~ benefits are outlined in Section 26-2-306(2), C.R.S.
2. An individual convicted through a court of law of trafficking in SNAP~~Food Assistance~~ of five hundred dollars ($500) or more will be disqualified permanently.

D. An individual found guilty of purchasing controlled substances, as defined in Section 18-18-102 (5), C.R.S., with SNAP~~Food Assistance~~ benefits will be disqualified for twenty-four (24) months on the first (1st) conviction by a court of law and permanently disqualified on a second (2nd) conviction by a court of law. The disqualification periods shall apply also to individuals with a felony conviction entered on or after July 1, 1997, for possession, use, or distribution of controlled substance only if the conviction is directly

related to the misuse of SNAP~~Food Assistance~~ benefits. An individual shall not be ineligible due to a drug conviction unless misuse of SNAP~~Food Assistance~~ benefits is part of the court findings.

E. An individual found guilty of trading or purchasing firearms, ammunition, or explosives with SNAP~~Food Assistance~~ benefits will be permanently disqualified on the first (1st) conviction by a court of law. An individual will be disqualified for controlled substances and firearms, if the court finds that the individual has engaged in the activity, even in the cases of deferred adjudication.

4.803.4 Pursuing Disqualifications for IPV/Fraud [Rev. eff. 1/1/16]

***

C. If the local office determines that there is evidence to substantiate that a person has committed AN IPV~~intentional program violation~~, the local office shall, prior to initiating an administrative disqualification hearing, allow that person the opportunity to waive his or her right to an administrative disqualification hearing or, for cases referred to a court of appropriate jurisdiction, to sign a disqualification consent agreement for plea bargained cases or cases of deferred adjudication. However, prior to providing the request for waiver, there shall be a review of the evidence against the household member by a staff member who was not involved in the investigation of the household and who has a thorough enough understanding of SNAP~~Food Assistance~~ policy to ensure that policy is being correctly applied and that the evidence meets the “clear and convincing” criteria (see Section 4.803.2, C) necessary to warrant the pursuit of an IPV~~intentional program violation~~.

***

4.803.43 Notifying a Household of an IPV Administrative Disqualification Hearing [Rev. eff. 1/1/16]

***

B. The notice shall be mailed Certified Mail, Return Receipt Requested, or by first class mail or the notice may be served on the individual by any other reliable method, such as personal delivery by a SNAP~~Food Assistance~~ worker or other employee, affidavit of service, Federal Express, etc. If no proof of receipt is obtained, a statement of non-receipt by the household member shall be considered good cause for not appearing at the hearing. The notice shall contain at a minimum:

***

6. A warning that the disqualification penalties for fraud under SNAP~~the Food Assistance Program~~ that could be imposed and a statement of which penalty the hearing officer believes is applicable to the case scheduled for hearing. The disqualification penalties for fraud are as follows:

***

c.

***

2) Permanently upon the second occasion of such violation.

Copies of ~~the~~ Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended, ARE~~is~~ available for inspection ~~during normal business hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository library~~. No further amendments or editions are incorporated.

***

10. For LOCAL OFFICES~~county departments~~ conducting local-level ADH, the notice shall inform the client that he/she may request to have a state-level ADH rather than a local-level ADH.

4.803.45 Administrative Disqualification Hearing Procedures

***

D. A local-level hearing officer shall meet the ninety (90) calendar day timeframe, issue the decision to the client, and forward a copy to the STATE DEPARTMENT~~Colorado Department of Human Services, Food Assistance Division~~.

***

4.803.5 Local-Level IPV Hearings [Rev. eff. 1/1/16]

A. Local-Level Hearing Official

1. The individual who acts as a local-level hearing officer for the local office shall meet the following requirements:
   1. He/she shall be an impartial individual who does not have a personal stake or involvement in the case;
   2. He/she cannot have been directly involved in the initial determination of the action which is being contested and was not the immediate supervisor of the eligibility TECHNICIAN~~worker~~ who initiated the IPV~~intentional program violation~~ action;

***

B. Notice of Local-Level Hearing Decision

1. If the local-level administrative disqualification hearing finds the household member did not commit an IPV~~intentional program violation~~, the local-level hearing officer shall provide a written notice that informs the household, the local office, and the State DEPARTMENT~~Food Assistance Programs Division~~ of the decision.

***

5. A copy of the local-level hearing decision shall be forwarded to the State DEPARTMENT~~Food Assistance Programs Division~~ for review at the same time the decision is mailed to the client.

***

4.803.6 State-Level Administrative Disqualification Hearing

***

B. Final Decisions

***

3. The state DEPARTMENT or LOCAL OFFICE~~county department~~ shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The department shall comply with the decision even if reconsideration is requested, unless the effective date of the agency decision is postponed by order of the Office of Appeals or a reviewing court.

***

4.803.7 Notification of Final Administrative Disqualification Hearing Decision [Rev. eff. 1/1/16]

Once the local-level hearing decision or a final state-level decision has been made, written notice, prior to disqualification, will be provided to the household member, to the local office, and to the STATE DEPARTMENT~~state Food Assistance office~~ containing:

***

4.804 COURT ACTION

***

C. A summary or copy of a referral for prosecution shall, together with the date of the referral, be forwarded to the State DEPARTMENT~~Food Assistance Division~~.

***

4.804.1 Disqualification Consent Agreement [Rev. eff. 1/1/16]

A. Criteria for Consent Agreement

***

6. A warning that the disqualification penalties for fraud under SNAP~~the Food Assistance Program~~ that could be imposed and a statement of which penalty the hearing office believes is applicable to the case scheduled for the hearing.

***

4.901 ADMINISTRATION OF SNAP~~THE FOOD ASSISTANCE PROGRAM~~

A. SNAP~~The Food Assistance Program~~ shall be administered in every county of the State in accordance with the Colorado Human Services Code and these rules.
B. The program shall be administered by the LOCAL OFFICES~~county departments of social/human services~~ unless the State Department enters into a written agreement with a particular county to have a State-administered program in that county. As a condition for receiving grant-in-aid from the State for PA~~public assistance~~ and welfare activities, each county must bear the proportion of the total administrative and program costs for all assistance payments and social services activities as required by Section 26-1-122, C.R.S.
C. LOCAL OFFICES~~County departments of social/human services~~ shall comply with all requirements concerning security and case processing for the automated system.
D. Counties shall receive approval from the STATE DEPARTMENT~~Colorado Department of Human Services, Food Assistance Programs Division~~, prior to using any county-developed forms in the administration of the Program.

4.901.1 Compliance with State Department

If a county does not comply with the rules of the State Department that govern the administration of the program, which require the establishment of SNAP~~a Food Assistance Program~~ in each county and the payment of the county's share of the cost of the program, the State Department may do one or more of the following:

A. Utilize the remedies described in Section 26-1-109(4) (a-e), C.R.S.
B. Recover all or part of the county share of the cost of SNAP~~the Food Assistance Program~~ by reducing any other grant-in-aid to the county for PA~~public assistance~~ or welfare purposes by a corresponding amount.
C. If the county does not comply, judicial enforcement of the order may be pursued under Section 24-4-106(3) C.R.S.
D. Take any other appropriate action to enforce compliance with the rules governing SNAP~~the Food Assistance Program~~.

***

4.902.1 County SNAP~~Food Assistance~~ Office

Local offices shall ensure that adequate locations and hours of operation exist to meet the needs of SNAP~~Food Assistance~~ applicants and participants in their areas. Each location shall have ample availability for parking and shall be accessible to persons with disabilities. Hours of operation shall be sufficient to ensure the timely processing of applications and issuance of ~~Electronic Benefits Transfer (~~EBT~~)~~ cards according to existing guidelines. Counties must establish procedures for the operation of the local office that best serve households within that county. The county shall establish procedures to assist households with special needs including, but not limited to, households containing persons who are AGED 60 AND OLDER~~elderly~~ or persons with disabilities, households in rural areas with low-income members, homeless households, households containing adult members who are not proficient in English, and households containing working persons.

A household must apply for SNAP~~the Food Assistance Program~~ in its county of residence. A county that receives an application that belongs to another county may secure the application date, process the application to completion, issue the household an EBT card, and then transfer the case to the correct county once the final eligibility decision is made. If a household is determined eligible for participation, it may re-

quest and be designated to receive food benefits from an issuance office that is more accessible. It is possible for an issuance unit in one LOCALcounty office to determine eligibility, authorize food benefits and issue EBT cards to an eligible household that resides in another county in Colorado.

Counties may also transfer certification and/or EBT card issuance duties for those households only receiving SNAPFood Assistance that live closer to the local office in a neighboring county than the county of residence.

4.902.2 Phone Directory Listings

A. Each local office telephone number available to the public shall be listed under each of the following two alphabetical listings:

1. SNAPFood assistance certification and issuance office, street address, phone number. If there are separate certification and issuance offices in the county, they may be listed in this manner: LOCALCounty office (certification only) or (issuance only), street address, phone number.
2. (Name of the county) Department of Human/Social Services, LOCALcounty office (certification only) or (issuance only), street address, phone number.

***

C. The listings above are not to restrict any other listings that may be provided within the telephone directory, but only to standardize the availability of SNAPthe Food Assistance Program to the public.

4.902.3 Certification Personnel and Facilities Requirements

A. County employees assigned to certify households for participation in SNAPthe Food Assistance Program shall be employed in accordance with the current standards for a merit system personnel administration that is guided by a set of six broad merit principles outlined in the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728), as amended. The principles cover recruiting, compensation, training, retention, equal employment opportunity and guidance on political activity. Only such qualified employees shall conduct the interview of applicant households and determine household eligibility or ineligibility and the level of benefits. Copies of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728), as amended, AREis available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository library. No further amendments or editions are incorporated.

B. Every LOCAL OFFICEcounty department must utilize an appropriate amount of the staff allocated to ITthat county department and utilize effective and efficient practices in administering SNAPits Food Assistance Program. Facilities must, within available state legislative appropriations and federal and required county matching funds, be of adequate size and layout to assure the privacy necessary to allow workers to conduct confidential interviews and perform other office duties efficiently and effectively. Any persons or organizations who are parties to a strike or lockout shall not be permitted to interview or certify households or to secure verification required of such households. However, such individuals may be used as a source of verification for information provided by applicant households if, under normal circumstances, they could be expected to be the best verification source. An eligibility worker who is the spouse of a striker is not considered party to a strike, but shall not certify his or her own household.

4.902.31 Bilingual Staff, Interpreter, and Translator Requirements

A. LOCAL OFFICES~~County departments~~ determined by the State Department to have a significant population of non-English speaking households or households with adult members not fluent in English, shall provide sufficient bilingual staff and/or translators for the timely processing of applications. County staff shall be trained and familiar with these procedures.

***

4.902.32 Restrictions on Staff

***

C. Any persons or organizations who are parties to a strike or lockout shall not be permitted to interview or certify households or to secure verification required of such households. However, such individuals may be used as a source of verification for information provided by applicant households if, under normal circumstances, they could be expected to be the best verification source. An eligibility TECHNICIAN~~worker~~ who is the spouse of a striker is not considered party to a strike, but shall not certify his or her own household.

***

4.902.4 Supervisory Responsibilities

Supervisory personnel shall review a random sample of current SNAP~~Food Assistance~~ determinations (certifications, denials, and terminations) to determine the correctness of eligibility determinations accomplished. A record of the cases reviewed must be kept for management evaluation/audit purposes. The county must be able to demonstrate to the satisfaction of the State DEPARTMENT~~Food Assistance Program~~ that the frequency and scope of the reviews are adequate ~~enough~~ to ensure the integrity of both the program and recipients. Additionally, the county must demonstrate a consistent process for tracking error trends, correcting case records timely, and providing eligibility technicians an opportunity to improve their program knowledge.

***

4.903.1 Information Available to the Public

A. Federal regulations, federal procedures embodied in Food and Nutrition Service (FNS) notices and policy memos, the SNAP~~Food Assistance~~ rules, and State Plans of Operation (including specific planning documents such as corrective action plans) shall be available upon request for examination by members of the public during office hours at the State DEPARTMENT~~office~~. Copies of materials are available to recipient organizations, action centers, and other individuals for a minimal printing charge.
B. The SNAP~~Food Assistance~~ rules shall be available for examination upon request at each local office within each county. They are also available online through the Secretary of State's official publication of State Agency rules in the Code of Colorado Regulations, accessible at: https://www.sos.state.co.us/CCR/Welcome.do.

4.903.2 Reporting Lawsuits

FNS regulations require prompt notification from the State Department of any lawsuits involving the administration of SNAP~~the Food Assistance Program~~.

As all countIESy ~~Food Assistance Program~~s are administered under the supervision of the State Department, it is mandatory that all legal proceedings involving SNAP~~the Food Assistance Program~~ be brought to the attention of the State DEPARTMENT~~Office~~ immediately for notification to the United States Department of Agriculture, Food and Nutrition Service (USDA, FNS).

4.903.3 Management Evaluations

The STATE DEPARTMENT~~Colorado Department of Human Services~~ is responsible for the supervising of the administration of SNAP~~the Food Assistance Program~~. To ensure compliance with program requirements, the State DEPARTMENT~~Office~~ is responsible for conducting Management Evaluation (ME) reviews to measure compliance with the provisions of these rules. The objectives of the ME review system are to:

***

4.903.31 Frequency of Reviews

The State DEPARTMENT~~Office~~ shall conduct an ME review of all SNAP~~Food Assistance Program~~ operations:

***

The State DEPARTMENT~~Office~~ may conduct Management Evaluation reviews on an alternative schedule with the written approval of the USDA, FNS. The State DEPARTMENT~~Office~~ may also perform reviews of specific LOCAL~~county~~ offices or program elements. The USDA, FNS or the State DEPARTMENT~~Office~~, may identify the need of a special review, or the LOCAL OFFICE~~county department~~ may request a special review.

***

The State DEPARTMENT~~Office~~ will complete the Management Evaluation report for all counties that are reviewed~~. The Colorado Department of Human Services, Food Assistance Program,~~AND will be responsible for monitoring the county responses to any finding.

The county shall be responsible for submitting any factual corrections to the management evaluation review within twenty (20) state working days, and shall submit a final plan to correct all other cited deficiencies within twenty (20) state working days of receiving the review. The response shall include specific actions, persons responsible for implementation, and date for completion. When the review identifies ongoing problems in critical areas, the county response shall also include a method for monitoring implementation of the plan and reporting progress to the State Office on at least a quarterly basis.

4.903.32 Compliance Action for Management Evaluation Reviews

The State DEPARTMENT~~Office~~ is the designated entity responsible for ensuring that corrective action is taken at the state and/or county level on the deficiencies found by the Management Evaluation (ME) Reviews.

***

4.903.4 Quality Assurance Reviews

Quality assurance reviews are conducted during the annual federal quality assurance review period, which is the twelve (12) month period from October 1 of each calendar year through September 30 of the following calendar year. A statistically random sample of households is selected from two (2) different categories: households that were participating in SNAP~~the Food Assistance Program~~ (active cases) and households for which participation was suspended, denied, or terminated (negative cases).

A. Quality Assurance reviews are federally mandated to provide:

1. A systematic method of measuring the validity of the SNAP~~Food Assistance Program~~ caseload;

***

B. Reviews are conducted on:

1. Active cases to determine if the household is eligible and, if eligible, whether the household is receiving the correct SNAP~~Food Assistance~~ benefits.
2. Negative cases to determine if households that were suspended, denied, or terminated were, in fact, not eligible to participate in SNAP~~the Food Assistance Program~~ and that the household received an accurate, timely notice. For initial applications, the notice shall be considered timely if the household is notified of the negative action within the application processing timeframes outlined in Section 4.205.2. For recertification applications, the notice shall be considered timely if the household is notified of the negative action in accordance with the processing timeframes outlined in Section 4.209.1. When notifying a household of a change in its benefits, the notice shall be considered timely if the household is notified of the negative action in accordance with the timeframes outlined in Section 4.608.

C. Definitions

1. An “active case” means a household that was certified prior to or during the sample month and issued SNAP~~Food Assistance Program~~ benefits for the sample month. The review of an active case includes: a household case record review, a field investigation, an error analysis, and the reporting of review findings.
2. A “negative case” means a household which was denied certification to receive SNAP~~Food Assistance Program~~ benefits in the sample month or which had its participation in SNAP~~the Food Assistance Program~~ suspended, denied, or terminated effective for the sample month. The review of a negative case includes:

***

4.903.42 Refusal to Cooperate with Quality Assurance Review

Households selected for review are required to cooperate with federal and state Quality Assurance review processes.

Households that refuse to cooperate in a Quality Assurance review shall be declared ineligible for ~~SNAP Food Assistance Program~~ benefits. The State Quality Assurance reviewer shall notify the local office of the household's refusal to cooperate in the review process, including EVERYONE~~each individual~~ who re-

fused, on the State-prescribed Quality Assurance reporting form(s), and the local office shall document the refusal to cooperate in the statewide automated system.

A. Within ten (10) calendar days from the date of receipt of Quality Assurance's notification of the household's refusal to cooperate, the local office shall take action to disqualify or terminate the entire household from participation in SNAP~~the Food Assistance Program~~ and each household member who refused to cooperate shall be entered into the automated system to initiate a period of ineligibility. The period of ineligibility is as follows:

***

4.903.43 Quality Assurance Findings and Required Responses

***

B. When the review findings document that an error resulted in ineligibility over-issuance, under-issuance, or an incorrect negative action, the local office shall respond to the review findings by completing the State-prescribed form documenting the corrective action taken or rebutting the amount or finding of error. The response shall be forwarded to the State DEPARTMENT~~Food Assistance Program Division~~ within ten (10) calendar days from receipt of the Quality Assurance review finding notification.

B. Upon receiving the local office's response to the Quality Assurance review findings, the State DEPARTMENT~~Office~~ shall review the action taken by the local office and either concur with the Quality Assurance findings; concur with the local office rebuttal; or concur/disagree with the corrective action taken by the local office.

***

~~**4.904 FEDERAL ADMINISTRATION AND RESPONSIBILITIES**~~

~~**4.904.1 Federal Sanctions**~~

~~If FNS determines that there has been negligence or fraud involved in the certification of applicant households on the part of the state or local office, the State agency shall, on demand, following exhaustion of its appellate rights, pay to FNS, a sum equal to the amount of benefits issued as a result of such negligence or fraud. FNS claims against state agencies may be a result of financial losses involved in the acceptance, storage, and issuance of benefits, charges of negligence, and disallowance of federal funds for state agency failure of operation. The provisions for determining and establishing a claim against state agencies or the disallowance of federal funds are outlined within Section 3 of Title 7, Part 276, Chapter II, Sub-chapter C, Code of Federal Regulations, as of February 5, 2014; no later amendments or editions of this section are incorporated. Copies of these federal laws are available from the Colorado Department of Human Services, Food Assistance Program, 1575 Sherman Street, Denver, Colorado 80203. If county administration has resulted in the FNS finding of negligence or fraud, a claim for the amount of loss will subsequently be made against the responsible Food Assistance agency.~~

~~**4.904.2 Civil Rights Reviews Retailer Authorization**~~

~~The FNS field office located in the Denver area conducts statewide civil rights reviews of local offices. Both state and local offices shall ensure that all staff responsible for the administration, issuance, review,~~

and eligibility determination of the Food Assistance Program are knowledgeable about civil rights procedures and able to assist program recipients with the filing of civil rights complaints. These procedures must be reviewed with staff annually.

4.904.3 Retailer Authorization

The Food and Nutrition Service (FNS) field office is responsible for authorizing retailers to accept Food Assistance benefits and enforcing retailer compliance of Program rules.

Retailers must be authorized by USDA, FNS to be eligible to accept Food Assistance benefits for eligible food purchases.

All FNS-authorized retailers must comply with USDA, FNS regulations regarding acceptance and deposit of Food Assistance benefits.

4.904.4 Program Reduction, Suspension, or Cancellation

The Food and Nutrition Act of 2008 directs the Secretary of Agriculture to reduce, suspend, or cancel Food Assistance benefits if it is necessary to keep Program spending within the limits set by Congress. Upon notification from FNS, the State office shall instruct local offices to reduce, suspend, or cancel Food Assistance benefits for one or more months. Local offices shall take immediate action in accordance with the following procedures:

A. Reduction of Benefits

If the State office instructs the local offices to reduce monthly Food Assistance allotments, the State shall notify the local offices of the date the reduction is to take effect. If an allotment reduction is necessary, allotments shall be reduced for each household size by the same percentage. If a benefit reduction is necessary, all households shall be guaranteed a minimum allotment allowed for one- and two-person households, unless the reduction is ninety percent (90%) or more. Revised issuance tables reflecting the percentage of reduction shall be provided to all local offices.

B. Suspension and Cancellation

If the State Office instructs the county local offices to suspend or cancel Food Assistance Program benefits, the county local offices shall be informed of the date that the suspension or cancellation shall take effect. Upon receipt of this date, the counties shall take immediate action to affect the suspension or cancellation. This action shall include notification of certification and issuance personnel, as well as eligible households. In the event that cancellation or suspension of benefits is necessary, the provision for the minimum benefit level shall be disregarded and all households shall have their benefits suspended or cancelled.

If allotments are cancelled or suspended, local offices shall record the monthly allotment the household was entitled to receive prior to cancellation or suspension.

4.904.41 Affected Allotments

Whenever suspension or cancellation of allotments is ordered for a particular month, it shall affect all households. If a reduction is ordered, reduced benefits shall be calculated for all households for the des-

ignated month. However, all one- or two-person households shall be guaranteed a minimum allotment, as outlined in Section 4.207.3, unless the reduction is ninety percent (90%) or more.

Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month would not be reduced, suspended, or cancelled, even though they are issued during a month in which cancellation, suspension, or reduction is in effect.

4.904.42 Notification to Households

Reduction, cancellation, or suspension shall be considered a mass change and shall not require advance notice of adverse action; however, the household shall be notified by announcements through the news media or a general notice may be handed out or mailed to affected participant households.

4.904.43 Restoration of Cancelled or Reduced Benefits

Households whose allotments are reduced or cancelled as a result of the enactment of these procedures are not entitled to the restoration of the lost benefits at a later date unless surplus funds are remaining after the reduction or cancellation. These surplus funds may be restored to affected households if a directive is issued by the Secretary of Agriculture. In the event of the issuance of a directive to issue restored benefits, the local office must work promptly to issue them.

In any event, the local office shall have issuance services to serve households receiving restored or retroactive benefits for a prior, unaffected month.

4.904.44 Effects of Reduction, Suspension, and Cancellation on the Certification of Eligible Households

In the event that cancellation, suspension, or reduction is ordered by the State, the following shall apply:

A. Determinations of eligibility of applicant households shall not be affected.

B. Local offices shall continue to accept and process applications in accordance with standard certification procedures.

C. If a reduction of program benefits is in effect, and an applicant is found to be eligible, the amount of benefits will be determined by using the revised issuance tables, and shall be recorded in accordance with provisions in Section 4.904.4. If reduction or suspension of program benefits is in effect, and a household is found to be eligible for expedited service application processing, the application will be processed in accordance with procedures in Section 4.205.1. If a cancellation of program benefits is in effect, households shall receive expedited service; however, the deadlines for completing the processing shall be the end of the month of application or five (5) calendar days, whichever date is later.

E. If an applicant household is found to be eligible for benefits while a suspension or cancellation is in effect, no benefits shall be issued to the applicant household. However allotment levels shall be calculated and recorded accordance with Section 4.904.4.

F. Reduction, suspension or cancellation of allotments shall have no effect on certification periods assigned to households prior to the reduction, suspension, or cancellation of the program.

~~G. Participating households whose certification periods expire during a month in which allotments have been reduced, suspended, or cancelled shall be recertified in accordance with normal procedures.~~

~~H. Households found eligible to participate during a month in which allotments have been reduced, suspended, or cancelled shall have certification periods assigned in accordance with Section 4.208.1.~~

~~4.904.45 Fair Hearings When Program Reductions, Suspensions, or Cancellations Occur~~

~~Any household that had its allotment reduced, suspended, or cancelled as a result of implementation of the procedures for reduction, suspension, or cancellation may request a fair hearing if it disagrees with the action; however, the household does not have a right to continuation of benefits. A household may receive retroactive benefits if it is determined that its benefits were reduced by more than the amount the local offices were directed to reduce benefits.~~

~~The Colorado Department of Human Services, Office of Appeals, may deny fair hearings to those households that are disputing the fact that a statewide reduction, cancellation, or suspension was ordered. The Office of Appeals is not required to hold a fair hearing unless the request is based on a household's belief that its benefit level was computed incorrectly under these rules or that the rules were misapplied.~~

4.90~~45~~ OUTREACH

Outreach activities performed by state and local personnel shall be ineligible for federal matching funds. Although activities to recruit participation in SNAP~~the Food Assistance Program~~ are prohibited, all local offices shall perform program informational activities. Program informational activities are those activities that convey information about SNAP~~the Food Assistance Program~~, including household rights and responsibilities to applicant and participant households through means such as publications, telephone hotlines and face-to-face contacts.

***

4.90~~56~~ D-SNAP

***

In such Presidentially-declared disasters, emergency SNAP~~Food Assistance~~ allotments can be authorized by the USDA, FNS. In Colorado, the Governor can accept such federal assistance on behalf of the state if he/she determines and declares a major disaster. When authorized by the Governor and FNS, the STATE DEPARTMENT~~Colorado Department of Human Services~~ may authorize those counties, within which all or part of the disaster area lies, to distribute emergency SNAP~~Food Assistance~~ allotments in those areas.

The state shall provide special certification material and forms designed for certification of disaster victims. Certification shall be done for households that are victims of a disaster that disrupts commercial channels of food distribution; if such households ~~are in~~ need ~~of~~ temporary SNAP~~Food Assistance~~ and if commercial channels of food distribution have again become available to meet the temporary food needs of those households.

Notice of Proposed Rulemaking

Tracking number

2021-00637

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

11/05/2021

Time

08:30 AM

Location

Location Pending State's Response to COVID-19. Anticipated to be held entirely online

Subjects and issues involved

The Colorado Department of Human Services Division of Child Welfare is updating Volume 7 to include rules to address assessments of referrals when an infant is voluntarily surrendered to staff at a hospital, community clinic emergency center, or fire station within 72 hours of birth and the caregiver does not express an intent to return for the infant in accordance with C.R.S.19-3-304.5. The purpose of this addition and revision of rule is to provide consistency in assessments of voluntarily surrendered infants.

NOTE: Due to the ongoing COVID-19 situation, it is anticipated that this meeting will take place entirely online. Please check here for any updates on location/connection: https://cdhs.colorado.gov/sbhs

Statutory authority

26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.

Contact information

Name

James Connell

Title

Interim Hotline and Intake Administrator

Telephone

303.866.3661

Email

james.connell@state.co.us

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [X] Board [ ] Executive Director

b. [X] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

X	AG Initial Review		X	Initial Board Reading			AG 2nd Review		Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
2	Amended Rules
6	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	November 2021

What date is being requested for this rule to be effective?	January 2022
Is this date legislatively required?	no

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates: 1st Board 11/2021 2nd Board 12/2021 Effective Date 01/2022

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@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. ***1500 Char max***

The Colorado Department of Human Services Division of Child Welfare is updating Volume 7 to include rules to address assessments of referrals when an infant is voluntarily surrendered to staff at a hospital, community clinic emergency center, or fire station within 72 hours of birth and the caregiver does not express an intent to return for the infant in accordance with C.R.S.19-3-304.5. The purpose of this addition and revision of rule is to provide consistency in assessments of voluntarily surrendered infants.

The revisions also contain changes to who may be designated at a county department to conduct an egregious, near-fatal, or fatal assessment. This revision follows a recommendation from the Child Fatality Review Team to review the requirements. The revision allows for county discretion in determining what constitutes a conflict of interest for a caseworker who has had prior involvement with a family.

Also included in the proposed rules is the addition of a definition for “medium” as it relates to the severity of an allegation of abuse and/or neglect. The term “medium” is used in Trails and County Notification letters as a severity level for abuse and neglect and “medium” IS NOT currently defined in Volume 7. This discrepancy creates a notice issue and could lead to administrative law judges overturning findings if it is determined that the alleged perpetrator did not receive proper notice of the finding made against them. This issue was identified by the AG.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

☐ to comply with state/federal law and/or
☐ to preserve public health, safety and welfare

Justification for emergency:

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 <u>function</u> AND <u>authority.</u>*

Code	Description

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

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

If yes, please explain.	The proposed rule refers to C.R.S.19-3-304.5 and some of the language used in the statute to establish what population is included in the Safe Haven voluntarily surrendered infants assessment process.

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@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?

Caregivers seeking to safely surrender an infant in accordance with C.R.S.19-3-304.5 will benefit from a consistent response by county child welfare departments. Counties will benefit from the clear assessment process in this rule.

Child welfare departments will benefit from being able to determine what constitutes a conflict of interest for assessments. Families will benefit from the continuity of assessment and services offered by the county in which they reside.

Persons found responsible for the abuse and neglect will understand what "medium" means in relation to the severity of abuse or neglect findings. County departments will benefit from defining medium as it relates to severity level.

No populations are anticipated to be adversely impacted by this rule.

2. Describe the qualitative and quantitative impact.

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

In 2020, 3 infants were voluntarily surrendered in accordance with C.R.S.19-3-304.5. County departments will have clearly defined processes for responding to these assessments.

In 2020, 75.0% of substantiated fatal child maltreatment incidents, the child, child's family, and/or alleged perpetrator had prior involvement with the child welfare system. County departments will have the ability to determine what constitutes a conflict of interest in these assessments. Families will be able to be served by the county in which they reside.

In 2020, child welfare departments made founded findings and provided notification to individuals responsible for abuse and/or neglect in 7,779 assessments. The definition clarifies what a "medium" severity level means as it relates to founded abuse and/or neglect.

County departments will have clearly defined processes for responding to these assessments.

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…."***

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

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

No State Fiscal Impact because there is no cost associated with the changes. Current state staff will work with the training team to revise existing training for assessments that are included as part of the annual training budget.

County Fiscal Impact

No County Fiscal Impact because counties are already required to conduct assessments.

Federal Fiscal Impact

No Federal Fiscal Impact as there are no Federal costs associated with the rule changes.

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

No other fiscal impact.

4. Data Description

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

As part of the rule drafting process, participants in Child Protection Task Group reviewed Safe Haven processes and legislation from all 50 states.

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 alternative to rule-making because without updated assessment rules the caregivers who voluntarily surrender a newborn will not receive a consistent assessment response.

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

OVERVIEW OF PROPOSED RULE

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

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.104	*Could be misinterpreted to apply to Safe Haven assessments without clarifying language.*	Intrafamilial, Institutional, And Third-Party Abuse And/Or Neglect Assessments [Eff 3/1/18]	Intrafamilial, Institutional, And Third-Party Abuse And/Or Neglect Assessments [Eff 3/1/18] THE REQUIREMENTS OF THIS SECTION ADDRESS INTRAFAMILIAL, INSTITUTIONAL AND THIRD-PARTY ABUSE AND/OR NEGLECT ASSESSMENTS EXCEPT FOR SAFE HAVEN VOLUNTARILY SURRENDERED INFANTS. FOR ASSESSMENT RULES PERTAINING TO SAFE HAVEN VOLUNTARILY SURRENDERED INFANTS SEE SECTION 7.106.4.	Direct individuals to the correct section of the rule for Safe Haven assessments	
7.106.4		New	7.106.4 SAFE HAVEN VOLUNTARILY SURRENDERED INFANT GROUNDS FOR ASSESSMENT THE REQUIREMENTS OF THIS SECTION ADDRESS ASSESSMENTS OF REFERRALS WHEN AN INFANT IS VOLUNTARILY SURRENDERED TO STAFF AT A HOSPITAL, COMMUNITY CLINIC EMERGENCY CENTER, OR FIRE STATION WITHIN 72 HOURS OF BIRTH AND THE CAREGIVER DOES NOT EXPRESS AN INTENT TO RETURN FOR THE INFANT IN ACCORDANCE WITH C.R.S. 19-3-304.5. REQUIREMENTS SET FORTH IN SECTION 7.104 THROUGH 7.104.15 DO NOT APPLY TO SAFE HAVEN VOLUNTARILY SURRENDERED INFANT ASSESSMENTS	Clarifies the population that this section of the rule applies to.	
7.106.41		New	7.106.41 AGENCY RESPONSIBLE FOR CONDUCTING THE ASSESSMENT THE COUNTY DEPARTMENT RESPONSIBLE FOR CONDUCTING THE ASSESSMENT OF A REFERRAL OF A VOLUNTARILY SURRENDERED INFANT SHALL	Establishes jurisdiction for Safe Haven assessments.	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

			BE THE COUNTY IN WHICH THE INFANT WAS VOLUNTARILY SURRENDERED.		
7.106.42			7.106.42 ASSESSMENT PROCEDURES – TIMING AND REQUIREMENTS COUNTY DEPARTMENTS SHALL: A. ASSIGN PRIORITY IN RESPONSE TIME USING THE CRITERIA SET FORTH IN SECTION 7.103.60. B. CONDUCT A FACE-TO-FACE OBSERVATION WITH THE ALLEGED VICTIM CHILD IN ACCORDANCE WITH THE ASSIGNED RESPONSE TIME. C. CONDUCT A CHECK WITH LAW ENFORCEMENT FOR REPORTED MISSING INFANTS. D. PLACE THE INFANT IN A POTENTIAL ADOPTIVE HOME. E. OPEN A CASE TO PURSUE PERMANENCY. F. REPORT THE ASSESSMENT TO THE STATE DEPARTMENT WITHIN 5 BUSINESS DAYS OF RECEIVING A REFERRAL OF A VOLUNTARILY SURRENDERED INFANT. G. IF ADDITIONAL ALLEGATIONS OF KNOWN OR SUSPECTED ABUSE AND/OR NEGLECT ARE IDENTIFIED DURING THE COURSE OF THE ASSESSMENT, THE REQUIREMENTS SET FORTH IN SECTIONS 7.104 THROUGH 7.104.15 SHALL APPLY.	Establishes what is to be included in an assessment of a voluntarily surrendered newborn.	
7.106.43		New	7.106.43 FINDINGS A. A PARENT, CAREGIVER OR GUARDIAN SHALL NOT BE THE SUBJECT OF A CONFIRMED ALLEGATION OF ABUSE AND/OR NEGLECT SOLELY BASED ON SURRENDERING AN INFANT PER C.R.S 19-3-304.5.	Establishes procedures for findings.	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

7.106.44		New	7.106.44 DOCUMENTATION REQUIRED AT CONCLUSION OF ASSESSMENT A. ENTER A CLOSURE SUMMARY CONTAINING A BRIEF SUMMARY OF INITIAL CONCERNS AND ANY ADDITIONAL CONCERNS DISCOVERED DURING THE ASSESSMENT AND THE ACTIONS THAT WERE TAKEN. B. THE ASSESSMENT SHALL BE APPROVED BY A CERTIFIED SUPERVISOR AND CLOSED WITHIN SIXTY (60) CALENDAR DAYS OF THE DATE THE REFERRAL WAS RECEIVED.	Establishes what documentation is required at the assessment closure.	
7.106.121 B1	The rule as written limits who may conduct an assessment.	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	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.	Allows for county discretion in determining what constitutes a conflict of interest for a caseworker who has had prior involvement with a family.	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

		another county department with personnel having appropriate training and skill.			
7.000.2		New	“MEDIUM,” A TERM FOUND IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM THAT WHEN USED FOR THE PURPOSES OF DETERMINING SEVERITY LEVEL, HAS THE SAME MEANING AS THE TERM “MODERATE.”	Brings the term “medium” into alignment with the term “moderate”.	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@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):

Child Protection Task Group (which includes participants from small, medium, and large counties, the Administrative Review Divison, members of Child Fatality Review Team, the Child Protection Ombudsman Office) , Child Welfare Sub-PAC, Colorado Safe Haven for Newborns

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:

Child Protection Task Group (which includes participants from small, medium, and large counties, the Administrative Review Divison, members of Child Fatality Review Team, the Child Protection Ombudsman Office) , Child Welfare Sub-PAC, Colorado Safe Haven for Newborns

Other State Agencies

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

[ ] Yes [X] No

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

Sub-PAC

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

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare Sub-PAC		
Date presented	08/05/2021		
What issues were raised?	A possible need for statutory change related to the ongoing case requirements for voluntarily surrendered infants regarding an accelerated path towards the termination of parental rights.		
Vote Count	*For*	*Against*	*Abstain*
	Unanimous		
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented	
What issues were raised?	

Title of Proposed Rule:	Safe Haven Voluntarily Surrendered Infants	
CDHS Tracking #:	21-02-08-01	
Office, Division, & Program:	Rule Author: James Connell	Phone: 303-866-3661
		E-Mail: James.Connell@state.co.us

Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

☐ Yes ☒ No

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

Two listening sessions were hosted and no public comments were made.

7.104 Intrafamilial, Institutional, And Third-Party Abuse And/Or Neglect Assessments [Eff 3/1/18]

THE REQUIREMENTS OF THIS SECTION ADDRESS INTRAFAMILIAL, INSTITUTIONAL AND THIRD-PARTY ABUSE AND/OR NEGLECT ASSESSMENTS EXCEPT FOR SAFE HAVEN VOLUNTARILY SURRENDERED INFANTS. FOR ASSESSMENT RULES PERTAINING TO SAFE HAVEN VOLUNTARILY SURRENDERED INFANTS SEE SECTION 7.106.4.

****

7.106.4 SAFE HAVEN VOLUNTARILY SURRENDERED INFANT GROUNDS FOR ASSESSMENT

THE REQUIREMENTS OF THIS SECTION ADDRESS ASSESSMENTS OF REFERRALS WHEN AN INFANT IS VOLUNTARILY SURRENDERED TO STAFF AT A HOSPITAL, COMMUNITY CLINIC EMERGENCY CENTER, OR FIRE STATION WITHIN 72 HOURS OF BIRTH AND THE CAREGIVER DOES NOT EXPRESS AN INTENT TO RETURN FOR THE INFANT IN ACCORDANCE WITH C.R.S. 19-3-304.5. REQUIREMENTS SET FORTH IN SECTION 7.104 THROUGH 7.104.15 DO NOT APPLY TO SAFE HAVEN VOLUNTARILY SURRENDERED INFANT ASSESSMENTS

7.106.41 AGENCY RESPONSIBLE FOR CONDUCTING THE ASSESSMENT

THE COUNTY DEPARTMENT RESPONSIBLE FOR CONDUCTING THE ASSESSMENT OF A REFERRAL OF A VOLUNTARILY SURRENDERED INFANT SHALL BE THE COUNTY IN WHICH THE INFANT WAS VOLUNTARILY SURRENDERED.

7.106.42 ASSESSMENT PROCEDURES – TIMING AND REQUIREMENTS

COUNTY DEPARTMENTS SHALL:

- **A. ASSIGN PRIORITY IN RESPONSE TIME USING THE CRITERIA SET FORTH IN SECTION 7.103.60.**
- **B. CONDUCT A FACE-TO-FACE OBSERVATION WITH THE ALLEGED VICTIM CHILD IN ACCORDANCE WITH THE ASSIGNED RESPONSE TIME.**
- **C. CONDUCT A CHECK WITH LAW ENFORCEMENT FOR REPORTED MISSING INFANTS.**
- **D. PLACE THE INFANT IN A POTENTIAL ADOPTIVE HOME.**
- **E. OPEN A CASE TO PURSUE PERMANENCY.**
- **F. REPORT THE ASSESSMENT TO THE STATE DEPARTMENT WITHIN 5 BUSINESS DAYS OF RECEIVING A REFERRAL OF A VOLUNTARILY SURRENDERED INFANT.**
- **G. IF ADDITIONAL ALLEGATIONS OF KNOWN OR SUSPECTED ABUSE AND/OR NEGLECT ARE IDENTIFIED DURING THE COURSE OF THE ASSESSMENT, THE REQUIREMENTS SET FORTH IN SECTIONS 7.104 THROUGH 7.104.15 SHALL APPLY.**

7.106.43 FINDINGS

- **A. A PARENT, CAREGIVER OR GUARDIAN SHALL NOT BE THE SUBJECT OF A CONFIRMED ALLEGATION OF ABUSE AND/OR NEGLECT SOLELY BASED ON SURRENDERING AN INFANT PER C.R.S 19-3-304.5.**

7.106.44 DOCUMENTATION REQUIRED AT CONCLUSION OF ASSESSMENT

- **A. ENTER A CLOSURE SUMMARY CONTAINING A BRIEF SUMMARY OF INITIAL CONCERNS AND ANY ADDITIONAL CONCERNS DISCOVERED DURING THE ASSESSMENT AND THE ACTIONS THAT WERE TAKEN.**
- **B. THE ASSESSMENT SHALL BE APPROVED BY A CERTIFIED SUPERVISOR AND CLOSED WITHIN SIXTY (60) CALENDAR DAYS OF THE DATE THE REFERRAL WAS RECEIVED.**

****

7.106.121 Additional Actions When County Department has had Prior/Current Involvement

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.

****

7.000.2 Definitions

"MEDIUM," A TERM FOUND IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM THAT WHEN USED FOR THE PURPOSES OF DETERMINING SEVERITY LEVEL, HAS THE SAME MEANING AS THE TERM "MODERATE."

Notice of Proposed Rulemaking

Tracking number

2021-00636

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-5

Rule title

RESOURCES, REIMBURSEMENT, REPORTING, AND PROVIDER REQUIREMENTS

Rulemaking Hearing

Date

11/05/2021

Time

08:30 AM

Location

Location Pending State's Response to COVID-19. Anticipated to be held entirely online.

Subjects and issues involved

The proposed rule changes and additions in Resources, Reimbursement, Reporting, and Provider Requirements support legislation passed in the Spring of 2021. SB 21-137 declared that CDHS should provide resources to providers to address the emergency need for increased placement for children and youth with acute and severe behavioral or mental health needs. The legislation requires CDHS to develop a program to provide emergency resources to licensed providers to help remove barriers such providers face in serving children and youth whose behavioral or mental health needs require services and treatment in a residential child care facility. As a result, CDHS will contract with two residential providers, a qualified residential treatment program (QRTP) and a psychiatric residential treatment facility (PRTF), for 17 acute residential (AR) beds. Similar to the rules promulgated to guide county departments on placement in the Intellectual and Developmental Disabilities Residential Child Care Facility (IDD RCCF), rules will need to be established for eligibility criteria, referral procedures, admissions, and discharges for counties that desire to utilize the AR beds. NOTE: Due to the ongoing COVID-19 situation, it is anticipated that this meeting will take place entirely online. Please check here for any updates on location/connection: https://cdhs.colorado.gov/sbhs

Statutory authority

26-1-107(5)(b), C.R.S. (2020); 26-1-109(1), C.R.S. (2020); 26-6-106(1)(a), C.R.S. (2020); 27-60-113(3), C.R.S. (2021),

Contact information

Name

Shawn Bross

Title

IDD RCCF Administrator

Telephone

720.660.0381

Email

shawn.bross@state.co.us

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a.___ [X] Board [ ] Executive Director

b. [ ] Regular [x] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

	AG Initial Review		x	Initial Board Reading			AG 2nd Review		Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
11	Amended Rules
34	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	October 2021

What date is being requested for this rule to be effective?	November 2021
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION
Comments:

Estimated Dates:	1st Board	10/08/21 (Emergency)	2nd Board	11/5/21 (Permanent)	Effective Date	1/1/21 (Emergency) 12/30/21 (Permanent

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@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. ***1500 Char max***

The proposed rule changes and additions in Resources, Reimbursement, Reporting, and Provider Requirements support legislation passed in the Spring of 2021. SB 21-137 declared that CDHS should provide resources to providers to address the emergency need for increased placement for children and youth with acute and severe behavioral or mental health needs. The legislation requires CDHS to develop a program to provide emergency resources to licensed providers to help remove barriers such providers face in serving children and youth whose behavioral or mental health needs require services and treatment in a residential child care facility. As a result, CDHS will contract with two residential providers, a qualified residential treatment program (QRTP) and a psychiatric residential treatment facility (PRTF), for 17 acute residential (AR) beds. Similar to the rules promulgated to guide county departments on placement in the Intellectual and Developmental Disabilities Residential Child Care Facility (IDD RCCF), rules will need to be established for eligibility criteria, referral procedures, admissions, and discharges for counties that desire to utilize the AR beds.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

	to comply with state/federal law and/or
x	to preserve public health, safety and welfare

Justification for emergency:

SB 21-137 passed into law on June 28, 2021. The bill declared that there is an emergency need for increased placements for children and youth with behavioral and mental health needs. The State Department will contract with residential providers to meet this need. The State Department must assure a smooth transition and provide support and resources to the providers that will be contracted pursuant to the bill. These rules will provide regulatory enforcement of quality assurance for the providers to guarantee effective, safe and clinically appropriate care. These rules will provide regulatory enforcement of referral, admission, discharge, and reimbursement processes for county departments to be able to refer clients to the programs.

State Board Authority for Rule:

Code	Description
26-1-107(5)(b), C.R.S. (2020)	State Board to promulgate rules for programs administered and services provided by the state department
26-1-109(1), C.R.S. (2020)	State department rules to coordinate with federal programs

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

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
26-6-106(1)(a), C.R.S. (2020)	State Department to promulgate rules for child care facility licensing
27-60-113(3), C.R.S. (2021)	State Department may promulgate rules regarding Acute Residential programs for placement, quality assurance, admissions, discharge planning, appropriate length of stay, an appeals process for children and youth who are determined ineligible for the program, and compliance with federal law, including the Family Fist Prevention Services Act

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:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@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 have additional resources for placement. County Departments will have access to placements funding by the state instead of the county. The facilities contracted under these programs will be required to comply with the regulations regarding state oversight of admission, eligibility, and discharge. Children and families will have additional options for treatment in residential settings. Hospitals, Community Centered Boards, and other referring entities will have options for assisting families with out of home placement.

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

The COVID-19 pandemic has led to an emergency need for increased residential care for children and youth with acute behavioral health needs. County Departments and other stakeholders for children in need of out of home care experience significant challenges with finding appropriate placement for children with acute needs, as there is a shortage of available beds and a gap in the level of services available to meet the intensive behavioral health needs of youth throughout the system. Hospitals report delayed discharges for children with the most acute needs, as they are often unable to access appropriate step down accommodations. Hospitals report staffing shortages that result in challenges to provide adequate and optimal care to both the psychiatric and the COVID youth populations. This situation has reportedly created a strain on their resources and they have concerns that care of COVID patients may be compromised if the situation is not alleviated. In addition, the existing IDD Program regularly has a waitlist, as the program's capacity is insufficient to meet the number of children requiring placement.

The passage of SB 21-137 will allow for 17 beds to serve children, from the child welfare system and those referred by parents and supporting agencies, who have acute mental health and behavioral needs.

It is anticipated that the total of 17 beds for the programs contracted pursuant to SB 21-137 will serve 32-38 children annually. The children served would otherwise have been in an environment less appropriate for their needs, have been on extended and unwarranted hospital stays, or been placed out of state.

This rule making packet will support regulatory enforcement of the quality assurance of the AR facilities to guarantee effective, safe, and clinically appropriate care for these children. This rule making packet will provide for regulatory enforcement of the referral, eligibility, admission, and discharge process. The State Department is responsible for admission and duration of stay at the programs, so the regulator procedures will improve access to needed out of home placement for children in Colorado.

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

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

The AR Programs are funded through a onetime federal appropriation. Rule implementation will not have state fiscal impact.

County Fiscal Impact:
County Departments will experience fiscal savings due to the reimbursement for these beds being paid by the State Department.

Federal Fiscal Impact
None known.

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

The providers contracted to perform services for the AR programs will have a higher cost per client due to increased staffing ratio, frequency of clinical intervention, and supplemental services.. This higher cost of service will be supported by a rate greater than that of the base license rate without the contract.

Other referring entities, such as parents, hospitals, and family support services may have reduced fiscal impact due to the cost of services to children at other programs being funded by these programs.

4. Data Description

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

The distribution of beds was determined through analysis of the following data sets:
- Data from the Division of Child Welfare regarding the child welfare system involved children placed out of the state of Colorado.
- Data from Health Care Policy and Financing regarding Medicaid member children placed out of the state of Colorado.
- Data from Children's Hospital of Colorado regarding children with extended discharge delays.

This data informed which program types were necessary and how beds should be distributed. This data also informed eligibility criteria for the program, by identifying patterns of which populations, demographics, diagnoses, and acute behaviors were factors for which children are underserved.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

No other alternatives available at this time.

OVERVIEW OF PROPOSED RULE

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

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.406.1.OO	The referred citation has moved.	A child/youth is placed at the IDD facility, as defined in 7.424.5, with the approval of the State Department. The approved placement period is the duration of treatment, as stated in the most recent approval letter from the State Department, and thirty (30) days after the completion of treatment/ discharge date.	A child/youth is placed at the IDD facility, as defined in 7.424.13, with the approval of the State Department. The approved placement period is the duration of treatment, as stated in the most recent approval letter from the State Department, and thirty (30) days after the completion of treatment/ discharge date.	
7.424	Regulation Update	Current heading only describes the Intellectual and Developmental Disabilities Facility.	New heading describes Intellectual and Developmental Disabilities Facilities and Acute Residential Facilities.	
7.424	Numbering Update		Numbering change to 7.424.1 due to addition of	

			new rules, moving of definition.	
7.424.1	Numbering Update		Numbering change to 7.424.11	
7.424.2	Numbering Update		Numbering change to 7.424.12	
7.424.3	Numbering Update		Numbering change to 7.424.13	
7.424.4	Numbering Update		Numbering change to 7.424.14	
7.424.5	Numbering Update		Numbering change to 7.424.15	
7.424.6	Numbering Update		Numbering change to 7.424.16	
7.424.7	Numbering Update		Numbering change to 7.424.17	
7.424.8	Numbering Update		Numbering change to 7.424.18	
7.424.2	Regulation Addition	None	Adds language to establish that the Department will contract with providers for Acute Residential care.	
7.424.21.A	Regulation Addition	None	Adds language to clarify the process for a county department of human/social services to refer a child/youth for admission into an Acute Residential Facility.	
7.424.21.B	Regulation Addition	None	Adds language to clarify that the Department will determine when a child/youth referred to an	

			Acute Residential Facility meets eligibility criteria.	
7.424.21.C.1	Regulation Addition	None	Adds language to clarify that a primary indicator for placement in an Acute Residential Facility is a serious emotional disturbance and defines a serious emotional disturbance.	
7.424.21.C.2	Regulation Addition	None	Adds language to clarify that a primary indicator for placement in an Acute Residential Facility is an IDD and defines an IDD.	
7.424.21.D.1	Regulation Addition	None	Adds language to clarify other indicators for placement in an Acute Residential Facility.	
7.424.21.D.2	Regulation Addition	None	Adds language to clarify other indicators for placement in an Acute Residential Facility.	
7.424.21.E	Regulation Addition	None	Adds language to clarify that youth who meet criteria for detainment by law enforcement are not appropriate for admission.	
7.424.21.F	Regulation Addition	None	Adds language to clarify that children who are referred to a QRTP must be appropriate for	

			QRTP placement as identified in the individual assessment.	
7.424.21.G	Regulation Addition	None	Adds language to clarify that children who are referred to a PRTF must be certified as needing PRTF level of care.	
7.424.22.A	Regulation addition	None	Adds language to clarify that an appeal for denied eligibility may be submitted to the 24-hour Appeal Panel.	
7.424.22.B	Regulation addition	None	Adds language to clarify when decisions on appeals for denied eligibility will be communicated.	
7.424.22.C	Regulation addition	None	Adds language to clarify that a county department of human/social services may request a hearing if aggrieved by the decision of the 24-hour Appeal Panel.	
7.424.22.D	Regulation addition	None	Adds language to clarify that decisions by the Administrative Law Judge are final.	
7.424.22.E	Regulation addition	None	Adds language to clarify that while the eligibility of a youth is under appeal, the youth	

			may remain in the Acute Residential Facility and that, in the event of a denied appeal, the county department of human/social services may be responsible for the cost of continuing the placement beyond the date of the reimbursement period.	
7.424.23.A	Regulation addition	None	Adds language to clarify how the Department will make decisions for admitting youth to an Acute Residential Facility.	
7.424.23.B	Regulation addition	None	Adds language to clarify that the Department will issue an approval letter upon admitting a youth to an Acute Residential Facility.	
7.424.23.C	Regulation addition	None	Adds language to clarify when youth on the waitlist for an Acute Residential will be placed.	
7.424.24.A	Regulation addition	None	Adds language to clarify how the Department will determine the duration of treatment for a youth admitted to an Acute Residential	

			Facility.	
7.424.24.B	Regulation addition	None	Adds language to clarify the criteria for determining the duration of treatment for a youth admitted to an Acute Residential Facility.	
7.424.24.C	Regulation addition	None	Adds language to clarify that the Department will issue an approval letter to include the duration of treatment and an expected date the youth will discharge from an Acute Residential Facility.	
7.424.24.D	Regulation addition	None	Adds language to clarify that the duration of treatment will be reviewed no less than every 30 days.	
7.424.24.E	Regulation addition	None	Adds language to clarify that a revised approval letter will be issued by the Department upon a change to the duration of treatment.	
7.424.24.F.1	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	

7.424.24.F.2	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	
7.424.24.F.3	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	
7.424.24.F.4	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	
7.424.24.F.5	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	
7.424.24.G	Regulation addition	None	Adds language to clarify the parties that must participate in discharge planning.	
7.424.24.H	Regulation addition	None	Adds language to clarify that a county department of human/social services retains the right to remove a youth from an Acute Residential Facility at any point prior to the established discharge date.	
7.424.25.A	Regulation addition	None	Adds language to clarify the	

			responsibilities of the county department of human/social services for when a youth in their custody is placed at an Acute Residential Facility.	
7.424.25.B	Regulation addition	None	Adds language to clarify the responsibilities of the county department of human/social services for when a youth in their custody is placed at an Acute Residential Facility.	
7.424.26	Regulation addition	None	Adds language to clarify when the Department will reimburse the provider directly and when the county will be responsible for payment.	
7.424.27	Regulation addition	None	Adds language to require the licensee that holds the contract for an Acute Residential Facility to follow relevant Volume 7 rules and regulations.	

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@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 framework for these rules was developed in 2019 by a diverse group of stakeholders (county departments, child placement agencies, residential child care facilities, CDHS, CDPHE, OBH, HCPF, and foster parents) to provide guidance for access to the state contracted IDD residential child care facility. That package underwent extensive public stakeholder review. The rules proposed in this packet are nearly identical to the rules approved in 2019, with some minor changes to reflect that the new services will be for a broader population rather than only for youth with intellectual and developmental disabilities. The current draft rules are proposed under the emergency criteria, so broad stakeholder feedback has not been obtained. However, the draft has been reviewed and is approved by OBH and HCPF, and is awaiting input from SubPAC.

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 departments, CDHS, OBH, Children's Hospital of Colorado, and HCPF

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?

HCPF has been contacted regarding the needs and traits of children placed out of state to assess what barriers are present to serving these children in Colorado. OBH provided input regarding the acuity of children with significant mental health and behavioral issues and provisions to be considered in developing programming that could serve this population.

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	9/2/21
What issues were raised?	1) Children placed at QRTPs are required to have an independent assessment indicating that QRTP level of care is appropriate. The committee recommended this requirement be applied to any QRTP contracted under SB 21-137 and impacted by this rule set. 2) Children placed at PRTFs are required to have medical necessity for PRTF level of care. The committee recommended this requirement be applied to any

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

	PRTF contracted under SB 21-137 and impacted by this rule set. The committee agreed unanimously to vote in favor of the packet provided these rules were updated accordingly.		
Vote Count	*For*	*Against*	*Abstain*
	alll		
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented	*Scheduled for October 7, 2021.*		
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

[ ] 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.

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

7.406.1

OO. A child/youth is placed at the IDD facility, as defined in 7.424.~~5~~13, with the approval of the State Department. The approved placement period is the duration of treatment, as stated in the most recent approval letter from the State Department, and thirty (30) days after the completion of treatment/ discharge date.

7.424 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES FACILI~~T~~IES (IDD FACILI~~T~~)IES) AND ACUTE RESIDENTIAL FACILITIES

~~The State Department shall contract with a licensed Colorado residential child care facility to provide short-term stabilization, treatment, and services to children/youth identified with intellectual and developmental disabilities, and who are experiencing acute and severe behaviors.~~

7.424.1 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES FACILITIES

THE STATE DEPARTMENT SHALL CONTRACT WITH LICENSED COLORADO RESIDENTIAL FACILITIES TO PROVIDE SHORT-TERM STABILIZATION, TREATMENT, AND SERVICES TO CHILDREN/YOUTH IDENTIFIED WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AND WHO ARE EXPERIENCING ACUTE AND SEVERE BEHAVIORS.

7.424.11 REFERRAL AND ELIGIBILITY

A. The county department of human/social services shall make the referral to the State Department using the state approved application.

B. The State Department shall determine whether referrals meet eligibility requirements for services in the IDD facilit~~y~~.

C. A primary indicator for placement in the IDD facility is an intellectual and/or developmental disability or an autism spectrum disorder. “Intellectual and developmental disability” means a disability that manifests before the person reaches twenty-two years of age, that constitutes a substantial disability to the affected person, and that is attributable to developmental disability or related conditions, which include cerebral palsy, epilepsy, autism, or other neurological conditions when those conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with developmental disability.

D. Other indicators for placement may include but are not limited to:

1. The child/youth is currently experiencing acute and severe behaviors, which may include but are not limited to: high levels of aggression and/or self-harming behaviors, emotional distress, impulsive behaviors, and/or other emotional, behavioral, or psychological issues; and,

2. Previous placements have been unsuccessful or alternative placements, specifically within the state of Colorado, are not available for the child/youth.

E. Child/youth who meet criteria for a mental health hold or detainment by law enforcement are not appropriate for admission.

7.424.~~2~~12 APPEALS PROCESS FOR DENIED ELIGIBILITY

A. A county department of human/social services may submit a request for an appeal of denied initial or continued eligibility to the Division of Child Welfare 24 hour Appeal Panel within fifteen (15) business days of the denial.

B. Decisions on appeals shall be communicated to the county department of human/social services no later than seven (7) business days of receipt of the request.

C. If the county department of human/social services is aggrieved by the decision of the Child Welfare 24 hour Appeal Panel, the county department of human/social services may request an administrative hearing pursuant to 7.701.13.d.4.a.

D. Decisions by the administrative law judge are considered final and are not subject to further judicial review.

E. While the continuing eligibility of a child/youth is under appeal, the child/youth may remain in placement at the IDD facility. If the appeal is denied, the county department of human/social services may be responsible for the costs incurred for continuing the placement of the child/youth after thirty (30) days beyond the discharge date.

7.424.313 ADMISSION TO THE IDD FACILITY

A. The State Department, in collaboration with the IDD facility, shall determine if and/or when a referred child/youth shall be admitted to the IDD facility.

B. Upon acceptance of the child/youth into the IDD facility, the State Department shall issue an approval letter to include the date of admission, which shall be determined in collaboration with the county department of human/social services and the IDD facility and shall be approved by the State Department.

C. In the event that there is a waitlist for admission to the IDD facility, the county department of human/social services shall place the eligible and approved child/youth on the agreed upon admission date or forfeit admission, which may result in the child/youth returning to the IDD facility waitlist.

D. Children/youth in the care or custody of county human/social services departments shall be prioritized for admission into the IDD facility.

E. Children/youth who have previously been discharged from the facility shall be prioritized for re-admission, according to the needs of the child/youth.

7.424.414 EMERGENCY ADMISSION

The State Department may hold open up to three (3) beds at the IDD facility to be used for emergency placements. Criteria for emergency admission may include but are not limited to:

A. The child/youth is on the waitlist and experiences an unexpected crisis; or,

B. The child/youth is determined, by the county department of human/social services, to be unsafe in their current setting; or,

C. The child/youth is to be discharged from a more restricted setting, including but not limited to a hospital or detention setting; or,

D. The child/youth experiences an imminent placement disruption unrelated to the child's/youth's status or situation; or,

E. The child/youth is unexpectedly discharged from current placement.

7.424.~~5~~15 DISCHARGE

A. The duration of treatment at the IDD facility shall be determined at the time of admission by the State Department in collaboration with the IDD facility, county department of human/social services, child/youth, family of child/youth, and the child's/youth's permanency team.

B. Criteria for determining duration of treatment at the IDD facility may include but are not limited to the assessment of the child's/youth's needs, goals of the child/youth, goals of the family (when applicable), expected time to achieve stabilization, criteria for transition, transition needs, and plan for permanency.

C. Within fourteen (14) calendar days of admission, the State Department shall issue an approval letter to include the duration of the child's/youth's treatment and the expected date by which the child/youth will be discharged from the IDD facility.

D. The duration of treatment shall be reviewed by the State Department, the IDD facility, and the county department of human/social services, in collaboration with the child/youth, family of the child/youth (when applicable), and the child's/youth's permanency team, no more than every thirty (30) days after the date of admission and may be subject to change based upon the progress and needs of the child/youth.

E. In the event the State Department determines a change to the duration of treatment, a revised approval letter will be issued.

F. Criteria for discharge

1. The child/youth has met the goals and objectives in the individual child's/youth's plan, as determined by the IDD facility, in consultation with the state department and the county department of human/social services; or,

2. The child's behavior has become such that significant safety issues for themselves and/or others at the facility and the treatment team at the facility can no longer effectively provide treatment for the child and the child can no longer be safely maintained in the facility without a higher level of intervention. The facility will consult with the state department and the placing authority to develop an ongoing plan for the child; or,

3. A viable placement option in a lower level of care is identified and available; or,

4. The child's/youth's family is ready and able to care for the child/youth; and,

5. A transition plan is in place to include identified services to support the placement option or family in caring for the child/youth.

G. The county department of human/social services retains the right to remove the child/youth from the program any time prior to the discharge date specified in the most recent approval letter.

7.424.~~6~~16 COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES RESPONSIBILITIES

A. The county department of human/social services shall participate in initial and ongoing monthly staffings, treatment planning, and discharge planning for each child/youth placed at the IDD facility by the county department of human/social services.

B. Permanency planning shall occur in accordance with 7.301.2.

7.424.~~7~~17 REIMBURSEMENT

When the child/youth is placed by a county department of human/ social services the State Department shall reimburse one hundred percent (100%) of the placement costs, up to thirty (30) days beyond the discharge date as defined in the most recent approval letter.

7.424.818 QUALITY ASSURANCE

The licensee that holds the IDD facility contract is subject to the rules and regulations found at 7.701, 7.705, 7.706, 7.714, and 7.719.

7.424.2 ACUTE RESIDENTIAL FACILITIES

THE STATE DEPARTMENT SHALL CONTRACT WITH LICENSED PROVIDERS FOR THE DELIVERY OF SERVICES TO CHILDREN AND YOUTH WHOSE BEHAVIORAL OR MENTAL HEALTH NEEDS REQUIRE SERVICES AND TREATMENT IN A RESIDENTIAL FACILITY.

7.424.21 REFERRAL AND ELIGIBILITY

A. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES SHALL MAKE THE REFERRAL TO THE STATE DEPARTMENT USING THE STATE APPROVED APPLICATION.

B. THE STATE DEPARTMENT SHALL DETERMINE WHETHER REFERRALS MEET ELIGIBILITY REQUIREMENTS FOR SERVICES IN THE ACUTE RESIDENTIAL FACILITIES.

C. THE PRIMARY INDICATORS FOR PLACEMENT IN AN ACUTE RESIDENTIAL PROGRAM ARE:

1. A SERIOUS EMOTIONAL DISTURBANCE, INCLUDES, WITH RESPECT TO A CHILD, ANY CHILD WHO HAS A SERIOUS EMOTIONAL DISORDER, A SERIOUS BEHAVIORAL DISORDER, OR A SERIOUS MENTAL DISORDER.

2. AN INTELLECTUAL AND/OR DEVELOPMENTAL DISABILITY OR AN AUTISM SPECTRUM DISORDER. “INTELLECTUAL AND DEVELOPMENTAL DISABILITY” MEANS A DISABILITY THAT MANIFESTS BEFORE THE PERSON REACHES TWENTY-TWO YEARS OF AGE, THAT CONSTITUTES A SUBSTANTIAL DISABILITY TO THE AFFECTED PERSON, AND THAT IS ATTRIBUTABLE TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR RELATED CONDITIONS, INCLUDING PRADER-WILLI SYNDROME, CEREBRAL PALSY, EPILEPSY, AUTISM, OR OTHER NEUROLOGICAL CONDITIONS WHEN THE CONDITION OR CONDITIONS RESULT IN IMPAIRMENT OF GENERAL INTELLECTUAL FUNCTIONING OR ADAPTIVE BEHAVIOR SIMILAR TO THAT OF A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

D. OTHER INDICATORS FOR PLACEMENT MAY INCLUDE BUT ARE NOT LIMITED TO:

1. THE CHILD/YOUTH IS CURRENTLY EXPERIENCING ACUTE AND SEVERE BEHAVIORS, WHICH MAY INCLUDE BUT ARE NOT LIMITED TO: HIGH LEVELS OF AGGRESSION AND/OR SELF-HARMING BEHAVIORS, EMOTIONAL DISTRESS, IMPULSIVE BEHAVIORS, AND/OR OTHER EMOTIONAL, BEHAVIORAL, OR PSYCHOLOGICAL ISSUES; AND,

2. THE CHILD/YOUTH IS EXHIBITING INTENSIVE BEHAVIORS THAT HAVE NOT BEEN MANAGEABLE IN LOWER-LEVELS OF CARE OR EXISTING FACILITIES IN COLORADO OR HAS MET DISCHARGE CRITERIA FROM HOSPITALIZATION AND ALTERNATIVE PLACEMENTS, SPECIFICALLY WITHIN THE STATE OF COLORADO, ARE NOT AVAILABLE FOR THE CHILD/YOUTH.

E. CHILDREN/YOUTH WHO MEET CRITERIA FOR DETAINMENT BY LAW ENFORCEMENT ARE NOT APPROPRIATE FOR ADMISSION.

F. TO BE ELIGIBLE FOR ADMISSION TO A QUALIFIED RESIDENTIAL TREATMENT PROGRAM (QRTP) THE CHILD MUST BE DETERMINED TO BE APPROPRIATE FOR PLACEMENT IN A QRTP THROUGH THE INDEPENDENT ASSESSSMENT PROCESS BY A QUALIFIED INDIVIDUAL IN ACCORDANCE WITH 19-1-115(4)(e)(I), C.R.S.

G. TO BE ELIGIBLE FOR ADMISSION TO A PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) THE CHILD MUST BE CERTIFIED TO NEED PRTF LEVEL OF CARE BY AN INDEPENDENT TEAM IN ACCORDANCE WITH 10 CCR 2505-10 § 8.765.4.A.

7.424.22 APPEALS PROCESS FOR DENIED ELIGIBILITY

A. A COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MAY SUBMIT A REQUEST FOR AN APPEAL OF DENIED INITIAL OR CONTINUED ELIGIBILITY TO THE DIVISION OF CHILD WELFARE 24 HOUR APPEAL PANEL WITHIN FIFTEEN (15) BUSINESS DAYS OF THE DENIAL.

B. DECISIONS ON APPEALS SHALL BE COMMUNICATED TO THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES NO LATER THAN SEVEN (7) BUSINESS DAYS OF RECEIPT OF THE REQUEST.

C. IF THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES IS AGGRIEVED BY THE DECISION OF THE CHILD WELFARE 24 HOUR APPEAL PANEL, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MAY REQUEST AN ADMINISTRATIVE HEARING PURSUANT TO 7.701.13.D.4.A.

D. DECISIONS BY THE ADMINISTRATIVE LAW JUDGE ARE CONSIDERED FINAL AND ARE NOT SUBJECT TO FURTHER JUDICIAL REVIEW.

E. WHILE THE CONTINUING ELIGIBILITY OF A CHILD/YOUTH IS UNDER APPEAL, THE CHILD/YOUTH MAY REMAIN IN PLACEMENT AT THE ACUTE RESIDENTIAL FACILITY. IF THE APPEAL IS DENIED, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MAY BE RESPONSIBLE FOR THE COSTS INCURRED FOR CONTINUING THE PLACEMENT OF THE CHILD/YOUTH AFTER THIRTY (30) DAYS BEYOND THE DISCHARGE DATE.

7.424.23 ADMISSION TO AN ACUTE RESIDENTIAL FACILITY

A. THE STATE DEPARTMENT, IN CONSULTATION WITH THE ACUTE RESIDENTIAL FACILITIES, SHALL DETERMINE IF AND/OR WHEN A REFERRED CHILD/YOUTH WHO HAS BEEN DEEMED ELIGIBLE FOR THE PROGRAM(S) SHALL BE ADMITTED TO AN ACUTE RESIDENTIAL FACILITY. ADMISSION OF A CHILD SHALL BE IN KEEPING WITH THE STATED PURPOSE OF THE CHILD CARE FACILITY AND SHALL BE LIMITED TO THOSE CHILDREN FOR WHOM THE FACILITY IS QUALIFIED BY STAFF, PROGRAM, EQUIPMENT, AND NEEDS OF CHILDREN ALREADY IN RESIDENCE TO PROVIDE CARE DEEMED NECESSARY. CARE MUST BE PROVIDED IN THE LEAST RESTRICTIVE, MOST APPROPRIATE SETTING IN ORDER TO MEET THE CHILD'S NEEDS.

B. UPON ACCEPTANCE OF THE CHILD/YOUTH INTO THE ACUTE RESIDENTIAL FACILITY, THE STATE DEPARTMENT SHALL ISSUE AN APPROVAL LETTER TO INCLUDE THE DATE OF ADMISSION, WHICH SHALL BE DETERMINED IN COLLABORATION WITH THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES AND THE ACUTE RESIDENTIAL FACILITY, AND SHALL BE APPROVED BY THE STATE DEPARTMENT.

C. IN THE EVENT THAT THERE IS A WAITLIST FOR ADMISSION TO THE ACUTE RESIDENTIAL FACILITY, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES SHALL PLACE THE ELIGIBLE AND APPROVED CHILD/YOUTH ON THE AGREED UPON ADMISSION DATE OR

FORFEIT ADMISSION, WHICH MAY RESULT IN THE CHILD/YOUTH RETURNING TO THE ACUTE RESIDENTIAL FACILITY WAITLIST.

7.424.24 DISCHARGE

A. THE ELIGIBLE PERIOD OF PLACEMENT AT THE ACUTE RESIDENTIAL FACILITY SHALL BE DETERMINED AT THE TIME OF ADMISSION BY THE STATE DEPARTMENT IN COLLABORATION WITH THE ACUTE RESIDENTIAL FACILITY, COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, CHILD/YOUTH, FAMILY OF CHILD/YOUTH, AND THE CHILD'S/YOUTH'S PERMANENCY TEAM.

B. CRITERIA FOR DETERMINING THE ELIGIBILITY PERIOD OF PLACEMENT AT THE ACUTE RESIDENTIAL FACILITY MAY INCLUDE BUT ARE NOT LIMITED TO THE ASSESSMENT OF THE CHILD'S/YOUTH'S NEEDS, GOALS OF THE CHILD/YOUTH, GOALS OF THE FAMILY (WHEN APPLICABLE), EXPECTED TIME TO ACHIEVE STABILIZATION, CRITERIA FOR TRANSITION, TRANSITION NEEDS, AND PLAN FOR PERMANENCY.

C. WITHIN FOURTEEN (14) CALENDAR DAYS OF ADMISSION, THE STATE DEPARTMENT SHALL ISSUE AN APPROVAL LETTER TO INCLUDE THE DURATION OF THE CHILD'S/YOUTH'S TREATMENT AND THE EXPECTED DATE BY WHICH THE CHILD/YOUTH WILL BE DISCHARGED FROM THE ACUTE RESIDENTIAL FACILITY.

D. THE DURATION OF TREATMENT SHALL BE REVIEWED BY THE STATE DEPARTMENT, THE ACUTE RESIDENTIAL FACILITY, AND THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, IN COLLABORATION WITH THE CHILD/YOUTH, FAMILY OF THE CHILD/YOUTH (WHEN APPLICABLE), AND THE CHILD'S/YOUTH'S PERMANENCY TEAM, NO MORE THAN EVERY THIRTY (30) DAYS AFTER THE DATE OF ADMISSION AND MAY BE SUBJECT TO CHANGE BASED UPON THE PROGRESS AND NEEDS OF THE CHILD/YOUTH.

E. IN THE EVENT THE STATE DEPARTMENT DETERMINES A CHANGE TO THE DURATION OF TREATMENT, A REVISED APPROVAL LETTER WILL BE ISSUED.

F. CRITERIA FOR DISCHARGE

1. THE CHILD/YOUTH HAS MET THE GOALS AND OBJECTIVES IN THE INDIVIDUAL CHILD'S/YOUTH'S PLAN, AS DETERMINED BY THE ACUTE RESIDENTIAL FACILITY, IN CONSULTATION WITH THE STATE DEPARTMENT AND THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES; OR,

2. THE CHILD'S BEHAVIOR HAS BECOME SUCH THAT IT PRESENTS SIGNIFICANT SAFETY ISSUES FOR THEMSELVES AND/OR OTHERS AT THE FACILITY, ~~AND~~ THE TREATMENT TEAM AT THE FACILITY CAN NO LONGER EFFECTIVELY PROVIDE TREATMENT FOR THE CHILD, AND THE CHILD CAN NO LONGER BE SAFELY MAINTAINED IN THE FACILITY WITHOUT A HIGHER LEVEL OF INTERVENTION. THE FACILITY WILL CONSULT WITH THE STATE DEPARTMENT AND THE PLACING AUTHORITY TO DEVELOP AN ONGOING PLAN FOR THE CHILD; OR,

3. A VIABLE PLACEMENT OPTION IN A LOWER LEVEL OF CARE IS IDENTIFIED AND AVAILABLE; OR,

4. THE CHILD'S/YOUTH'S FAMILY IS READY AND ABLE TO CARE FOR THE CHILD/YOUTH; AND,

5. A TRANSITION PLAN IS IN PLACE TO INCLUDE IDENTIFIED SERVICES TO SUPPORT THE PLACEMENT OPTION OR FAMILY IN CARING FOR THE CHILD/YOUTH.

G. THE FACILITY, COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, CHILD'S PERMANENCY TEAM, PLACEMENT OPTION, AND ACUTE RESIDENTIAL PROGRAM ADMINISTRATOR SHALL PARTICIPATE IN DISCHARGE PLANNING TO ENSURE CONTINUITY OF CARE AND APPROPRIATE TRANSITION PLANNING.

H. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES RETAINS THE RIGHT TO REMOVE THE CHILD/YOUTH FROM THE PROGRAM ANY TIME PRIOR TO THE DISCHARGE DATE SPECIFIED IN THE MOST RECENT APPROVAL LETTER.

7.424.25 COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES RESPONSIBILITIES

A. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES SHALL PARTICIPATE IN INITIAL AND ONGOING MONTHLY STAFFINGS, TREATMENT PLANNING, AND DISCHARGE PLANNING FOR EACH CHILD/YOUTH PLACED AT THE ACUTE RESIDENTIAL FACILITY BY THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES.

B. PERMANENCY PLANNING SHALL OCCUR IN ACCORDANCE WITH 7.301.2.

7.424.26 REIMBURSEMENT

WHEN THE CHILD/YOUTH IS PLACED AT THE ACUTE RESIDENTIAL FACILITY, THE STATE DEPARTMENT SHALL REIMBURSE THE PROVIDER ONE HUNDRED PERCENT (100%) OF THE PLACEMENT COSTS, UP TO THIRTY (30) DAYS BEYOND THE DISCHARGE DATE AS DEFINED IN THE MOST RECENT APPROVAL LETTER. THE DEPARTMENT WILL NOT REIMBURSE FOR COSTS INCURRED WHEN A COUNTY DEPARTMENT OF HUMAN SERVICES CONTINUES THE PLACEMENT OF A CHILD OR YOUTH AT THE ACUTE RESIDENTIAL FACILITY AFTER THE END OF THE APPROVED PLACEMENT PERIOD. COUNTY DEPARTMENTS OF HUMAN SERVICES MUST CONTRACT DIRECTLY WITH THE FACILITY BY COMPLETING AN SS-23A.

7.424.27 QUALITY ASSURANCE

A LICENSEE THAT HOLDS AN ACUTE RESIDENTIAL FACILITY CONTRACT IS SUBJECT TO THE RULES AND REGULATIONS FOUND AT 7.701, 7.705, 7.706, 7.714, AND 7.719.

Permanent Rules Adopted

Department

Department of Revenue

Agency

Colorado Lottery

CCR number

1 CCR 206-1

Rule title

1 CCR 206-1 LOTTERY RULES AND REGULATIONS 1 - eff 10/30/2021

Effective date

10/30/2021

DEPARTMENT OF REVENUE

Colorado Lottery

LOTTERY RULES AND REGULATIONS

1 CCR 206-1

RULE 5 LOTTERY SCRATCH GAMES

BASIS AND PURPOSE OF RULE 5

The purpose for Rule 5 is to provide details and requirements for all Colorado Lottery Instant Scratch Games, such as the sale of Tickets, payment of Prizes, and the method for selecting and validating winning Tickets. The statutory basis for Rule 5 is found in C.R.S. 44-40-109(1), (2) and (3), 44-40-113 and 44-40-114.

5.1 General Provisions

Instant Scratch Games will be conducted pursuant to the following Rules and Regulations, specific Instant Scratch Game Guidelines, and any further instructions and directives issued by the Colorado Lottery Director and/or Colorado Lottery Commission.

A. The Commission will adopt each Instant Scratch Game Guideline prior to launching an Instant Scratch Game. Instant Scratch Game Guidelines will define, at a minimum, determination of an instant Prize Winner, price of Ticket, number and sizes of Prizes, Ticket Validation requirements, and prize structure.

B. If a conflict arises between Rule 5 and the Instant Scratch Game Guideline, the Instant Scratch Game Guideline shall apply.

For the purpose of this Rule 5 “Ticket” shall mean Instant Scratch Ticket.

5.2 Definitions

In addition to definitions provided Rule 1, the following definitions apply to Instant Scratch Games.

A. "Instant Scratch Drawing Guideline" means the additional guideline for Second-Chance or Promotional Drawings that are associated with a specific Instant Scratch Game.

B. “Instant Scratch Game" means an individual Instant Scratch Game as described in the individual Instant Scratch Game Guideline.

C “Instant Scratch Game Guideline” means the additional guideline that includes detailed information about that particular Instant Scratch Game.

D. "Play Area" means the area on a Ticket covered with a latex coating that is removed by the player.

E. "Prize Fund" means the amount of money allocated for Prizes as defined in the Prize Structure.

F. "Prize Structure" means the number and amount of available Prizes within a specific Instant Scratch Game.

G. "Retailer Validation Code" means the computer-generated images on the Ticket play area used to sight validate a specific Prize amount.

H. “Second-Chance Drawing Guidelines” means guidelines for a drawing where the Prize is part of the Instant Scratch Game prize structure.

I. "Validation Number" means the unique number identified within the VIRN which is used to validate the Ticket.

J. "Void If Removed Number" (VIRN) means the unique number on the front of the Ticket under the latex cover within the play area.

5.3 Price of Tickets & Prizes

A. The purchase price of each Ticket shall be set forth in the Instant Scratch Game Guideline for each specific game.

B. The number of Prizes for each Instant Scratch Game shall be set forth in the Instant Scratch Game Guideline for each specific game.

5.4 Promotional Opportunities

5.4.1 Second-Chance and Promotional Drawings

A. Prize(s) for second-chance and promotional drawings shall be set forth in the Instant Scratch Drawing Guideline.

1. Details for second-chance and promotional drawings, including but not limited to, eligibility, drawing procedures, determination of winners, and fulfillment of Prizes are defined in the Instant Scratch Drawing Guideline.

5.4.2. Use of Coupons and Free Tickets

A. Coupons and free Tickets (hereafter referred to as “coupons”) are marketing tools used by the Lottery for promotions.

B. All coupons, when used for promotions, must be given to the consumer or public. In the event the Lottery uses a promotional partner to distribute coupons, the promotional partner must ensure all coupons are issued to the consumer or public and any unused coupons are returned to the Lottery.

C. At no time may coupons be sold, used to purchase goods or services, pay off Lottery debts or reimburse a Licensee for any loss.

D. At no time may a co-promoter, who has received a cash payment from the Lottery or a Lottery contractor as part of a promotional agreement, use the cash payment to purchase Tickets for the promotion that the payment funded.

5.4.3 Redemption of Bar-Coded Coupons

The Director may from time to time authorize the use of bar-coded coupons to promote the Lottery’s products. In the event such use is authorized by the Director, Licensees shall comply

with all requirements and restrictions specified on the coupon and shall redeem and exchange bar-coded coupons for the Lottery's Tickets only and not for cash.

5.5 Sale of Tickets

A. Licensees shall make Tickets available for sale to the public during the Licensee's normal business hours.

B. A Licensee shall sell Tickets only at the premises specified in the license.

C. All Ticket sales are final and the return of a Ticket after sale shall not be accepted by the Licensee, unless otherwise directed by the Director.

D. The Lottery itself may sell Instant Scratch Tickets.

E. A Licensee may be permitted, upon prior approval of the Director or designee, to use Tickets as a means of promoting the sale of goods and services to the public.

5.6 Cancellation of Tickets

A Ticket may not be cancelled.

5.6.1 Mutilated Tickets

If a Ticket has been mutilated or altered in any way, credit will not be issued to the Ticket Holder, unless the Director or designee is satisfied that the Ticket is genuine. Tickets submitted to the Lottery for credit becomes the property of the Lottery and the Ticket becomes invalid and ineligible for a Prize.

5.7 Validation Requirements

A. To be a valid winning Ticket, all the following conditions must be met:

1. The Ticket must be intact and not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;

2. The Ticket must not be counterfeit in any way;

3. The Retailer Validation Code must appear in the Play Area of the Ticket as described in the Instant Scratch Game Guideline;

4. The Ticket must have been issued by an authorized Instant Scratch Game Licensee in an authorized manner;

5. The Ticket must not have been acquired illegally or appear on any list of omitted Tickets at the Lottery;

6. The Ticket must meet all validation requirements in the Instant Scratch Game Guideline;

7. The Validation Number must appear in the validation file;

8. Prizes will not be paid twice on Tickets with the same Validation Number;

9. No portion of the Ticket may be blank and the Ticket may not be mis-registered, defective, or printed/produced in error; and

10. The Ticket must pass all other confidential security checks of the Lottery.

B. Any Ticket failing one of the Validation requirements listed in subsection A. above is invalid and the Claimant is ineligible for a Prize.

C. In the event a defective Ticket is purchased, the only responsibility or liability of the Lottery or the Licensee shall be the replacement of the defective Ticket with another Ticket of equivalent purchase price from any current Instant Scratch Game.

D. No Prizes will be awarded to the Ticket Holder of a defective Ticket.

5.8 Payment of Prizes

A. The Ticket Holder of a winning Ticket in the amount of $599.00 or less may take the Ticket to any Licensee location during the Licensee's normal business hours and game operation hours for Validation and payment. The Licensee has the option of validating winning Tickets in the amount of $151.00 to $599.00. All Prizes shall be paid by the Licensee upon Validation of the Ticket pursuant to instructions on the back of the Ticket and instructions specified in the specific Instant Scratch Game Guideline.

B. A winning Ticket in any amount also may be mailed or presented to a Lottery Claims Center for payment. The Prizes shall be paid by the Lottery upon presentation and Validation of the Ticket pursuant to instructions on the back of the Ticket and instructions specified in the Instant Scratch Game Guideline.

C. In order to claim a Prize of $600.00 or more, a Prize Winner, or their authorized representative shall complete a claim form and submit the completed form and Ticket to the Colorado Lottery. The Lottery shall pay the Prize upon completion of the claim form and Validation of the Ticket pursuant to instructions on the back of the Ticket. If a Prize Winner has outstanding obligations within the meaning of C.R.S. 44-40-113(6) and 44-40-114, the remaining balance of any Prize will not be paid until such obligations are paid.

1. A Prize Winner, or a Prize Winner's legally authorized representative, shall sign the winning Ticket and complete a claim form that is available from any Licensee, Lottery Claim Center, or the Colorado Lottery website. The claim form shall incorporate information used to verify the following:

    a. Verification that the Prize Winner is not a Person disqualified by law or by these Rules and Regulations to claim or otherwise accept a Prize from the Lottery;

    b. Notification that the Prize Winner's name, city of residence, and Prize amount are public information. This same notification is given to one signing on behalf of a Prize Winner under a disability that prevents the Prize Winner from signing on his/her own behalf; and

    c. The Lottery is not liable for any loss caused by a misrepresentation by the Prize Winner or the Person claiming the Prize on the Prize Winner's behalf.

2. The claim form may contain any other provision that the Director or designee may deem necessary and proper to promote the public interest and trust, and the security and efficient operation of the Lottery.

3. Payment for a winning Ticket will not occur unless all of the requirements on the claim form and winning Ticket have been met or an acknowledgement that the information is

unknown or unavailable. There is no obligation or duty of the Lottery, its employees or Licensees, to make any inquiry of the truthfulness of information that appears on the claim form before payment to the Prize Winner.

D. If a Prize is paid in a lump sum, payment will be made within a reasonable time of presentment or Validation.

E. If a Prizewinner chooses to be paid through an annuity, the annuitized payments shall be paid as specified in the specific Instant Scratch Game Guideline.

F. The Director may delay any payment of a Prize in order to review a change of circumstances relative to the Prize awarded, the payee, the claim, or any other matter that may have come to his or her attention.

G. The Director's decision with respect to the payment of all Prizes shall be final and binding.

H. The Director reserves the right to require a Prize Winner to disclose the location or Person from where the Ticket was purchased.

I. Payment of any Prize shall be made to the Prize Winner of the Ticket. Any liability of the State, its officers and employees, and the Commission shall terminate upon payment.

5.8.1 Termination Date and Claims Period

A. The Director will announce an end-of-game date for each Instant Scratch Game, after which date no further Tickets for that game shall be issued nor activated.

1. All Instant Scratch Game Prizes must be claimed within one hundred and eighty (180) days after the announced end-of-game date. In the event of Force Majeure the claim period will be extended at the Director's discretion.

2. Any Person who fails to claim a Prize during the one hundred and eighty (180) day claim period shall forfeit all rights to the Prize and the amount of the Prize shall remain in the Prize Fund.

3. Prizes claimed by mail must be documented as received by the Colorado Lottery by the one hundred and eightieth (180th) day after the announced end-of-game date.

5.8.2 Assignment of Prizes

A. The winner of a Prize paid by annuity who desires to assign the right to unpaid future payments must comply with C.R.S. 44-40-113(1)(b) and (2). Pursuant to C.R.S. 44-40-113(2)(f), reasonable fees to defray administrative expenses shall be reviewed and approved by the Director on an annual basis.

B. The death of a Prize Winner does not result in the acceleration of annuity payments. The Lottery will pay the remaining annuity payments in accordance with law, and any liability of the Lottery is discharged upon the final annuity payment.

5.8.3 Determination of Scratch Prize Winners

A. Prize Winners for Instant Scratch Games shall be determined as set forth in the specific Instant Scratch Game Guideline and, if applicable, Instant Scratch Game Drawing Guideline.

B. The number of times a Person may win on a single Ticket shall be set forth in the specific Instant Scratch Game Guideline.

C. The determination of Prize Winners shall be subject to the general Ticket Validation requirements set forth on the back of each Ticket and as set forth in the Instant Scratch Game Guideline and, if applicable, the specific Instant Scratch Game Drawing Guidelines.

5.10 Lost or Stolen Tickets

If a Ticket has been reported as lost or stolen, the Director reserves the right to withhold payment of a Prize pending an investigation. At the Director's discretion, Tickets that are determined to be stolen will not be paid.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00450

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Lottery Commission

on 09/08/2021

1 CCR 206-1

LOTTERY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 27, 2021 12:55:31

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Revenue

Agency

Colorado Lottery

CCR number

1 CCR 206-1

Rule title

1 CCR 206-1 LOTTERY RULES AND REGULATIONS 1 - eff 10/30/2021

Effective date

10/30/2021

DEPARTMENT OF REVENUE

Colorado Lottery

LOTTERY RULES AND REGULATIONS

1 CCR 206-1

RULE 10 - IN-STATE JACKPOT LOTTERY GAMES

BASIS AND PURPOSE OF RULE 10

The purpose for Rule 10 is to provide details and requirements for all Colorado Lottery In-State Jackpot Games such as the sale of tickets, payment of Prizes, and the method for selecting and validating winning tickets. The statutory basis for Rule 10 is found in C.R.S. 44-40-101(5), 44-40-109(1)(a) and (2), and 44-40-113, and 44-40-114.

10.1 General Provisions

In-State Jackpot Games will be conducted pursuant to the following Rules and Regulations and such further instructions and directives as the Colorado Lottery Director and Colorado Lottery Commission may issue.

For the purpose of this Rule 10 “Jackpot Game” shall mean In-State Jackpot Game and “Jackpot Ticket” shall mean In-State Jackpot Ticket.

10.2 Definitions

Refer to the definitions provided in Rule 1 Section 1.2.

10.3 Price of Tickets & Prizes

A. The purchase price of each Jackpot Ticket shall be set forth in specific Game Rules.

B. The Prize amounts or total amount of Prize money allocated to the Prize categories for Jackpot Games shall be set forth in specific Game Rules.

C. In the event the Prize expense is less than the Commission approved Aggregate Prize Fund for specific game, the Director may authorize the difference to be used to increase Prize amounts or pay additional Lottery Prizes for that game.

10.4 Drawings and End of Sales Prior To Drawings

A. The manner and frequency of Drawings shall be as set forth in specific Game Rules. In the event of a Force Majeure, the Drawing shall be rescheduled at the Director or designee’s discretion.

B. Drawings shall be conducted at a location, on days, and at times indicated in the specific Game Rules. Drawing results are not official until verified.

C. The Director shall determine when each Jackpot Game goes into Draw Break before the Drawing. Once a Jackpot Game is in Draw Break, Jackpot Game Terminals will not allow any further purchases for that Drawing.

D. The Lottery shall designate the type of equipment to be used and shall establish procedures to randomly select the Winning Combination for each type of Jackpot Game.

E. An independent auditor, as required in C.R.S. 44-40-109(2)(d), will observe each Jackpot Drawing.

1. The auditor must submit a report in a timely manner that documents compliance or non-compliance to established Drawing procedures. The report must include each discrepancy detected, if any, during the Drawing procedure and recommendations that may strengthen the integrity of the Drawings. The report will become part of the Lottery's Drawing records. Reports that identify a discrepancy and/or propose a recommendation must be distributed to the appropriate Lottery personnel.

2. All Drawing equipment used shall be examined by the auditor located at the In-State Drawing Site within thirty (30) minutes before a Drawing and within thirty (30) minutes after the Drawing.

10.5 Promotional Opportunities

10.5.1 Use of Bar Codes on Jackpot Tickets

A. An additional bar code printed on Jackpot Tickets allows for entry into Promotional Drawings through the Lottery Mobile Application.

1. Details for Promotional Drawings, including but not limited to Prizes, Prize Winners, assignment of Prizes, and Prize payment are defined in specific Promotional Drawing Guidelines.

10.5.2. Use of Coupons and Free Tickets

A. Coupons and free tickets (hereafter referred to as "coupons") are marketing tools used by the Lottery for promotions.

B. All coupons, when used for promotions, must be given to the consumer or public. In the event the Lottery uses a promotional partner to distribute coupons, the promotional partner must ensure all coupons are issued to the consumer or public and any unused coupons are returned to the Lottery.

C. At no time may coupons be sold, used to purchase goods or services, pay off Lottery Debts or reimburse a Licensee for any loss.

D. At no time may a co-promoter, who has received a cash payment from the Lottery or a Lottery Contractor as part of a promotional agreement, use the cash payment to purchase Lottery Tickets for the promotion that the payment funded.

10.5.3 Redemption of Bar-Coded Coupons

The Director may from time to time deem it proper to authorize the use of bar-coded coupons to promote Lottery Products. In the event such use is authorized by the Director, Licensees shall comply with all requirements and restrictions specified on the coupon and shall redeem and exchange bar-coded coupons for Lottery Tickets only and not for cash.

10.6 Sale of Tickets

A. Licensees shall make Jackpot Tickets available for sale to the public between the hours of 4:30 a.m. and 11:59 p.m. MST Monday through Saturday and 8:00 a.m. and 11:59 p.m. MST on Sunday if those hours are included in the Licensee's normal business hours and when the Jackpot Gaming System is available.

B. A Licensee shall sell Jackpot Tickets only at the premises specified in the license.

C. All Jackpot Ticket Sales are final and the return of a Jackpot Ticket after sale shall not be accepted by the Licensee, unless otherwise directed by the Director, or as set forth in section
10.7 or in specific Game Rules.

D. The Lottery itself may sell Jackpot Tickets.

E. A Licensee may be permitted, upon prior approval of the Director or designee, to use Jackpot Tickets as a means of promoting the sale of goods and services to the public.

10.7 Cancellation of Tickets

A player may cancel a Jackpot Ticket and receive a refund of the purchase price for any draw provided the following criteria are met:

1. The legible Jackpot Ticket is returned to the Retailer from where it was purchased;

2. It is returned within one (1) hour of purchase;

3. The Retailer is open;

4. The Jackpot Gaming System is available for wagering; and

5. The Jackpot Gaming System has not converted to the next Drawing period.

10.7.1 Mutilated or Erroneous Tickets

Unless the Director is satisfied that a mutilated Jackpot Ticket is genuine, no credit will be issued to the Ticket Holder.

A. If the Jackpot Ticket is mutilated at the time of purchase, it must meet all criteria listed in section 10.7 above in order to be cancelled.

B. In the event that the ticket cannot be cancelled at the Jackpot Gaming Terminal, the ticket must be submitted to the Lottery for investigation to determine if credit should be issued.

C. A ticket submitted to the Lottery for credit becomes the property of the Lottery and the ticket becomes invalid and ineligible for a Prize.

D. All credits for Jackpot Tickets must be approved by the Director or designee.

10.8 Validation Requirements

A. To be a valid winning Jackpot Ticket, all of the following conditions must be met:

1. All printing on the ticket shall be present in its entirety, be legible, and correspond to the Jackpot Gaming System Record;

2. The ticket must be intact;

3. The ticket must not be mutilated, altered, or tampered with in any manner;

4. The ticket must not be counterfeit or an exact duplicate of another winning ticket;

5. The ticket must have been issued by an authorized Jackpot Game Licensee in an authorized manner;

6. The ticket must not have been acquired illegally;

7. The ticket must not have been canceled or previously paid; and

8. The ticket must pass all other confidential security checks of the Lottery.

B. Any ticket failing one of the Validation requirements listed in subsection A. above is invalid and the claimant is ineligible for a Prize.

C. The Director may authorize award of a Prize for a winning Jackpot Ticket that is partially mutilated or is not intact if the Jackpot Ticket can still be validated by other Validation methods and requirements.

D. In the event a defective Jackpot Ticket is purchased, the only responsibility or liability of the Lottery or the Licensee shall be the replacement of the defective Jackpot Ticket with another Lottery Product or refund of the purchase price.

10.9 Payment of Prizes

A. The holder of a winning Jackpot Ticket in the amount of $150.00 or less may take the ticket to any Licensee location during the Licensee's normal business hours and game operation hours for Validation and payment. The holder of a winning Jackpot Ticket in the amount of $151.00 to $599.00 may take the ticket to any Licensee location during the Licensee's normal business hours and game operation hours. Licensees have the option of validating winning Jackpot Tickets in the amount of $151.00 to $599.00. All Prizes shall be paid by the Licensee upon presentation and Validation of the ticket pursuant to instructions on the back of the Jackpot Ticket and instructions specified in the specific Game Rule.

B. A winning Jackpot Ticket in any amount may be mailed or presented to a Lottery Claims Center for payment. The Prizes shall be paid by the Lottery upon presentation and Validation of the ticket pursuant to instructions on the back of the Jackpot Ticket and instructions specified in the specific Game Rule.

C. The holder of a Prize-Winning Jackpot Ticket of $600.00 or more, or their authorized representative shall complete a claim form and submit the completed form and Ticket to the Colorado Lottery. The Lottery shall pay the Prize upon presentation and Validation of the ticket pursuant to instructions on the back of the Jackpot Ticket and instructions specified in the specific Game Rule. In the event that the intercept program reveals an outstanding obligation for a winner of a Prize, the Prize will not be awarded until the intercept obligation is paid as set forth in C.R.S. 44-40-113(6) and 44-40-114.

1. A Prize Winner, or a Prize Winner's legally authorized representative, shall sign the winning Jackpot Ticket and complete a claim form that is available from any Licensee, Lottery Claims Center, or the Colorado Lottery Website. The claim form shall incorporate the following information:

    a. Verification that the Prize Winner is not a Person disqualified by law or by these Rules and Regulations to claim or otherwise accept a Prize from the Lottery;

    b. Notification that the Prize Winner's name, city of residence, and Prize amount are public information. This same notification is given to one signing on behalf of a Prize Winner under a disability that prevents the Prize Winner from signing on his/her own behalf; and

    c. The Lottery is not liable for any loss caused by a misrepresentation by the Prize Winner or the Person claiming the Prize on the Prize Winner's behalf.

2. The claim form may contain any other provision that the Director may deem necessary and proper to promote the public interest and trust, and the security and efficient operation of the Lottery.

3. Payment for a winning ticket will not occur unless all of the requirements on the claim form and winning ticket have been met or an acknowledgement that the information is unknown or unavailable. There is no obligation or duty of the Lottery, its employees or

Licensees, to make any inquiry of the truthfulness of information that appears on the claim form before payment to the Prize Winner.

D. Payment of Prizes shall be made to the Prize Winner.

E. All Prizes shall be paid within a reasonable time after they are awarded and after the claims are validated by the Lottery. Any Prize requiring annuitized or installment payments shall be paid as specified in the specific Game Rules.

F. In the event of the death of a Prize Winner during the payment period and upon the petition of the estate of the Prize Winner (the Estate) to the Lottery, and subject to federal, state or district applicable laws, the Lottery may accelerate the payment of all of the remaining Lottery proceeds to the Estate. If the Lottery makes such a determination, then securities and/or cash held to fund the deceased Prize Winner's annuitized Prize may be distributed to the Estate. The identification of the securities to fund the annuitized Prize shall be at the sole discretion of the Lottery.

G. The Prize Winner of an annuitized or installment payment Prize in any Jackpot Game who desires to assign the right to unpaid future annuitized or installment payments must comply with
C.R.S. 44-40-113(1)(b) and (2). Pursuant to C.R.S. 44-40-113(2)(f), reasonable fees to defray administrative expenses shall be reviewed and approved by the Director on an annual basis.

H. The Director may delay any payment in order to review a change of circumstances relative to the Prize awarded, the payee, the claim, or any other matter that may have come to their attention. All delayed payments will be paid to date immediately upon the Director's confirmation that the payee is entitled to such payment; any remaining payments shall be paid per the specific Game Rule.

I. The Director's decision shall be final and binding with respect to the payment of all Prizes.

J. The Director reserves the right to require a Prize Winner to disclose the location or Person from where the ticket was purchased.

K. A Prize must be claimed no later than one hundred and eighty (180) days after the Drawing for which the Jackpot Ticket was purchased. Any Person who fails to claim a Prize during the one hundred and eighty (180) day claim period shall forfeit all rights to the Prize and the amount of the Prize shall remain in the Lottery Fund. Prizes claimed by mail must be documented as received by the Lottery by the one hundred and eightieth (180^{th}) day after the announced end-of-game date.

L. Payment of any Prize shall be made to the Prize Winner of the Jackpot Ticket. All liability of the State, its officers and employees, and the Commission shall terminate upon payment.

M. In the event that the intercept program reveals an outstanding obligation for a Prize Winner, the Prize will not be awarded until the intercept obligation is paid as set forth in C.R.S. 44-40-114(6) and 44-40-114.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00451

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Lottery Commission

on 09/08/2021

1 CCR 206-1

LOTTERY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 27, 2021 13:02:51

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Revenue

Agency

Colorado Lottery

CCR number

1 CCR 206-1

Rule title

1 CCR 206-1 LOTTERY RULES AND REGULATIONS 1 - eff 10/30/2021

Effective date

10/30/2021

DEPARTMENT OF REVENUE

Colorado Lottery

LOTTERY RULES AND REGULATIONS

1 CCR 206-1

RULE 14 MULTI-STATE JACKPOT LOTTERY GAMES

BASIS AND PURPOSE OF RULE 14

The purpose for Rule 14 is to provide details and requirements for all Colorado Lottery Multi-State Jackpot Games conducted as a member of a Multi-State Group, such as the sale of tickets, payment of Prizes, and the method for selecting and validating winning tickets. The statutory basis for Rule 14 is found in C.R.S. 44-40-101(5) and (6), 44-40-104(4)(a), 44-40-109(1)(a) and (h), and (2), 44-40-113 and 44-40-114.

14.1 General Provisions

Multi-State Jackpot Games will be conducted pursuant to the following Rules and Regulations and such further instructions and directives as the Colorado Lottery Director may issue.

For the purposes of this Rule 14 “Jackpot Game” shall mean Multi-State Jackpot Game and “Jackpot Ticket” shall mean Multi-State Jackpot Ticket.

A. All Multi-State Guidelines and Multi-State Board decisions must be approved by the Lottery and the Commission prior to implementation in Colorado.

B. The Director will be a voting member of the Multi-State Board during the timeframe in which the Lottery is a member of the Multi-State Group.

C. If at any time the Director determines that any provisions of the Multi-State Governing Rules or of the Multi-State specific Game Rules do not sufficiently provide for the security and integrity necessary to protect the Lottery, the Director shall recommend to the Commission that the Lottery end its membership with the specified Multi-State Group or Game. Upon concurrence by the Commission, membership can end at any time.

14.2 Definitions

In addition to the definitions provided in section 1.2 of Rule 1, and unless the context in these Rules and Regulations otherwise requires:

A. “Breakage” means the results of rounding Prize amounts down to the nearest whole dollar.

B. “Multi-State Agreement” means the document made and entered into by the Party Lotteries, containing the mutual covenants agreed to by the Party Lotteries.

C. “Multi-State Drawing Procedures” means the document that outlines the procedure and eligibility requirements for a Multi-State Jackpot Game Drawing.

D. “Multi-State Jackpot Game” means an individual Lottery Game as described in specific Game Rules which utilizes a Jackpot Gaming System to administer plays in which a player or random number generator selects a combination of numbers. The Lottery, in conjunction with all other participating Multi-State Game Members, will either conduct or oversee a Drawing to determine the Winning Combination, used by all Multi-State Game Members, in accordance with the specific Game Rules for each Jackpot Game.

E. “Multi-State Jackpot Ticket” means a computer-generated ticket issued by a Lottery Licensee (Licensee) to a player as a receipt for the combination of numbers selected in a Jackpot Game. That ticket shall be the only acceptable evidence of the combination of numbers selected. Jackpot Tickets may be purchased only from Lottery authorized Licensees.

F. “Multi-State Board” means the governing body of a specific Jackpot Game, which is comprised of the chief executive officer of each Party Lottery.

G. “Multi-State Guidelines” means the statements of policy having authority over an activity in an individual Game.

H. “MUSL” means the Multi-State Lottery Association.

I. “Party Lottery” means a State Lottery or Lottery of a political subdivision or entity which has joined a Multi-State Game and, in the context of the Product Group Rules, has joined in selling the specified Jackpot Game.

J. “Product Group” means a group of Lotteries which have joined together to offer a product pursuant to the terms of the Multi-State Agreement and the group’s own rules.

K. Roll-over” means the amount from the direct prize category contribution from previous Drawing(s) in the Grand Prize category, that is not won, that is carried forward to the Grand Prize category for the next Drawing.

L. “Set Prize” means all other Prizes except the Grand Prize and, except in instances outlined in these rules, will be equal to the Prize amount established within the specific Game Rules.

14.3 Price of Tickets & Prizes

A. The purchase price of each Jackpot Ticket shall be set forth in specific Game Rules.

B. The Prize amounts or total amount of Prize money allocated to the Prize categories for Jackpot Games shall be set forth in specific Game Rules.

C. In the event the Prize expense is less than the Commission approved Aggregate Prize Fund for a specific game, the Director may authorize the difference to be used to increase Prize amounts or pay additional Lottery Prizes for that game.

14.4 Drawings and End of Sales Prior To Drawings

A. The manner and frequency of Drawings shall be as set forth in specific Game Rules. In the event of a Force Majeure, the Drawing shall be rescheduled at the Director or designee’s discretion.

B. Drawings shall be conducted at a location, on days, and at times to be announced. Drawing results are not official until verified.

C. The Director shall determine when each Jackpot Game goes into Draw Break before the Drawing. Once a Jackpot Game is in Draw Break, Jackpot Game Terminals will not allow any further purchases for that Drawing.

D. An independent auditor, as required in C.R.S 44-40-109(2)(d), will observe each Jackpot Drawing.

1. All Drawing equipment used shall be examined by the auditor located at the Multi-State Drawing Site within thirty (30) minutes before a Drawing and within thirty (30) minutes after the Drawing.

14.5 Promotional Opportunities

14.5.1 Use of Bar Codes on Jackpot Tickets

A. An additional bar code printed on Jackpot Tickets allows for entry into Promotional Drawings through the Lottery Mobile Application.

1. Details for Promotional Drawings, including but not limited to Prizes, Prize Winners, assignment of Prizes, and Prize payment are defined in specific Promotional Drawing Guidelines.

14.5.2 Use of Coupons and Free Tickets

A. Coupons and free tickets (hereafter referred to as “coupons”) are marketing tools used by the Lottery for promotions.

B. All coupons, when used for promotions, must be given to the consumer or public. In the event the Lottery uses a promotional partner to distribute coupons, the promotional partner must ensure all coupons are issued to the consumer or public and any unused coupons are returned to the Lottery.

C. At no time may coupons be sold, used to purchase goods or services, pay off Lottery Debts, or reimburse a Licensee for any loss.

D. At no time may a co-promoter, who has received a cash payment from the Lottery or a Lottery Contractor as part of a promotional agreement, use the cash payment to purchase Lottery Tickets for the promotion that the payment funded.

14.5.3 Redemption of Bar-Coded Coupons

The Director may from time to time deem it proper to authorize the use of bar-coded coupons to promote Lottery Products. In the event such use is authorized by the Director, Licensees shall comply with all requirements and restrictions specified on the coupon and shall redeem and exchange bar-coded coupons for Lottery Tickets only and not for cash.

14.6 Sale of Tickets

A. Licensees shall make Jackpot Tickets available for sale to the public between the hours of 4:30 a.m. and 11:59 p.m. MST Monday through Saturday and 8:00 a.m. and 11:59 p.m. MST on Sunday if those hours are included in the Licensee’s normal business hours and when the Jackpot Gaming System is available.

B. A Licensee shall sell Jackpot Tickets only at the premises specified in the license.

C. All Jackpot Ticket Sales are final and the return of a Jackpot Ticket after sale shall not be accepted by the Licensee, unless otherwise directed by the Director, or as set forth in section
14.7 or in specific Game Rules.

D. The Lottery itself may sell Jackpot Tickets.

E. A Licensee may be permitted, upon prior approval of the Director or designee, to use Jackpot Tickets as a means of promoting the sale of goods and services to the public.

14.7 Cancellation of Tickets

A Jackpot Ticket may not be cancelled.

14.7.1 Mutilated or Erroneous Tickets

Unless the Director is satisfied that a mutilated Jackpot Ticket is genuine, no credit will be issued to the Ticket Holder.

A. If the Jackpot Ticket is mutilated at the time of purchase, the ticket must be submitted to the Lottery for investigation to determine if credit should be issued.

B. A ticket submitted to the Lottery for credit becomes the property of the Lottery and the ticket becomes invalid and ineligible for a Prize.

C. All credits for Jackpot Tickets must be approved by the Director or designee.

14.8 Validation Requirements

A. To be a valid winning Jackpot Ticket, all of the following conditions must be met:

1. All printing on the ticket shall be present in its entirety, be legible, and correspond to the Jackpot Gaming System Record;

2. The ticket must be intact;

3. The ticket must not be mutilated, altered, or tampered with in any manner;

4. The ticket must not be counterfeit or an exact duplicate of another winning ticket;

5. The ticket must have been issued by an authorized Jackpot Game Licensee in an authorized manner;

6. The ticket must not have been acquired illegally;

7. The ticket must not have been previously paid; and

8. The ticket must pass all other confidential security checks of the Lottery.

B. Any ticket failing one of the Validation requirements listed in subsection A. above is invalid and the Claimant is ineligible for a Prize.

C. The Director may authorize award of a Prize for a winning Jackpot Ticket that is partially mutilated or is not intact if the Jackpot Ticket can still be validated by the other Validation methods and requirements.

D. In the event a defective Jackpot Ticket is purchased, the only responsibility or liability of the Lottery or the Licensee shall be the replacement of the defective Jackpot Ticket with another Lottery Product or refund of the purchase price.

14.9 Payment of Prizes

A. The holder of a winning Jackpot Ticket in the amount of $150.00 or less may take the ticket to any Licensee location during the Licensee's normal business hours and game operation hours for Validation and payment. The holder of a winning Jackpot Ticket in the amount of $151.00 to $599.00 may take the ticket to any Licensee location during the Licensee's normal business hours and game operation hours. Licensees have the option of validating winning Jackpot Tickets in the amount of $151.00 to $599.00. All Prizes shall be paid by the Licensee upon presentation and Validation of the ticket pursuant to instructions on the back of the Jackpot Ticket and instructions specified in the specific Game Rule.

B. Any winning Jackpot Ticket in any amount may be mailed or presented to a Lottery Claims Center for payment. The Prizes shall be paid by the Lottery upon presentation and Validation of

the ticket pursuant to instructions on the back of the Jackpot Ticket and instructions specified in the specific Game Rule.

C. The holder of a Prize-Winning Jackpot Ticket of $600.00 or more, or their authorized representative shall complete a claim form and submit the completed form and Ticket to the Colorado Lottery. The Lottery shall pay the Prize upon presentation and Validation of the ticket pursuant to instructions on the back of the Jackpot Ticket and instructions specified in the specific Game Rule. In the event that the intercept program reveals an outstanding obligation for a winner of a Prize, the Prize will not be awarded until the intercept obligation is paid as set forth in C.R.S. 44-40-113(6) and 44-40-114.

1. A Prize Winner, or a Prize Winner's legally authorized representative, shall sign the winning Jackpot Ticket and complete a claim form that is available from any Licensee, Lottery Claims Center, or the Colorado Lottery Website. The claim form shall incorporate the following information:

   a. Verification that the Prize Winner is not a Person disqualified by law or by these Rules and Regulations to claim or otherwise accept a Prize from the Lottery;

   b. Notification that the Prize Winner's name, city of residence, and Prize amount are public information. This same notification is given to one signing on behalf of a Prize Winner under a disability that prevents the Prize Winner from signing on his/her own behalf; and

   c. The Lottery is not liable for any loss caused by a misrepresentation by the Prize Winner or the Person claiming the Prize on the Prize Winner's behalf.

2. The claim form may contain any other provision that the Director may deem necessary and proper to promote the public interest and trust, and the security and efficient operation of the Lottery.

3. Payment for a winning ticket will not occur unless all of the requirements on the claim form and winning ticket have been met or an acknowledgement that the information is unknown or unavailable. There is no obligation or duty of the Lottery, its employees or Licensees, to make any inquiry of the truthfulness of information that appears on the claim form before payment to the Prize Winner.

D. Payment of Prizes shall be made to the Prize Winner.

E. All Prizes shall be paid within a reasonable time after they are awarded and after the claims are validated by the Lottery. Any Prize requiring annuitized or installment payments shall be paid as specified in the specific Game Rules.

F. In the event of the death of a Prize Winner during the payment period, the Multi-State Board's Finance and Audit Committee, in its sole discretion, upon the petition of the estate of the Lottery winner (the Estate) to the Lottery, and subject to federal, state, or district applicable laws, may accelerate the payment of all of the remaining Lottery proceeds to the Estate. If the Finance & Audit Committee makes such a determination, then securities and/or cash held to fund the deceased Prize Winner's annuitized Prize may be distributed to the Estate. The identification of the securities to fund the annuitized Prize shall be at the sole discretion of the Finance and Audit Committee.

G. The Prize Winner of an annuitized or installment payment Prize in any Jackpot Game who desires to assign the right to unpaid future annuitized or installment payments must comply with
C.R.S. 44-40-113(1)(b) and (2). Pursuant to C.R.S. 44-40-113(2)(f), reasonable fees to defray administrative expenses shall be reviewed and approved by the Director on an annual basis.

H. The Director may delay any payment in order to review a change of circumstances relative to the Prize awarded, the payee, the claim, or any other matter that may have come to their attention. All delayed payments will be paid to date immediately upon the Director's confirmation

that the payee is entitled to such payment; any remaining payments shall be paid per the specific Game Rule.

I. The Director's decision shall be final and binding with respect to the payment of all Prizes.

J. The Director reserves the right to require a Prize Winner to disclose the location or Person from where the ticket was purchased.

K. A Prize must be claimed no later than one hundred and eighty (180) days after the Drawing for which the Jackpot Ticket was purchased. Any Person who fails to claim a Prize during the one hundred and eighty (180) day claim period shall forfeit all rights to the Prize and the amount of the Prize shall remain in the Lottery Fund. Prizes claimed by mail must be documented as received by the Lottery by the one hundred and eightieth (180th) day after the announced end-of-game date.

L. Payment of any Prize shall be made to the Prize Winner of the Jackpot Ticket. All liability of the State, its officers and employees, and the Commission shall terminate upon payment.

M. In the event that the intercept program reveals an outstanding obligation for a Prize Winner, the Prize will not be awarded until the intercept obligation is paid as set forth in C.R.S. 44-40-113(6) and 44-40-114.

14.10 Annuity Payments

The Multi-State Board shall act as an agent for the Party Lotteries jointly operating games requiring annuitized payments and shall purchase investments for the benefit of the Party Lotteries who receive valid claims for each Prize paid as an annuity. The investment purchase process shall be handled according to the Multi-State Game Rules Processes (solicitation of bids, selection of investment, premium payment, etc.). The investment so purchased shall be held in the trust account for the benefit of each Party Lottery for eventual distribution to a Prize Winner.

14.11 Lost or Stolen Tickets

The Director reserves the right to hold any Prize, pending the findings of an investigation, when the Jackpot Ticket presented for Validation has been reported stolen or lost. At the Director's discretion, Jackpot Tickets that are determined to be stolen will not be paid.

14.12 Audit of Lottery Contributions to the Multi-State Group

The Lottery is responsible for verifying all Multi-State Group Prize Fund and reserve allocations, interest earnings and expenditures received or paid on behalf of the Lottery. The Lottery's Fiscal Department will perform analytical procedures on the Multi-State Group's audited financial statements annually as set forth in Recommendation #2 of the June 30, 2003 financial audit. If anything of concern surfaces by applying these procedures, the Director and the Lottery Controller will be notified.

14.13 Interest Earnings

A. The Director shall request the Multi-State Group to distribute all interest earned on the unreserved account on a quarterly basis. If the interest earned on the unreserved account is immaterial, the Director may postpone the distribution request until the end of the fiscal year.

B. At the end of each fiscal year, the Multi-State group shall prepare a schedule of revenues and expenses resulting in the Multi-State Group's net income for the fiscal year. The revenues will include all investment earnings, except the interest earned on the unreserved account. The net income will be available to be distributed to each Party Lottery in accordance with procedures as set forth by the Multi-State Group. The chief executive officer of each Party Lottery shall request the remittance of their proportionate share of net income following the close of the fiscal year.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00452

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Lottery Commission

on 09/08/2021

1 CCR 206-1

LOTTERY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/15/2021 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.

September 27, 2021 12:51:05

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (405 Series, Parks)

CCR number

2 CCR 405-1

Rule title

2 CCR 405-1 CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS 1 - eff 11/01/2021

Effective date

11/01/2021

FILING - 09/21/2021

FINAL REGULATIONS - CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS

ARTICLE I - GENERAL PROVISIONS APPLICABLE TO ALL PARKS AND OUTDOOR RECREATION LANDS AND WATERS

 # 100 - PARKS AND OUTDOOR RECREATION LANDS

A. Definitions

1. "Parks and Outdoor Recreation Lands" shall mean, whenever used throughout these regulations, all parks and outdoor recreation lands and waters under the administration and jurisdiction of the Division of Parks and Wildlife.

2. "Wearable Personal Flotation Device" shall mean a U.S. Coast Guard approved personal flotation device that is intended to be worn or otherwise attached to the body. A personal flotation device labeled or marked as Type I, II, III, or V (with Type I, II, or III performance) is considered a wearable personal flotation device as set forth in the Code of Federal Regulations, Title 33, Parts 175 and 181(2014).

B. When these regulations provide that an activity is prohibited except as posted or permitted as posted, the Division will control these activities by posting signs identifying the prohibited or authorized activities, specifying the affected area and the basis for the posting. The Division will apply the following criteria in determining if an activity will be restricted or authorized pursuant to posting:

1. Public safety or welfare.

2. Potential impacts to wildlife, parks or outdoor recreation resources.

3. Remediation of prior impacts to wildlife, parks or outdoor recreation resources.

4. Whether the activity will unreasonably interfere with existing authorized activities or third party agreements.

5. Whether the activity will provide additional public benefits.

C. It shall be prohibited:

1. To enter, use or occupy Parks and Outdoor Recreation Lands when same are posted against such entry, use or occupancy. (Access to Parks and Outdoor Recreation lands and waters is generally allowed between 5:00 a.m. and 10:00 p.m. daily. Restricted access generally will be allowed during other hours for camping and fishing.)

2. To remove, destroy, mutilate, modify or deface any structure, water control device, poster, notice, sign or marker, tree, shrub or other plant or vegetation, including dead timber and forest litter, or any object of archaeological, geological, historical, zoological or natural/environmental value or interest on Parks and Outdoor Recreation Lands. (This regulation does not include removal of firewood from designated firewood areas, noxious weeds as defined by statute, or recreational gold mining within the Arkansas Headwaters Recreation Area, except where prohibited as indicated by posted signs.)

3. To remove, destroy or harass any wildlife or livestock on Parks and Outdoor Recreation Lands. (Hunting will be allowed in areas designated by the Division during hunting seasons.)

CAMPING

4. To camp or to park a motor vehicle, trailer or camper on Parks and Outdoor Recreation Lands with the intention (or for the purpose) of camping other than on areas designated for camping; or to leave a set-up camp, motor vehicle, trailer or camper unattended for more than twenty-four (24) hours, unless otherwise posted.

    a. No individual may camp or park a motor vehicle, trailer or camper on a state park for more than fourteen (14) days in any twenty-eight (28) day period on a single park, except that extensions totaling no more than a maximum of fourteen (14) additional days may be permitted by the park manager, as a one-time exception. For the purposes of this regulation, an individual is defined as any person who has occupied a site, whether or not they are formally listed on the reservation as the reserving party or primary occupant. This limit does not apply to multiple sites reserved for the same day by an individual or group pursuant to regulation # 704(2).

LITTERING

5. To leave fish or fish entrails or debris in or on the ice-covered or open waters of lakes, reservoirs or streams located within Parks and Outdoor Recreation Lands.

6. To leave any residentially or commercially generated garbage or trash or any other litter generated outside a park or recreation area anywhere within a park or recreation area.

FIRES

7. To build or tend fires within Parks and Outdoor Recreation Lands, except in fully enclosed vehicles; or in designated sites in Division-furnished grills or fireplaces; or in hibachis, charcoal grills, stoves and other metal containers, unless otherwise prohibited by these regulations.

8. To allow a fire to burn in a careless manner; to leave any fire unattended; or to fail to completely extinguish any fire on Parks and Outdoor Recreation Lands.

9. To discharge or use fireworks of any kind or nature within Parks and Outdoor Recreation Lands (except special displays approved by the Director; subject to provisions of local political subdivision regulations).

COMMERCIAL USE

10. To use Parks and Outdoor Recreation Lands for a commercial purpose, except:

    a. Special resource use which shall be authorized by the Commission on a case-by-case basis at a public meeting of the Commission (i.e., mining, timber cutting, grazing, haying, and other similar uses.)

    b. Uses authorized pursuant to concession contracts issued in accordance with state procurement and fiscal rules; or

c. Pursuant to a cooperative agreement with the Division or special activities permit issued by the Division. Commercial use which conflicts with area management plans will not be approved.

d. For incidental commercial services that:

(1) Are provided by a commercial entity that is providing services incidental to the public use and operation of a State Park. Such services include: renting of pack animals or their services to remove harvested animals; vehicle and vessel repair; locksmith and tow services; vessel launch, retrieval or recovery services; product deliver services; and ride sharing or taxi services;

(2) The commercial entity does not solicit for business at, or use the name of, a State Park(s) for advertising;

(3) The commercial entity maintains a separate place of business; and

(4) The incidental commercial service is not one for which the provider is required by law to obtain a guide or outfitter license.

(5) Incidental commercial services does not include commercial boat launch and load services at Navajo State Park.

BOAT DOCKS

11. To fish from boat ramps or boat docks located within Parks and Outdoor Recreation Lands or to otherwise use such ramps or docks in a manner contrary to the intended use.

GLASSWARE

12. For any person to carry or possess any glassware within the confines of a public swimming area, bathing area or designated water skiing beach.

NIGHT ACTIVITY

13. To occupy a parking site with a motorized vehicle between the hours of 10:00 p.m. and 5:00 a.m., unless such person and all other occupants arriving in such vehicle are actively engaged in fishing or boating.

SWIM BEACH

14. For any person:

a. To build or tend any kind of fire on any swim beach.

b. To fish from any swim beach.

c. To allow any child under the age of 13 years to be on a swim beach unless accompanied by an adult.

d. Definitions as used in this regulation, unless the context requires otherwise:

(1) “Swim Beach” - For the purpose of this regulation, “swim beach” means a portion of a natural or impounded body of water designated for swimming, recreational bathing or wading.

AIRCRAFT

15. To land or take off with any type of aircraft on any Parks and Outdoor Recreation lands and waters, except as specifically authorized by these regulations or in case of emergency. “Aircraft” means any device or equipment that is used or intended to be used for manned flight or to otherwise hold humans aloft for any period of time, including powerless flight, and specifically includes, but is not limited to, airplanes, helicopters, gliders, hot air balloons, hang gliders, parachutes, parasails, kite boards, kite tubes, zip lines and other similar devices or equipment.

ANIMALS/PETS

16. To allow any dog or other pet on Parks and Outdoor Recreation Lands, unless the same shall be under control and on a leash not exceeding six (6) feet in length. This requirement for dogs or other pets to be on a six-foot leash shall not apply when the animal is confined in a vehicle or vessel or within the boundaries of the designated dog off leash area at Chatfield State Park or the designated dog off leash area at Cherry Creek State Park. Further, it shall be unlawful to allow a dog or other pet within any area used as a swimming or water-ski beach. Any person having a dog or other pet creating a nuisance or disturbance or who fails to properly control a dog or other pet may be evicted from the park or recreation area. This provision shall not apply to dogs while being used in hunting, field trials, or while being trained on lands open to such use.

17. To bring horses, mules, donkeys or burros into or allow same on Parks and Outdoor Recreation Lands, except on areas or trails designated for such use.

18. To turn livestock onto or allow grazing on Parks and Outdoor Recreation Lands without permission from the Commission.

19. For any handler of any dog to fail to immediately collect, remove, and properly dispose of all dog or pet feces from, or near, any developed park sites including campgrounds, picnic area, dog training areas, and designated trails.

DUMP STATIONS/OTHER UTILITIES

20. To empty wastewater holding tanks, fill water holding tanks or otherwise use any parks and outdoor recreation dump station or utility without a valid park pass and valid camping permit or camping reservation.

BEARS

21. Where necessary to prevent or address bear/human interactions or related issues, the park manager may designate all or a portion of any state park where: food, trash and equipment used to cook or store food must be kept sealed in a hard-sided vehicle, in a camping unit that is constructed of solid, non-pliable material, or in a food storage box provided by the park for those persons entering the park in something other than a hard-sided vehicle or appropriate camping unit. This restriction does not apply to food that is being transported, consumed, or prepared for consumption. A hard-sided vehicle is defined as: the trunk of an automobile, the cab of a pickup truck, the interior of a motor home, fifth wheel, camping trailer or pickup camper. A hard-sided vehicle does not

include any type of tent, pop-up campers or pickup campers with nylon, canvas, or other pliable materials, car top carriers or camper shells on the back of pickup trucks.

QUIET HOURS

22. Quiet hours will be enforced from 10:00 p.m. until 6:00 a.m.; and all generators, loud radios or other loud noises that may disturb the peace are prohibited during these hours.

ABANDONED PROPERTY

23. It shall be unlawful to leave any personal property unattended on Parks and Outdoor Recreation land or water for more than twenty-four (24) hours.

    a. If such property is left unattended for more than twenty-four (24) hours, it will be considered abandoned.

    b. Removal and storage will be at the expense of the owner.

    c. All abandoned personal property, other than motor vehicles, which is not claimed within six months shall be sold for cash to the highest bidder at a public auction, notice of which (including time, place, and a brief description of such property) shall be published at least once in a newspaper of general circulation in the county wherein said public auction is to be held at least ten days prior to such auction. All funds generated shall be deposited in the Parks Cash Fund.

    d. Abandoned motor vehicles will be handled in accordance with Article 4, Part, 18 of Title 42, C.R.S.

MODELS

24. It shall be unlawful to operate radio-controlled and/or fuel-propelled models, except in designated areas.

CLIMBING HARDWARE

25. It shall be unlawful to place fixed or permanent rock climbing hardware, unless the climber first obtains a Special-Activities Permit from the park manager. Removal of previously placed fixed or permanent climbing hardware is prohibited.

PARKING

26. To park a motor vehicle, trailer or camper in any area other than a designated parking area.

BIKING

27. To bike in any area other than in a designated biking area or on a designated road or trail.

ALCOHOL

28. Consumption of alcoholic beverages on lands and waters under the supervision, administration, and/or jurisdiction of the Division is permitted with the following exceptions:

a. It shall be prohibited to consume alcoholic beverages on any archery or firearm range unless specifically authorized by a concession contract, cooperative agreement or special activities permit, and then only allowed in areas specifically designated by the contract, agreement, or permit.

b. It shall be prohibited to sell and/or dispense alcoholic beverages on any lands and waters under the supervision, administration, and/or jurisdiction of the Division unless specifically authorized by a concession contract, cooperative agreement, or special activities permit, and then only allowed in areas specifically designated by the contract, agreement, or permit and the applicant party has obtained all appropriate licenses and permits to sell and/or dispense alcoholic beverages.

c. It shall be prohibited to be present on any lands and waters under the supervision, administration, and/or jurisdiction of the Division when under the influence of alcohol or any controlled substance to the degree that may endanger oneself or another person, damage property or resources, or may cause unreasonable interference with another person's enjoyment of any lands or waters under the supervision, administration, and/or jurisdiction of the Division.

SWIMMING

29. To swim on state-park managed properties:

a. From sunset to sunrise.

b. Within or 150 feet from:
   i. any boat ramp,
   ii. marina,
   iii. breakwater,
   iv. dock,
   v. buoy-designated hazard or keep-out,
   vi. any dam inlet or outlet structure, and
   vii. where prohibited as posted.

c. For any child under the age of 13 unless accompanied by an adult.

d. As prohibited in #100.D of these regulations at:
   i. Barr Lake State Park,
   ii. Eleven Mile State Recreation Area,
   iii. Golden Gate Canyon State Park,
   iv. Highline Canal State Trail,
   v. James M. Robb – Colorado River State Park within East and West Lake of the Wildlife Area Section,
   vi. Lathrop State Park, except at the designated swim beach at Martin Lake, and
   vii. Spinney Mountain State Recreation Area.

PARK-SPECIFIC RESTRICTIONS

D. In addition to the general land and water regulations, the following restrictions shall also apply:

1. Arkansas Headwaters Recreation Area

a. Except in established campgrounds where toilet facilities are provided, all overnight campers must provide and use a portable toilet device capable of carrying human waste out of the Arkansas Headwaters Recreation Area. Contents of the portable toilet must be emptied in compliance with law and may not be deposited within the Arkansas Headwaters Recreation Area, unless at a facility specifically designated by the Arkansas Headwaters Recreation Area.
b. Building or tending fires is allowed pursuant to regulation # 100b.7., except at the Arkansas Headwaters Recreation Area fire containers must have at least a two inch rigid side. Fire containers must be elevated up off the ground.
c. Swimming is permitted in the Arkansas River from the confluence of the East Fork/Lake Fork of the Arkansas within the boundaries of the Arkansas Headwaters Recreation Area. All persons swimming within designated whitewater parks and all persons under the age of 13 swimming anywhere in the Arkansas River within the Arkansas Headwaters Recreation Area must wear a properly fitting U.S. Coast Guard approved wearable personal flotation device.
d. No motorboats shall be permitted on the Arkansas River from the confluence of the East Fork/Lake Fork of the Arkansas to the west end of Pueblo Reservoir.
e. Innertubes, air mattresses, and similar devices are permitted on the Arkansas River from the confluence of the East Fork/Lake Fork of the Arkansas within the boundaries of the Arkansas Headwaters Recreation Area. All occupants of these devices must wear a U.S. Coast Guard approved wearable personal flotation device.
f. During any hunting season all year, lawful methods of hunting may be used in areas not prohibiting such use.
g. Recreational gold mining within the Arkansas Headwaters Recreation Area is allowed, except where prohibited as indicated by posted signs.

2. Barr Lake State Park

a. No dogs or other pets shall be permitted in the wildlife refuge area.
b. Visitors shall be required to remain on designated trails and boardwalks in the wildlife refuge area.
c. No fishing or boating shall be permitted in the wildlife refuge area.
d. Visitors shall be required to remain on the designated trails on Barr Lake Dam.
e. No horses shall be permitted on the Barr Lake Dam.
f. Only hand-propelled craft, sailboats and boats with electric trolling motors or gasoline motors of 10 horsepower or less shall be permitted.
g. Only shotguns loaded with birdshot may be used for waterfowl hunting during the regular waterfowl hunting seasons, in the areas and at the times posted.
h. Shotguns loaded with birdshot may also be used for dove hunting in the areas and at the times posted.
i. All hunters must register prior to beginning hunting and check out at the conclusion of hunting, at the hunter registration area.
j. Swimming is prohibited.

3. Boyd Lake State Park

a. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only bows and arrows including crossbow and hand-held bow, unless otherwise restricted, and shotguns loaded with birdshot may be used for hunting during hunting seasons, and only in areas not posted as prohibiting such use.

4. Cameo Shooting and Education Complex

a. Public access is allowed only from sunrise to sunset, except as otherwise authorized by an approved Special Activity or Commercial Use Permit.
b. All fires may be prohibited, as posted, to comply with current burn restrictions.

c. Camping is prohibited, except when authorized by an approved Special Activity or Commercial Use Permit, and then only allowed in areas specifically designated on the permit.
d. Dogs are prohibited outside of vehicles, unless specifically authorized by an approved Special Activity or Commercial Use Permit, and then only allowed in areas specifically designated on the permit.
e. Hunting is prohibited, except in the area north of, and no closer than 100 yards of, the Coal Canyon Main Canyon Divide.
f. All persons must adhere to range safety rules, as posted.
g. The possession of marijuana is prohibited.
h. Biking is allowed in designated areas only, as posted.

5. Castlewood Canyon State Park

a. No dogs or other pets shall be permitted in the East Canyon area.
b. No horses shall be permitted in the east canyon area.
c. It shall be unlawful to climb, traverse, or rappel, on or from rock formations in the East Canyon area.
d. Visitors shall be required to remain on the designated trails in the East Canyon area.

6. Chatfield State Park

a. Entrance to and exit from the dog off leash areas are permitted only at designated access points.
b. A handler may bring a maximum of three dogs at one time into the designated dog off leash area.
c. Handlers must possess a leash and at least one waste bag for each dog in the designated dog off leash area.
d. Sport dog trainers shall obtain a special use permit to access and use the designated upland and flat-water sport dog training areas.
e. Handlers in the dog off leash area and the sport dog training areas must have a visible and valid dog off leash annual pass or dog off leash daily pass.
f. Fishing is prohibited on the ponds within the dog off leash area.
g. Only pistols or other mechanisms incapable of discharging live ammunition may be used at the dog training area.
h. A valid permit is required to launch or land any hot-air balloon.
i. Only float tubes or craft propelled by hand shall be permitted on the ponds within the park, excluding the main reservoir.

7. Cherry Creek State Park

a. Entrance to and exit from the dog off leash areas is permitted only at designated access points.
b. A handler may bring a maximum of three dogs at one time into the designated dog off leash area.
c. Handlers must possess a leash and at least one waste bag for each dog in the designated dog off leash area.
d. Sport dog trainers shall obtain a special use permit to access and use the designated upland sport dog training area.
e. Handlers in the dog off leash area and the sport dog training area must have a visible and valid dog off leash annual pass or dog off leash daily pass.
f. Use of shotgun shells on the trap/skeet range with shot size larger than size 7 is prohibited.
g. Only pistols or other mechanisms incapable of discharging live ammunition may be used at the dog training area.

8. Cheyenne Mountain State Park

a. Dogs and other pets shall be prohibited except leashed dogs and pets shall be permitted in the developed areas of the park and on the following select trails only: Acorn Alley, Bobcat Way, Raccoon Ridge, and that portion of Soaring Kestral west of the eastern most intersection with Bobcat Way. All visitors that have dogs or other pets on the select trails must have in their possession at least one waste bag per animal.
b. Smoking shall be limited to developed areas only and shall not be permitted in the backcountry, or on the archery range, parking lot or trail system.
c. Hunting shall be prohibited.
d. It shall be unlawful to climb, traverse or rappel on or from rock formations.
e. Any person 17 years of age or older who is shooting on the field/3D portion of the archery range must obtain and maintain on one's person a proper and valid daily or annual Cheyenne Mountain Park archery range individual permit.
f. Public access is prohibited on the archery range from sunset to sunrise.
g. Any person 16 years of age or younger entering the archery range must be under adult supervision at all times.
h. Broadheads, crossbows, and firearms, including, but not limited to, BB guns, pellet guns, and air rifles, are prohibited on the archery range.
i. No dogs or other pets shall be permitted on the archery range.

9. Crawford State Park

a. During any hunting season all year, lawful methods of hunting may be used in areas not prohibiting such use.

10. Eldorado Canyon State Park

a. The use of all portable grills and stoves (including, but not limited to, charcoal, gas, and wood) is prohibited outside of designated high-use pads.
b. During the period beginning the Tuesday after Labor Day and continuing through March 31, only hand-held bows and shotguns loaded with birdshot may be used for hunting during hunting seasons in the western portion of the parks known as crescent meadows.
c. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only primitive weapons (hand-held bow and muzzle-loading rifles) may be used to hunt big game animals in the western portion of Eldorado Canyon State Park known as Crescent Meadows.

11. Eleven Mile State Recreation Area

a. It shall be unlawful, except by law enforcement officers on official duty, to operate or park snowmobiles on land or on the frozen water surface of the reservoir, unless otherwise posted at the park entrances.
b. It shall be unlawful to operate or occupy boats on the surface of the reservoir from one-half hour after sunset until one-half hour before sunrise.
c. It shall be unlawful to enter upon, use or occupy the islands on the reservoir.
d. It shall be unlawful to enter, use or occupy the lands or waters of Eleven Mile State Recreation Area lying to the east of the restrictive buoy line.
e. Water skiing is prohibited on Eleven Mile Reservoir.
f. During any hunting season all year, lawful methods of hunting may be used in areas not prohibiting such use.
g. Swimming is prohibited.

12. Fishers Peak State Park

a. Public access is allowed only from sunrise to sunset, except as otherwise authorized in a Special Activity Permit issued in accordance with (h) of these regulations.

b. Visitors shall remain on the designated trails except as otherwise authorized in a Special Activity Permit issued in accordance with (h) of these regulations.
c. Trail use is restricted to pedestrian use only.
d. Pets or other domestic animals are prohibited outside of designated parking areas, except as otherwise authorized in a Special Activity Permit issued in accordance with (h) of these regulations.
e. Snowmobile and off-highway vehicle use are prohibited.
f. Parking is prohibited, except in designated areas.
g. Raptor nest buffers
    (1) From December 15-July 15, all visitors must remain outside of the ½-mile buffer established for Golden Eagle nests as posted.
    (2) From March 15-July 31, all visitors must remain outside of a ½-mile buffer established for Peregrine Falcon nests as posted.
h. Hunting is permitted only in accordance with parts (1) through (4) below:
    (1) A Special Activity Permit authorizing access will be issued to successful applicants through a drawing as provided in these regulations. Failure to comply with the conditions stated in the permit, statutes or regulations may result in permit revocation.
    (2) Only the successful Special Activity Permit holder and one nonhunting companion are allowed on the property.
    (3) Vehicles involved in hunting use of the park are required to have a valid Colorado State Parks Pass, unless the vehicle displays a Disabled Veteran license plate or Purple Heart license plate.
    (4) Access is prohibited, except during the following hunting seasons:
        a. One (1) properly licensed LE000O1R license holder will be provided access to hunt mountain lion during the regular mountain lion season until the hunter harvests a lion or until the combined harvest limit for Game Management Units 85, 140, and 851 is filled, whichever comes first.
        b. Up to five (5) properly licensed TM000O1R unlimited over-the-counter turkey license holders for the spring turkey season will be provided access to hunt turkeys.
        c. One (1) properly licensed September limited archery, muzzleloader, or rifle bear license holder will be provided access.
        d. One (1) properly licensed limited deer archery or muzzleloader license holder will be provided access.
        e. One (1) properly licensed archery or muzzleloader elk license holder will be provided access.
        f. One (1) properly licensed 1st regular rifle elk season license holder will be provided access to hunt elk during the 1st rifle season.
            i. The successful Special Activity Permit holder may hunt bear during the 1st rifle season on Fishers Peak State Park if they hold a valid bear license.
        g. One (1) properly licensed 2nd combined regular rifle season elk license holder will be provided access to hunt elk during the 2nd rifle season.

i. The successful Special Activity Permit holder may hunt bear during the 2nd rifle season on Fishers Peak State Park if they hold a valid bear license.

h. One (1) properly licensed 3rd combined regular rifle season deer license holder will be provided access to hunt deer during the third rifle season.

i. The successful Special Activity Permit holder may hunt bear during 3rd rifle season on Fishers Peak State Park if they hold a valid bear license.

i. One (1) properly licensed 4th combined regular rifle season elk license holder will be provided access to hunt elk during the fourth rifle season.

i. The successful Special Activity Permit holder may hunt bear on Fishers Peak State Park during the 4th rifle season if they hold a valid bear license.

13. Golden Gate Canyon

a. No boats, rafts or other floating devices of any kind shall be permitted on lakes within Golden Gate Canyon State Park, except as part of an organized class in canoeing sponsored by the Division.

b. In Jefferson County, excluding the 160-acre parcel known as the Vigil Ranch and the posted strip of land along Gilpin County Road 2: During deer and elk seasons, any lawful method of hunting may be used for hunting such big game; and beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, any lawful method of hunting may be used during hunting seasons for small game, in areas not posted as prohibiting such use or uses. Provided further that hunters must visit the designated check station to check in prior to hunting and check out after hunting.

c. During deer and elk seasons that are in the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, any lawful method of hunting deer and elk may be used in areas not posted as prohibiting such use in that portion of Golden Gate Canyon State Park located in Gilpin County, otherwise known as the Green Ranch. Only hunters selected through a special drawing prior to the beginning of big game seasons are permitted to hunt the Green Ranch portion of Golden Gate Canyon State Park.

d. Swimming is prohibited.

14. Harvey Gap State Recreation Area

a. Only hand-propelled craft, sailboats and boats with electric trolling motors or gasoline motors of 20 horsepower or less shall be permitted on Harvey Gap Reservoir.

b. Water skiing is prohibited on Harvey Gap Reservoir.

c. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only bows and arrows including crossbow and hand-held bow, unless otherwise restricted, and shotguns loaded with birdshot may be used for hunting during hunting seasons, and only in areas not posted as prohibiting such use.

15. Highline Canal State Trail

a. No swimming, tubing or rafting shall be permitted.

b. No fires shall be permitted.

16. Highline Lake State Park

a. Only hand-propelled craft, sailboats and boats with electric motors shall be permitted on Mack Mesa Reservoir.
b. Boats shall be prohibited on Highline Lake from the first day in October through the last day in February, except that hand-propelled craft may be used to set out and pick up decoys and retrieve downed waterfowl in the area open to hunting.
c. Waterfowl hunting permitted in the areas and at the times posted. Only shotguns loaded with birdshot may be used for waterfowl hunting.
d. Small game hunting permitted using only shotguns, in the areas and at the times posted.
e. Reservations are required to hunt in accordance with #504.I.
f. Big game hunting is prohibited.
g. All hunters must register prior to beginning hunting and check out at the conclusion of hunting, at the hunter registration area.
h. Vessels launched on Highline Lake on Wednesdays are prohibited from traveling at speeds above "wakeless," as defined in regulation #218.1 in Chapter P-2. If July 4 falls on a Wednesday, this day is exempt from the wakeless restriction.

17. Jackson Lake State Park

a. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only bows and arrows including crossbow and hand-held bow, unless otherwise restricted, and shotguns loaded with birdshot may be used for hunting during hunting seasons, and only in areas not posted as prohibiting such use.

18. James M. Robb - Colorado River State Park

a. Colorado River Wildlife Area

(1) In accordance with applicable management plans, no dogs or other pets shall be permitted, except on designated trails.
(2) No fires shall be permitted.
(3) Swimming is prohibited within East and West Lakes.
(4) In accordance with applicable management plans, public access is restricted to designated roads and trails from March 15 to May 30 of each year.
(5) No boats, rafts or other floating devices of any kind shall be permitted on lakes.

b. Fruita, Connected Lakes, Corn Lake and Island Acres Sections

(1) Except for the swim area at Island Acres, only hand-propelled craft, sailboats and boats with electric motors shall be permitted.
(2) Only waterfowl hunting permitted in the areas and at the times posted. All other hunting prohibited.
(3) Only shotguns loaded with birdshot may be used for waterfowl hunting.
(4) Waterfowl hunting from designated blinds only.
(5) Reservations are required to hunt in accordance with #504.I.
(6) Hunting is prohibited in Fruita and Connected Lakes sections.

c. 34 Road Parcel

(1) No public access except for waterfowl hunting on weekends during designated waterfowl hunting seasons.
(2) Only waterfowl hunting permitted in the areas and at the times posted. All other hunting prohibited.
(3) Only shotguns loaded with birdshot may be used for waterfowl hunting.
(4) Reservations are required to hunt in accordance with #504.I.
(5) Waterfowl hunting from designated blinds only.

d. Pear Park Section

(1) No boats, rafts or other floating devices of any kind shall be permitted on lakes between 30 Road and 29 Road.

(2) Only waterfowl hunting permitted in the areas and at the times posted. All other hunting prohibited.
(3) Only shotguns loaded with birdshot may be used for waterfowl hunting.
(4) Reservations are required to hunt in accordance with #504.I.
(5) Waterfowl hunting from designated blinds only.

19. John Martin Reservoir State Recreation Area

a. No public access shall be permitted on the north shore area of John Martin Reservoir State Recreation Area from the first day of November through March 15 of every year or as posted except to retrieve downed waterfowl.
b. Only hand-propelled craft, sailboats and boats with electric motors shall be permitted on Lake Hasty.
c. No unauthorized boats, rafts, or other floating devices of any kind shall be permitted on the waters below John Martin Dam to the Arkansas River bridge.
d. No public access shall be permitted east of the waterfowl closure line to the dam from the first day of November through March 15 of every year or as posted except to retrieve downed waterfowl.

20. Lake Pueblo State Park

a. Jumping, diving or swinging from cliffs, ledges or man-made structures is prohibited, including, but not limited to, boat docks, marina infrastructure and the railroad trestle in Turkey Creek.
b. Innertubes, air mattresses and similar devices are permitted, below the dam on that part of the Arkansas River within the boundaries of Pueblo State Recreation Area. All occupants of these devices must wear a U.S. Coast Guard approved wearable personal flotation device.
c. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only bows and arrows including crossbow and hand-held bow, unless otherwise restricted, and shotguns loaded with birdshot may be used for hunting during hunting seasons, and only in areas not posted as prohibiting such use.

21. Lathrop State Park

a. Boats shall be prohibited on Horseshoe Reservoir from the first Monday in November through the last day of migratory waterfowl seasons, except as posted and except that hand-propelled craft may be used to set out and pick up decoys and retrieve downed waterfowl on the areas of such lakes open to hunting of migratory waterfowl.
b. Water skiing is prohibited on Horseshoe Reservoir.
c. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only bows and arrows including crossbow and hand-held bow, unless otherwise restricted, and shotguns loaded with birdshot may be used for hunting during hunting seasons west from a north-south line corresponding with the existing barbed-wire fence between Horseshoe Lake and Martin Lake.
d. Swimming is prohibited except at the designated swim beach at Martin Lake.

22. Lone Mesa State Park

a. During any authorized big game hunting season, any lawful method of hunting deer, elk, and bear may be used in areas not posted as prohibiting such use in Lone Mesa State Park. Only hunters who possess a valid Lone Mesa State Park hunting permit are permitted to hunt.

23. Lory State Park

a. During deer and elk seasons, any lawful method of hunting may be used for hunting such big game; and beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, any lawful method of hunting may be used during hunting seasons for small game, in areas not posted as prohibiting such use or uses; except that hunting is not permitted on Saturdays and Sundays.

b. During the spring turkey hunt at Lory State Park, it shall be permitted to hunt turkey by legal methods on Mondays and Tuesdays only. All other days of the week shall be closed to spring turkey hunting.

24. Mancos State Park

a. Only hand-propelled craft, sailboats, boats with electric trolling motors and boats with gasoline motors operated at a wakeless speed shall be permitted on Mancos Reservoir.

b. Water skiing is prohibited on Mancos Reservoir.

25. Mueller State Park

a. No dogs or other pets shall be permitted outside of the developed facilities area.

b. It shall be unlawful, except by law enforcement officers on official duty, to operate snowmobiles and off-highway vehicles.

c. No boats, rafts or other floating devices of any kind shall be permitted on lakes within Mueller State Park.

d. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, any lawful method of controlled hunting may be used, during hunting seasons, in areas not prohibiting such use on Mueller State Park. Hunters may access the posted hunting area only from Trail 5 at the Visitor Center, Trail 11 at the Livery parking lot or Lost Pond Picnic Area and Trail 13 at the group campground. All weapons must be completely unloaded when the hunter is outside the posted hunting area boundary.

26. Navajo State Park

a. During any hunting season all year, lawful methods of hunting may be used in areas not prohibiting such use.

27. North Sterling State Park

a. Boats shall be prohibited on North Sterling Reservoir from the first Monday in November through the last day of migratory waterfowl seasons, except as posted and except that hand-propelled craft may be used to set out and pick up decoys and retrieve downed waterfowl on the areas of such lakes open to hunting of migratory waterfowl.

b. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only bows and arrows and shotguns loaded with birdshot may be used for hunting in areas not prohibiting such use on North Sterling State Park, except as follows:

(i) Hunting is prohibited from the dam, and

(ii) Hunting is prohibited from the frozen surface of the lake.

28. Paonia State Park

a. During any hunting season all year, lawful methods of hunting may be used in areas not prohibiting such use.

29. Pearl Lake State Park

a. Only hand-propelled craft, sailboats, boats with electric trolling motors and boats with gasoline motors operated at a wakeless speed shall be permitted.

b. Water skiing is prohibited on Pearl Lake.

c. During deer and elk seasons, any lawful method of hunting may be used for hunting such big game; and beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, any lawful method of hunting may be used during hunting seasons for small game, in areas not posted as prohibiting such use or uses.

30. Ridgway State Park

a. No boats, rafts, or other floating devices shall be permitted on any waters within the Pa-Co-Chu-Puk Recreation Site, below Ridgway Dam.

b. On all areas of the park east of Highway 550: during deer and elk seasons, any lawful method of hunting may be used for hunting such big game; and, during the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, any lawful method of hunting may be used during hunting seasons for small game, in areas not posted as prohibiting such use or uses.

c. During any authorized hunting season from October 1 to April 30 of each year, and any approved special season, any lawful method of hunting may be used on all lands at Ridgway State Park open to public access west of Ridgway Reservoir, except that the area bounded by Dallas Creek on the south and the site closure signs on the north shall be closed to all hunting.

d. During any authorized waterfowl hunting season from October 1 to April 30 of each year, and any approved special season, waterfowl hunting shall be permitted within the Dallas Creek Recreation Site at Ridgway State Park; except that hunting shall be prohibited between the park road and U.S. Highway 550 and in other areas posted as prohibiting such use.

e. During approved special seasons, any lawful method of hunting may be used in the following areas (or special hunting zones) as defined:

(i) (Zone 1) Elk Ridge Mesa, including the closed Elk Ridge Campground, and

(ii) (Zone 2) That area bounded by a distance of 100 yards south of park headquarters, on the north; Ridgway Reservoir on the west; ¼ mile from Colorado Highway 550 on the south; and ¼ mile from the main park road on the east and,

(iii) That area bounded by Ridgway reservoir's main cove on the north; ¼ mile from the Elk Ridge road on the west; the intersection of the Elk Ridge and main park roads on the south; and ¼ mile from the main park road on the east at Ridgway State Park and,

(iv) The Pa-Co-Chu-Puk Recreation site at Ridgway State Park.

31. Rifle Falls State Park

a. It shall be unlawful to climb, traverse, or rappel on or from rock formations.

32. Rifle Gap State Park

a. Hunting permitted in areas not prohibiting such use.

33. Roxborough State Park

a. No dogs or other pets shall be permitted.

b. No fires shall be permitted.

c. It shall be unlawful to climb, traverse or rappel on or from rock formations.

34. Saint Vrain State Park

a. Only hand-propelled craft, sailboats and boats with electric motors shall be permitted, except on Blue Heron Reservoir.

b. Only hand or trailer launched vessels with electric or gasoline motors operated at a wakeless speed shall be permitted on Blue Heron Reservoir.

35. Spinney Mountain State Recreation Area

a. It shall be unlawful, except by law enforcement officers on official duty, to operate or park snowmobiles on land or on the frozen water surface of the reservoir, unless otherwise posted at the park entrances.
b. It shall be unlawful to operate or occupy boats on the surface of the reservoir from one-half hour after sunset until one-half hour before sunrise.
c. It shall be unlawful to enter upon, use or occupy the islands on the reservoir.
d. It shall be unlawful to enter, use or occupy the lands or waters of Spinney Mountain State Recreation Area between November 16 and April 30, unless the reservoir is ice-free and the area is otherwise posted as open for public use.
e. It shall be unlawful to enter, use or occupy the lands or waters of Spinney Mountain State Recreation Area between the hours of one hour after sunset and one-half hour before sunrise, or as otherwise posted.
f. Water skiing is prohibited on Spinney Mountain Reservoir.
g. During any hunting season all year, lawful methods of hunting may be used in areas not prohibiting such use.
h. Swimming is prohibited.

36. Stagecoach State Park

a. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only bows and arrows including crossbow and hand-held bow, unless otherwise restricted, and shotguns loaded with birdshot may be used for hunting during hunting seasons on the western half of the reservoir.

37. State Forest State Park

a. No boats, rafts or other floating devices of any kind shall be permitted on lakes within The State Forest, except that wakeless boating shall be allowed on North Michigan Reservoir.
b. Only hand-propelled craft, sailboats, boats with electric trolling motors and boats with gasoline motors operated at a wakeless speed shall be permitted on North Michigan Reservoir.
c. Water skiing is prohibited on North Michigan Reservoir.
d. During any hunting season all year, lawful methods of hunting may be used in areas not prohibiting such use.

38. Staunton State Park

a. No boats, rafts or other floating devices of any kind shall be permitted on lakes within the park.

39. Steamboat Lake State Park

a. During deer and elk seasons, any lawful method of hunting may be used for hunting such big game; and from the Tuesday after Labor Day through the Friday prior to Memorial Day, any lawful method of hunting may be used during hunting seasons for small game, in areas not posted as prohibiting such use or uses.

40. Sweitzer Lake State Park

a. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only bows and arrows including crossbow and hand-held bow, unless otherwise restricted, and shotguns loaded with birdshot may be used for hunting during hunting seasons, and only in areas not posted as prohibiting such use.
b. Waterfowl hunting is prohibited, except in the six (6) designated hunt zones.
c. From 5:00 am until 12:00 pm, reservations are required to hunt waterfowl in accordance with #504.I. Reserved zones which are unoccupied by 7:00 am will

be available on a first-come, first-served basis. However, any hunt zone must be yielded at any time upon request of a hunter holding a valid and active reservation for that zone.

d. Reservations are not required to hunt waterfowl from 1:00 pm until sunset, and hunting is on a first-come, first-served basis.

e. Leaving decoys overnight is prohibited.

41. Sylvan Lake State Park

a. Only hand-propelled craft, sailboats and boats with electric motors shall be permitted.

b. Water skiing is prohibited on Sylvan Lake.

c. During any hunting season all year, lawful methods of hunting may be used in areas not prohibiting such use.

42. Trinidad Lake State Park

a. During the period beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day, only bows and arrows including crossbow and hand-held bow, unless otherwise restricted, and shotguns loaded with birdshot may be used for hunting during hunting seasons, and only in areas not posted as prohibiting such use.

b. Dogs or other pets are prohibited on the archery range.

c. Smoking is prohibited on the archery range.

d. Broadheads, crossbows, and firearms, including, but not limited to, BB guns, pellet guns, and air rifles are prohibited on the archery range.

e. Any person 16 years of age or younger entering the archery range must be under the direct supervision of an adult at all times.

f. Public access is prohibited on the archery range between sunset and sunrise.

43. Vega State Park

a. Hunting permitted beginning the Tuesday after Labor Day and continuing through the Friday prior to Memorial Day.

b. Only bows and arrows, including crossbow and hand-held bow, unless otherwise restricted, and shotguns loaded with birdshot may be used for hunting during hunting seasons, and only in areas not posted as prohibiting such use.

101 – SEARCH AND RESCUE TRAINING PERMITS

A. Public or nonprofit search and rescue organizations shall be permitted to conduct official, sanctioned training activities on state park lands upon completion of a search and rescue training permit application and written park manager approval of the application.

1. The search and rescue training permit application shall include the following information.

a. Organization name and address;

b. Organization representative contact information including name and phone number;

c. Date, time and specific park location of proposed training activities;

d. Roster of participants;

e. Number of vehicles and associated license plate numbers;

f. Training agenda, lesson plan, or other description of proposed activity.

2. The training permit application shall be submitted to the park manager at least 14 days prior to the start of the event.

3. Upon request from park staff, participants shall identify themselves as part of the training activity.

4. Upon approval of the search and rescue training permit application, the park manager may close that portion of the park or recreation area used for the training activity for the duration of the training to the public.

5. Participants of such training activities shall be allowed free entrance to any state park or recreation area while engaged in the training activity.

 # 102 - AUTHORITY TO CLOSE PARKS LANDS AND WATERS

CLOSURES

A. Any Parks and Outdoor Recreation officer shall have the authority to close any waters on Parks and Outdoor Recreation Lands to any or all users or to limit the number of boats on any such body of water when he deems it necessary for the safety, protection and welfare of the public. Further, it shall be unlawful for any person to violate such closure.

CAPACITY

B. The Director may establish for each area under the control of the Division, according to facilities, design and/or staffing levels, the number of individuals and/or vehicles or boats allowed in any area or structure at any given time or period. No person shall enter into any area or facility or bring in, or cause to be brought in, any vehicle or boat and/or persons which exceed the capacity established by the Director or when the individual is informed either by signs or by Park staff that such capacity has been met.

#103 – UTILITY AND ROAD EASEMENTS

A. The Director may grant easements for a term not to exceed twenty-five (25) years on properties owned in fee title by the Division, after consideration of the following:

1. financial consideration for the easement represents fair market value and is no more than $100,000;

2. the easement is customary or minor in nature, or is a replacement, modification or confirmation of an existing easement; and

3. the easement is not detrimental to recreational opportunities, the operation of a state park or park administrative facility, or water resources and is in the public interest.

#104 – LEASES

A. The Director may execute documents related to existing leases wherein the Division is either the lessor or lessee, after consideration of the following:

1. the document is a renewal, extension or amendment of an existing lease;

2. the renewal or extension is for a term not to exceed twenty-five (25) years;

3. total consideration for the entire potential term of the renewal, extension or amendment represents fair market value and is no more than $100,000; and

4. the renewal, extension or amendment supports, protects or enhances outdoor recreation, the operation of an administrative facility or related building, or water resources and is in the public interest.

B. The Director may execute a new lease for staff housing for a term not to exceed twelve months.

ARTICLE II – GENERAL WATER RESTRICTIONS: USE OF BOATS AND OTHER FLOATING DEVICES AND OTHER USES ON PARKS AND OUTDOOR RECREATION WATERS

 # 105

A. All Parks and Outdoor recreation waters are open to boating during migratory waterfowl seasons, except as specified in park-specific restriction regulations 100.C.

VESSELS

B. It shall be unlawful:

UNATTENDED

1. To anchor or beach boats and leave them unattended overnight within Parks and Outdoor Recreation Lands in areas other than those designated or posted.

LAUNCHING

2. To launch or load within Parks and Outdoor Recreation Lands any boat from a trailer, car, truck or other conveyance, except at an established launch area if the same is provided.

TAKE-OFF/DROP OFF

C. No person, while operating any vessel, shall park, moor, anchor, stop or operate said vessel so as to be considered a hazard in any area marked as a water ski take-off or drop zone.

D. Use of air-inflated floating devices:

1. It shall be unlawful to use any air-inflated floating device on waters located on Parks and Outdoor Recreation Lands, except as follows:

   a. Innertubes, air mattresses and similar devices may be used in designated swimming areas only, except as follows:

      (1) When authorized by park-specific regulations in 100.C.

      (2) Inflatable fishing waders may be used as an aid to fishing.

   b. All other air-inflated devices capable of being used as a means of transportation on the water shall be of separate multi-compartment construction so as to prohibit air from escaping from one compartment to another. Such devices with a motor attached shall have a rigid motor mount.

LIVING ABOARD VESSELS

E. It shall be unlawful to live aboard any vessel on Parks and Outdoor Recreation lands or waters. For the purpose of this regulation, a “live aboard” is defined as any vessel located within State Parks boundaries used for overnight accommodations between the hours of 10:00 p.m. and 5:00 a.m. for more than fourteen (14) days in any twenty-eight (28) day period on a single park, except that extensions totaling no more than a maximum of fourteen (14) additional days may be permitted by the park manager, as a one-time exception. Upon written request from any marina concessionaire, the Director may allow one, or more, “live aboard(s)” occupied by the marina's managerial or supervisory staff, if the Director determines it would be advantageous for the safety and security of the marina's operations.

AQUATIC NUISANCE SPECIES (ANS)

F.

1. All vessels and other floating devices of any kind, including their contents, motors, trailers and other associated equipment are subject to inspection in accordance with inspection procedures established by the Division prior to launch onto, operation on or departure from any Parks and Outdoor Recreation waters or vessel staging areas.

2. Any nonnative or exotic plant material and any aquatic wildlife species listed in wildlife regulation # W012-C, 2 CCR 406-0, (collectively referred to herein as “aquatic nuisance species”) found during an inspection shall be removed and properly disposed of in accordance with removal and disposal procedures established by the Division before said vessel or other floating device will be allowed to launch onto, operate on or depart from any Parks and Outdoor Recreation waters or vessel staging areas.

3. Compliance with the above aquatic nuisance species inspection and removal and disposal requirements is an express condition of operation of any vessel or other floating device on Parks and Outdoor Recreation waters. Any person who refuses to permit inspection of their vessel or other floating device, including their contents, motor, trailer, and other associated equipment or to complete any required removal and disposal of aquatic nuisance species shall be prohibited from launching onto or operating the vessel or other floating device on any Parks and Outdoor Recreation water. Further, the vessel or other floating device of any person that refuses to allow inspection or to complete any required removal and disposal of aquatic nuisance species prior to departure from any Parks and Outdoor Recreation water or vessel staging area is subject to quarantine until compliance with said aquatic nuisance species inspection and removal and disposal requirements is completed.

4. Any person operating a vessel or other floating device may be ordered to remove the vessel or device from any Parks and Outdoor recreation water by any authorized agent of the Division if the agent reasonably believes the vessel or other floating device was not properly inspected prior to launch or may otherwise contain aquatic nuisance species. Once removed from the water, the vessel or other floating device, including its contents, motor, trailer and associated equipment shall be subject to inspection for, and the removal and disposal of aquatic nuisance species.

5. It is unlawful for any person to, or to attempt to, launch onto, operate on or remove from any Parks and Outdoor Recreation water or vessel staging area any vessel or other floating device without first submitting the same, including their contents, motors, trailers and other associated equipment to an inspection for aquatic nuisance species, and completing said inspection, if such an inspection is requested by any authorized agent of the Division or required by any sign posted by the Division. Further, it is unlawful for any person to fail to complete the removal and disposal of aquatic nuisance species if such

removal and disposal is requested by an authorized agent of the division or required by any sign posted by the Division.

6. It is unlawful for any person to, or to attempt to, launch onto, operate on or remove from any Parks and Outdoor Recreation water or vessel staging area any vessel or other floating device if they know the vessel or other floating device, including their contents, motors, trailers, or other associated equipment contain any aquatic nuisance species.

ARTICLE IV – GENERAL RESTRICTIONS RELATING TO HUNTING, TRAPPING AND THE DISCHARGE OF FIREARMS AND OTHER WEAPONS ON PARKS AND OUTDOOR RECREATION LANDS

 # 106

A. It shall be unlawful:

WEAPONS, FIREARMS, AND FIREWORKS

1. To possess, carry, or discharge explosives, firearms and/or other weapons on Parks and Outdoor Recreation Lands or Waters in any manner that violates Title 18, C.R.S., or any other applicable law. The lawful carry of concealed handguns by persons in possession of a valid concealed handgun permit, together with valid photo identification, is permitted. The possession or discharge of fireworks is prohibited. The lawful possession and/or discharge of firearms on designated shooting ranges is permitted. Other exceptions pertaining to the possession and/or discharge of firearms on Parks and Outdoor Recreation Lands or Waters are as follows:

HUNTING/DOG TRAINING

a. Shotguns loaded with birdshot or pistols loaded with blank charges may be used during authorized regattas and field trials or during the training of dogs on designated dog-training areas, except as restricted by park-specific regulations in 100.C.

(i) The use of live birds during the training of dogs is prohibited unless approved by the Division through a Special-Activities Permit.

BOW FISHING (Archery) and Spearfishing:

b. Bows and arrows may be used on designated archery ranges or as a method of fishing in accordance with fishing regulations. Underwater spearfishing may be used as a method of fishing in accordance with fishing regulations. Underwater spearfishing is prohibited within 100 feet of any marina, boat ramp, swim beach or dam infrastructure.

HUNT AREAS

c. Park Managers may post an area on a park or recreation area as being closed to hunting due to public safety considerations or sound park management practices.

d. To discharge explosives, firearms, and/or other weapons within 100 yards of any designated campground, picnic area, boat ramp, swimming or water skiing beach or nature trail and study area, except as may be otherwise posted.

e. To discharge explosives, firearms, and/or other weapons from any location so that projectiles are caused to cross over or fall upon Parks and Outdoor Recreation Lands.

TRAPPING

f. To place or set traps on Parks and Outdoor Recreation Lands and Waters, except as authorized by wildlife regulations and with a valid Special-Activities Permit.

RAPTOR HUNTING

g. To hunt by the use of raptors on Parks and Outdoor Recreation Lands and Waters, except as authorized by wildlife regulations and with a valid Special-Activities Permit.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00465

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (405 Series, Parks)

on 09/01/2021

2 CCR 405-1

CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 17, 2021 09:15:08

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (405 Series, Parks)

CCR number

2 CCR 405-7

Rule title

2 CCR 405-7 CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS 1 - eff 11/01/2021

Effective date

11/01/2021

FILING - 09/21/2021

FINAL REGULATIONS - CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS

ARTICLE I - GENERAL PROVISIONS AND FEES RELATING TO PASSES, PERMITS AND REGISTRATIONS

VEHICLE PASSES

 # 700 - VEHICLE PASS

1. Except as otherwise provided in these regulations or by Colorado Revised Statutes, no motor vehicle shall be brought onto any state recreation area or state park unless a valid parks pass issued by the Division is properly attached or displayed in the vehicle. Passes that are designed to be affixed to the windshield shall be attached to the extreme lower right-hand corner of the vehicle's windshield in a position so that the pass may be observed and identified. For an annual affixed vehicle pass, including an aspen leaf annual pass to be properly attached to a windshield, it must be permanently affixed. A state parks annual transferable pass must be hung from the rear-view mirror so that the pass may be observed and identified. Any vehicle whereby a pass cannot be secured inside the passenger compartment or hung from a rear-view mirror shall be treated as a special case, but evidence of a pass shall be required on the person or in the vehicle.

    (A) As referenced in this chapter, "veteran" means a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable.

2. No vehicle pass shall be required for:

    a. Any snowmobile as defined in section 33-14-101, C.R.S.;

    b. Any off-highway vehicle as defined in section 33-14.5-101(3), C.R.S.;

    c. Any government-owned vehicle, emergency vehicle, or law enforcement vehicle on official business;

    d. Any commercial delivery vehicle delivering goods to the park or a park concessionaire when the goods are directly related to the operation of the park or concession;

    e. Any resident's vehicle displaying a Colorado disabled veteran's license plate pursuant to section 42-3-213(5)(a), C.R.S. or a purple heart special license plate pursuant to section 42-3-213(2), and as provided for in section 33-12-106(1), C.R.S.;

    f. Any vehicle bringing a holder of a Columbine, Centennial, Blue Spruce, Independence, Volunteer or Military Pass issued pursuant to # 701 into a state recreation area or state park;

    g. Any vehicle that is not required to have a vehicle pass pursuant to the special activity regulation # 703;

    h. Any vehicle entering a state recreation area or state park pursuant to # 712-4;

    i. Any vehicle that is exclusively towed;

j. Any vehicle occupied by a veteran or current or reserve member of any branch of the armed forces of the United States, on the State observance of Veteran's Day. At least one form of past or present military identification shall be presented at the Park entrance. Acceptable forms of military identification include:

(1) DD214;

(2) DD Form 2;

(3) DD Form 2765;

(4) Active, retired or veteran military identification cards;

(5) A current Colorado Driver's License or state issued identification card with the word 'Veteran' printed on it as specified in 42-2-303 (5)(a), C.R.S.;

(6) VA medical card;

(7) The display of military license plates.

k. Any Division employee, volunteer or hired contractor vehicle when such vehicle is used for the purposes of accomplishing work duties;

l. Any vehicle owned by a concession owner or employee or any contractor working for a concession when such vehicle is used for the purposes of accomplishing work duties;

m. Any vehicle entering the Cameo Shooting and Education Complex.

3. The types of annual vehicle passes available from the Division are as follows:

a. An Aspen Leaf annual vehicle pass as provided for in section 33-12-103, C.R.S.; and

b. An annual affixed vehicle pass, which is available for any vehicle except passenger vans and buses operated by a commercial business, and

c. A state parks annual transferable pass, which can be used for any vehicle except passenger vans and buses operated by a commercial business. State parks annual transferable passes are issued to individuals, not vehicles. Only one vehicle at a time can use an annual transferable pass.

(1) Commercial passenger vans and buses are eligible to purchase daily, but not annual, vehicle passes.

(2) School buses on official school outings, passenger vans and buses operated by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses operated by any government agency are eligible for either daily or annual affixed vehicle passes.

(3) An annual transferable pass may be shared with the original pass holder's household. For the purpose of this regulation, "household" is defined as persons living at the same address.

4. Daily vehicle passes are as follows:

a. A fee of $9.00 per vehicle for any vehicle except for:

(1) Passenger vans and buses operated by a commercial business;

(2) A $1.00 per vehicle high-use fee will be added to the cost of daily vehicle passes at Cherry Creek, Chatfield, and Boyd Lake State Recreation Areas, and Castlewood Canyon, Eldorado Canyon, Golden Gate Canyon, Highline Lake, Lake Pueblo, Roxborough and Staunton State Parks.

b. School buses on official school outings, passenger vans and buses operated by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses operated by any government agency are eligible to purchase a daily vehicle pass.

c. For passenger vans and buses operated by a commercial business, the daily vehicle pass fee will be based upon the number of passengers on-board. The fee shall be $10.00 for up to fifteen passengers on-board, $40.00 for sixteen to thirty passengers on-board, and $50.00 for more than thirty passengers on-board.

5. An annual affixed vehicle pass or state parks annual transferable pass shall be issued and, by appropriate language, authorize entrance by motor vehicle to all state recreation areas and state parks during the period beginning on the date of purchase through the last day of the same month in the following year. Such authorization shall apply to the user and all passengers in the motor vehicle to which the pass is affixed or displayed. One pass shall cover all state recreation areas and state parks.

6. Additional affixed annual vehicle passes may be issued to an owner or to the owner's household. Additional annual affixed vehicle passes authorize entrance by motor vehicle to all state recreation areas and state parks during the period beginning on the date of purchase of the additional pass through the expiration date of the associated original full-priced annual affixed pass or state parks annual transferable pass. Owners of school buses, passenger vans and buses owned by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses owned by any government agency are limited to purchasing no more than two additional annual affixed vehicle passes at a reduced fee per each annual affixed vehicle pass purchased at the full fee. For the purpose of this regulation, "household" is defined as persons living at the same address. "Owner" is defined as the person whose name appears on the registration of both the original vehicle for which an annual affixed pass was purchased and the additional vehicle, or a person who can provide proof of ownership of the original and the additional vehicle at a designated Division office.

7. If the motor vehicle for which an annual affixed vehicle pass, additional affixed vehicle pass, or Aspen Leaf annual pass was issued is sold or traded, or if the pass is lost or destroyed during the period in which it is valid, the person to whom the pass was issued may obtain a duplicate thereof, upon signing an affidavit reciting where and by whom it was issued and the circumstances under which it was lost or traded. Customers who provide proof of necessary replacement shall be issued a replacement annual affixed vehicle pass, additional affixed vehicle pass, or Aspen Leaf annual pass for the remainder of the period that the lost or destroyed pass would have been valid at no cost. Customers without proof of necessary replacement shall be provided a replacement annual affixed vehicle pass, additional affixed vehicle pass, or Aspen Leaf annual pass effective for the remainder of the period that the lost or destroyed pass would have been valid upon payment of a fee pursuant to regulation #708.1.e..

8. If a state parks annual transferable pass is lost or destroyed during the period for which it is valid, the person whom the pass was issued may obtain a duplicate thereof, upon signing an affidavit where and by whom it was issued and the circumstances under which it was lost or destroyed.

Upon payment of a fee of $60.00, a new pass effective for the remainder of the period the lost or destroyed pass would have been valid may be issued only by the Division to the original owner of such pass. Only one duplicate state parks annual transferable pass will be issued per period for which the original pass was valid.

9. A daily park pass, valid for one day only, shall authorize entrance by motor vehicle to the state recreation areas and state parks by the user and all passengers in the motor vehicle to which the pass is affixed during the day used and until 12:00 P.M. (noon) the following day.

10. A no fee pass shall be issued to any vehicle towed or carried in by a motor home if a camping permit or proof of a campsite reservation is presented at an attended visitor center, office or entrance station. The no fee pass, valid for the same time period as the camping permit or camping reservation, shall authorize entrance by motor vehicle to the state recreation areas and state parks by the user and all passengers in the motor vehicle to which the pass is affixed. For the purpose of this regulation, motor home means a vehicle designed to provide temporary living quarters and which is built into, as an integral part of or a permanent attachment to, a motor vehicle chassis or van.

INDIVIDUAL PASSES

 # 701 - INDIVIDUAL PASSES

1. Individuals entering state recreation areas and state parks by means other than a motor vehicle, such as on foot, bicycle, horseback, etc., may enter without purchasing a parks pass, except as otherwise required by these regulations. No individual pass shall be required under the circumstances identified in regulation # 700-2.a. through # 700-2.e. and # 700-2.g. through # 700-2.l.

2. A Columbine, Centennial, Blue Spruce, Independence, Volunteer or Military Pass is issued to an individual person and not a specific vehicle. These shall authorize entrance by motor vehicle, when and where motor vehicle access is permitted, to all state recreation areas and state parks or for other forms of individual access, when in possession of the pass holder. Such authorization shall apply to the holder of the pass and all the passengers in, and the driver of, the motor vehicle carrying the holder of such pass. The pass must be continuously displayed in the manner described on the pass. A Columbine, Centennial, Blue Spruce, Independence, Volunteer or Military Pass is transferable from motor vehicle to motor vehicle as long as the pass holder is present in the vehicle.

3. Any resident of the state who is a first responder with a permanent occupational disability as defined in state statute 33-4-104.5 (2) may obtain, free of charge, a Blue Spruce annual pass, also known as a Columbine annual pass for first responders pursuant to 33-12-103.5 (2.5), C.R.S. The pass will only remain valid as long as the individual maintains their Colorado residency as defined in 33-1-102 (38) (a), C.R.S.

    a. In order to qualify for a Blue Spruce annual parks pass, a resident must provide the following written proof to the Division:

        (1) The “Initial Disability Administration Decision” form from the Fire and Police Pension Association that specifies a permanent occupational disability; or

        (2) For residents that are not members of the Fire and Police Pension Association, a fully completed Division “First Responder Affidavit” signed by the applicant attesting to the fact that their permanent disability or disease was obtained while on active-duty.

4. A resident who is a disabled veteran or a resident who is a purple heart recipient may obtain an Independence annual parks pass pursuant to 33-12-106 (1) (b), C.R.S and 33-12-106 (1) (c), C.R.S. An Independence annual parks pass shall be issued following the Division's receipt of a completed application from a qualified resident of the state. The pass will only remain valid as long as the individual maintains their Colorado residency as defined in 33-10-102 (21), C.R.S.

   a. In order to qualify for an Independence annual parks pass, a resident must provide the following written proof to the Division:

      (1) DD 214 Form or other documentation indicating the veteran received an Honorable Discharge from a branch of the Armed Services of the United States, **AND**

      (2) A qualification letter, on official stationary/letterhead, from the Veteran's Administration, Department of Veteran's Affairs, or the branch of service from which the veteran is receiving compensation, that states one of the following:

         a. 50% or greater, service-connected permanent disability;

         b. Loss of use of one or both feet;

         c. Loss of use of one or both hands; or a

         d. Loss of vision in both eyes, **OR**

      (3) A DD 214 Form indicating the applicant has been awarded a purple heart, or a letter of verification from the appropriate branch of the armed forces of the United States that the applicant has been awarded a purple heart.

5. A disabled resident may obtain a Columbine annual pass pursuant to 33-12-103.5, C.R.S. A resident who qualifies for a Centennial annual pass may obtain such pass as provided for in this regulation. A Columbine or a Centennial annual parks pass shall be issued following the Division's receipt of a completed application from a qualified resident of the state and the payment of the necessary fee. The pass will only remain valid as long as the individual maintains their Colorado residency as defined in 33-10-102 (21), C.R.S.

   a. In order to qualify for a Columbine annual parks pass, a resident must provide the following written proof to the Division:

      (1) A "Final Admission of Liability" form from the Division of Workers Compensation that indicates a total and permanent disability; or

      (2) A fully completed Division "Physician's Affidavit" signed by a licensed physician attesting that the resident meets the definition of a total and permanent disability. A **"total and permanent disability"** shall mean any physical or mental impairment which prevents substantial gainful employment, but only if it is reasonably certain that such a disability will continue throughout the lifetime of the disabled person.

   b. In order to qualify for a Centennial annual parks pass, a resident must show a photo identification card and provide written proof, in the form of a federal or state income tax return from the immediately preceding calendar year, that the federal taxable income of such individual is at or below the threshold amount, based on the number of dependents,

for a state parks Centennial annual pass. The pass will only remain valid as long as the individual maintains their Colorado residency as defined in 33-10-102 (21), C.R.S.

The federal taxable income amounts, based on the number of dependents, cannot be greater than those listed in the poverty guidelines set forth in the Annual Update of the HHS Poverty Guidelines, 86 Fed. Reg. 7732-01 (February 1, 2021) issued by the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Room 422F.5, Humphrey Building, Department of Health and Human Services, Washington, DC 20201. This federal guideline, but not later amendments to or editions thereof, has been incorporated by reference. Information regarding how and where the incorporated materials may be examined, or copies obtained, is available from:

Regulations Manager
Policy and Planning Unit
Colorado Division of Parks and Wildlife
6060 Broadway
Denver, Colorado 80216

If the individual's income is at a level where he or she was not required to file a federal income tax return for the immediately preceding calendar year, such individual shall sign a statement under penalty of perjury in the second degree to such effect. No such affidavit shall be required to be notarized.

c. The Columbine, Centennial, Independence, and Blue Spruce annual parks pass application shall be on a form provided by the Division. Blank applications shall be available, during regular business hours, at the Divisions' regional offices, Denver offices, and service centers.

d. Individuals applying to the Division for a Columbine, Centennial, Independence, or Blue Spruce annual parks pass must provide the following information:

(1) Full name and address, including city, county, state and zip code; and

(2) Phone number, unless the phone number is unlisted or non-published; and

(3) Date of birth and age; and

(4) Physical description, including sex, height, weight, hair and eye color; and

(5) Applicant's signature and date of application; and

(6) If applying for a Columbine annual parks, information concerning the nature of the applicant's disability, together with supporting evidence of the same.

(7) If applying for a Centennial annual parks pass, information concerning the applicant's total annual income and number of dependents, together with supporting evidence of the same.

(8) If applying for a Blue Spruce annual parks pass, information concerning the applicant's first responder service and disability, together with supporting evidence of the same.

(9) If applying for an Independence annual parks pass, required documentation supporting veteran's status and disability qualifications or verification that the applicant has been awarded a purple heart.

e. The Columbine, Centennial, Independence, and Blue Spruce annual parks pass application form shall contain language explaining that the completed and signed application, once submitted to the Division, will be treated in all respects as a sworn statement. The form shall also contain an oath that includes an affirmation attesting to the truth of that which is stated, the applicant is aware that statements made are intended to be represented as true and correct statements, and that false statements are punishable by law.

f. At the time that an application for a Columbine or a Centennial annual parks pass is submitted to the Division, the appropriate fee shall also be paid.

g. Pending the issuance of a Columbine, Centennial, Independence, or Blue Spruce annual parks pass, possession on the applicant of a bona fide copy of the application permits the applicant and others in the motor vehicle carrying the applicant entrance by motor vehicle to all state parks and state recreation areas, when and where motor vehicle access is permitted, for a period of thirty days following the date of filing the application with the Division or until receipt of notice from the Division either granting or denying the application request, whichever period of time is shorter.

h. Within 15 days of the Division's receipt of a completed Columbine or Centennial annual parks pass application and the appropriate fee payment, or Blue Spruce or Independence annual parks pass application, the Division shall review and approve or deny the application.

(1) Completed applications shall be approved if the minimum qualifications set forth in this regulation are met.

(2) Conversely, if the minimum qualifications are not met, then the application shall be denied. The applicant shall be notified in writing within five working days upon denial of a request. Such written notification shall include an explanation of the basis for denial and a refund of any fee paid.

(3) The applicant may appeal this decision to the Division Director by notifying the Director in writing within sixty days of the Division's mailing of the denial notice. A faster appeal will be necessary when the calendar year will end prior to the expiration of the sixty-day appeal period.

(4) The address utilized by the Division for all mailings associated with the processing of a Columbine, Centennial, Independence, or Blue Spruce annual parks pass application shall be the address indicated on the application.

i. If a Columbine, Centennial, Independence, or Blue Spruce annual pass is lost or destroyed during the period of time that it would otherwise would have been valid, the person to whom the pass was issued may obtain a duplicate thereof, free of charge, upon signing an affidavit reciting where and by whom it was issued and circumstances under which it was lost.

6. The receipt for the annual affixed vehicle pass or state parks annual transferable pass shall be used as an individual annual pass for visitors entering the Arkansas Headwaters Recreation Area, Barr Lake, Castlewood Canyon, Crawford, Colorado State Forest, Eldorado Canyon, Eleven Mile,

Elkhead Reservoir, Fishers Peak, Golden Gate Canyon, Harvey Gap, Highline Lake, Jackson Lake, James M. Robb - Colorado River, John Martin Reservoir, Lathrop, Lory, Mancos, Mueller, Navajo, North Sterling, Paonia, Pearl Lake, Ridgway, Rifle Gap, Rifle Falls, Roxborough, Spinney Mountain, St. Vrain, Stagecoach, Staunton, Steamboat Lake, Sweitzer Lake, Sylvan Lake, Trinidad Lake, Vega and Yampa River State Parks.

7. Individual daily pass fees are as follows:

   a. A fee of $4.00 per person for any person of the age of sixteen or more years shall be charged for a daily pass for all visitors entering Barr Lake, Castlewood Canyon, Crawford, Colorado State Forest, Eldorado Canyon, Eleven Mile, Elkhead Reservoir, Fishers Peak, Golden Gate Canyon, Harvey Gap, Highline Lake, Jackson Lake, James M. Robb - Colorado River, John Martin Reservoir, Lathrop, Lory, Mancos, Mueller, Navajo, North Sterling, Paonia, Pearl Lake, Ridgway, Rifle Gap, Rifle Falls, Roxborough, Spinney Mountain, St. Vrain, Stagecoach, Staunton, Steamboat Lake, Sweitzer Lake, Sylvan Lake, Trinidad Lake, Vega and Yampa River State Parks, except those entering the park in a motor vehicle with a valid and applicable parks pass or those entering the park with a valid and applicable annual parks pass receipt.

   b. A fee of $4.00 per person for any person of the age of sixteen or more years shall be charged for a daily pass for all visitors entering the developed and posted fee sites of Arkansas Headwaters Recreation Area, except those entering the park in a motor vehicle with a valid and applicable parks pass or those entering the park with a valid and applicable annual parks pass receipt.

8. Volunteers for Colorado Parks and Wildlife are eligible for a volunteer park pass while serving in accordance with a signed individual volunteer agreement and after donating a minimum of 48 hours of approved volunteer service within a previous consecutive 12-month period.

   a. The volunteer park pass is valid for one year from the date of issue.

9. Volunteers for Colorado Parks and Wildlife who are 64 years of age or older, regardless of their state of residence, are eligible for the senior volunteer park pass while serving in accordance with a signed individual volunteer agreement and after donating a minimum of 48 hours of approved volunteer service within a previous consecutive 12-month period.

   a. The senior volunteer park pass is valid for one year from the date of issue.

10. A veteran is eligible for a no fee individual military pass during the month of August.

    a. In order to qualify for the no fee individual military pass, a veteran, reserve, or active duty member of any branch of the armed forces of the United States, must provide at least one form of past or present military identification to the Division in order to receive the free Military pass. Acceptable forms of military identification include:

       (1) DD214;

       (2) DD Form 2;

       (3) DD Form 2765;

       (4) Active, retired or veteran military identification cards;

(5) A current Colorado Driver's License or state issued identification card with the word 'Veteran' printed on it as specified in 42-2-303 (5)(a), C.R.S.;

(6) VA medical card.

11. A no-fee individual "Check Out State Parks" Library Program Pass is available for check out from Colorado libraries.

 # 702 - COMMISSION AUTHORITY

1. The Commission may waive the requirement for a park pass, or it may close any state park or state recreation area, or portions thereof, whenever it finds the action necessary to protect and promote the health, safety and general welfare of the people of this state.

2. "Pass" as used in these regulations means a physical or electronic document or product provided for by statute, Commission rule or regulation and issued or required by the Division authorizing entrance to any state park or state recreation area.

SPECIAL ACTIVITIES

 # 703 - SPECIAL ACTIVITIES REQUIRING PERMITS

1. "Special activities" means events or activities which have the potential for an adverse impact on park values or health, safety or welfare of park visitors or which may otherwise require special planning/scheduling for proper management. Special activities shall require prior approval in the form of a special-activities permit. Applications thereof generally shall be made to the Park Manager or Operational Manager at least ninety (90) days prior to the event or activity. Such application must be accompanied by the appropriate application filing fee. This requirement for an application to be filed ninety days prior to an event will be waived in rare circumstances where arrangements can be made in a shorter time without putting undue administrative burden on the Park Manager or Operational Manager, or when no special arrangements are necessary. The Park Manager may impose additional items, conditions and charges in connection with the permit as reasonably necessary to offset the administrative burden, costs or risks associated with the proposed activities. The Park Manager may retain third party consultants to evaluate the potential adverse impacts of the proposed activity and develop appropriate strategies to offset or mitigate such risks. The applicant shall be notified if the Park Manager decides to retain a consultant, shall be given the opportunity to provide input concerning consultant selection and scope of work. The applicant shall be responsible for the actual costs associated with this consultant review.

2. The decision of whether to approve special activity permits will be made by the Park Manager or Operational Manager when it is determined that the special activities will not involve the use of a park or recreation area by a group of persons totaling more than the park or recreation area's established carrying capacity. Otherwise, the Regional Manager shall make the decision of whether to approve the permits. The decision of whether to approve special activities permits will be based on the impact on park values and/or the health, safety and welfare of park visitors and other affected persons, and also will be based on:

   a. The nature of the park or recreation area and the types of recreational opportunities/resources it is intended to provide the public

   b. The carrying capacity of the facility or facilities to be utilized during the special activity compared to:

(1) The total number of park visitors (including participants and spectators in the special activity) expected to utilize such facilities; and

(2) The total number of vehicles, vessels or persons expected to participate in or be attracted to such activities.

c. The extent to which the special activity will contribute to the variety of outdoor recreational opportunities available to the people of this state and its visitors.

d. The extent to which the activity places an administrative burden on the staff of the park area.

3. Whenever it is determined that any special activity will involve the use of a park or recreation area by a group of persons totaling more than the park's or recreation area's established carrying capacity a thirty day written public comment period and a public meeting shall be required prior to the granting of a permit. The Park Manager or Operational Manager shall publish notice of both the written comment period and the meeting at least once in a newspaper of general circulation in the county or counties wherein said park or recreation area is located. The meeting shall be conducted by the Division representative responsible for the permit issuance decision and shall be held either at the park or recreation area, or within a county in which the park or recreation area is located. Such public meeting is not intended to be an adjudicatory licensing hearing under the provisions of the Colorado Administrative Procedures Act, but only as an opportunity for public comment.

4. Every decision respecting the grant, denial, revocation, suspension, annulment, limitation or modification of a special activity permit is subject to § 24-4-104, C.R.S.

5. Upon written request, the Division shall waive the requirement for a parks pass for those vehicles when all the occupants are entering state recreation areas and state parks for the purpose of administering permitted special activities and not for the purpose of their own recreation.

6. For special activities where the Division representative responsible for the permit issuance decision determines it will be a greater administrative ease for the Division to administer the activity, an alternative fee of $4.00 per person per day may be charged for admission of persons attending or participating in the special activity. This permission shall apply only to groups of twenty or more persons.

7. Nothing in this regulation impairs the specific authority of the Commission pursuant to 33-10-107(1)(d) C.R.S. to enter into cooperative agreements for the development and promotion of Division programs, or the general authority of the Commission pursuant to 33-10-106 C.R.S. to manage all state recreation areas and state parks for both commercial and noncommercial purposes. The authority granted to park managers and regional managers is intended to allow them to address events of limited and local impact, and is specifically intended to coexist with, and not to exclude, the Commission’s statutory authorities.

CAMPGROUND USE PERMITS

 # 704 - CAMPGROUND USE PERMITS AND GROUP CAMPGROUND USE PERMITS

1 No person shall camp in designated campgrounds or use any campground facilities of any park or recreation area unless such use is by authority of a valid campground-use permit issued by the Colorado Parks and Wildlife.

2. In order to obtain a campground-use permit, a member of the camping party must be present with the camping unit, ready to make immediate occupancy of the campsite, or a reservation must be made through the approved campsite reservation system. Except as follows, no person may reserve or hold a campsite for another party by purchasing a campground-use permit for an additional site:

    a. A primary occupant must be identified for each campsite reserved. The primary occupant identified at the time of making the reservation is responsible for any fees, damages or law enforcement issues that arise from the occupants of the site.

    b. If an individual or organization wishes to reserve a campsite or group of campsites without identifying a primary occupant, the individual making the reservation is the responsible party for any damages or law enforcement issues that arise from the occupants of the site or sites.

3. Possession of a valid campground-use permit visibly displayed at a place provided at each campsite shall authorize a single camping unit (tent, camper, etc.) occupied by a single family unit, or a maximum of six (6) persons to camp in a campsite for a single night until 12:00 P.M. (noon) the following day, unless the camping permit was purchased before 5:00 A.M., in which case it expires at noon the day of purchase. No person shall remove a valid campground-use permit or reservation card from the place provided for display prior to the expiration of such permit or card and/or occupy any campsite displaying such a permit or card or otherwise posted as already occupied by another party in accordance with these regulations.

4. A valid vehicle or individual pass, as required by regulations # 700 and # 701 respectively, shall be required for each motor vehicle for each night of camping.

5. Definitions as used in these regulations, unless the context requires otherwise:

    a. “Full-Hookup Campground” means those with highly developed facilities. Individual campsites will be designated and include a high-use pad with table, grill and/or fire ring and individual pressurized water, sewer and/or electrical connections. Flush toilets, lavatory and shower facilities, and trash receptacles will be available. Grocery store, food-service facilities, sanitary dump station, laundry facilities, or other developed amenities may be available.

    b. “Electrical Campground” means those with fairly developed facilities. Individual campsites will be designated and include a high-use pad, picnic table, grill and/or fire ring and individual electrical connections.

    c. “Tent-Only Campground” means those allowing only tents as the camping equipment. Individual campsites may have amenities similar to “Electrical Campgrounds” or “Basic Campgrounds” depending on the facility.

    d. “Basic Campground” includes those campgrounds providing basic facilities and improvements. Individual campsites shall be designated and include a table, grill and/or fire ring.

    e. “Primitive Campground” includes those campgrounds where only limited facilities or improvements are provided. Individual campsites may not be designated and may not include individual tables, grills or fire rings. Centrally located vault toilets and trash receptacles may be provided; however, drinking water generally will not be available.

    f. “Camping/To Camp” means either:

(1) To occupy a campsite; or

(2) To erect or use a tent or shelter of natural or man-made material, the placing or use of a sleeping bag or other bedding material, the parking of a motor vehicle, motor home, travel trailer, or any combination for the apparent purpose of occupancy overnight or use outside regular park use hours (5:00 A.M. to 10:00 P.M.) or as posted.

g. "Camping Unit" is defined as one of the following:

(1) Two tents and a passenger vehicle; or

(2) One tent plus one motor home (Class A, B, C), motor vehicle, vehicle, trailer, slide-in truck camper, pop-up camper/trailer, boat, or other equipment of any description manufactured and/or used for the purposes of overnight occupancy.

(3) A camping unit may include additional tents only in a campsite with a tent pad; provided the tents are contained on the pad and other camping unit and camping group limits are observed.

(4) One passenger vehicle in addition to the above descriptions is authorized only if available parking space exists.

h. "Passenger Vehicle" means a motor vehicle not designed or used for overnight occupancy.

 # 705 - ASPEN LEAF ANNUAL PASSHOLDERS

1. A resident of this state who is sixty-four years of age or older may obtain an Aspen Leaf annual pass. The fee for an Aspen Leaf annual pass is identified in regulation #708.

2. The Aspen Leaf annual pass holder must own in whole or in part any vehicle with a Colorado vehicle registration to which the Aspen Leaf annual pass is affixed and used to enter a state recreation area or state park area. Additional passes may be purchased pursuant to regulation #708(1)(d)(1).

3. Current Aspen Leaf Lifetime pass holders may obtain an annual Aspen Leaf Lifetime free pass for a single vehicle the holder owns in whole or in part for the lifetime of the pass holder and provided the pass holder is a resident of Colorado. The annual Aspen Leaf Lifetime Free Pass shall be affixed to such vehicle owned by the pass holder. Additional passes may be purchased pursuant to regulation #708(1)(d)(1).

 # 706 - GROUP PICNIC AREA PERMITS

1. No person shall use any facility or group picnic area unless such use is by authority of a valid permit issued by the Division.

2. Definitions as used in these regulations, unless the context requires otherwise:

a. "Class A – Deluxe Group Picnic Area" means those with highly developed facilities. The picnic area will be designated and include a covered shelter, picnic tables, a grill, and electrical connections. Restroom facilities, trash receptacles, water and lighting will be available.

b. “Class B – Improved Group Picnic Area” means those with fairly developed facilities. The picnic area will be designated and include picnic tables and a grill. Trash receptacles and water will be available.

c. “Class C – Basic Group Picnic Area” means those providing basic facilities. The picnic area will be designated and include picnic tables and a grill. Sanitary facilities shall generally consist of vault-type toilets.

 # 707 – CAMPGROUND AND DAY-USE RESERVATION CANCELLATION, AND CHANGE FEES

1. The fees for cancelling a reservation for a campground site, group campground site, group picnic area, and event facility are as follows:

   a. If the cancellation is made seven days before the arrival date through the arrival date, 100% of the fee for one night or day-use permit will be retained.

   b. If the cancellation is made 28 days before the arrival date through 8 days before the arrival date, 50% of the fee for one night or day-use permit will be retained.

   c. If the cancellation is made more than 28 days before the arrival date, 25% of the fee for one night or day-use permit will be retained.

   d. If the cancellation is made between the day after the arrival date and the departure date, the fees for any nights or days passed will be retained.

   e. Cancellation fees are non-refundable, except in the case of a bona fide emergency or in the case of Division error.

2. The fees for changing the reservation dates (arrival date and/or departure date) for a campground site, group campground site, group picnic area, and event facility are as follows, except there shall be no additional fee to change the departure date if the reservation is extended beyond the original departure date:

   a. If the change in the reservation dates is made seven days before the arrival date through the arrival date, 20% of the fee for one night or day-use permit will be retained.

   b. If the change in the reservation dates is made 28 days before the arrival date through 8 days before the arrival date, 15% of the fee for one night or day-use permit will be retained.

   c. If the change in the reservation dates is made more than 28 days before the arrival date, 10% of the fee for one night or day-use permit will be retained.

   d. If the change in the reservation dates is made between the day after the arrival date and the departure date, the fees for any nights or days passed will be retained.

   e. Reservation change fees are non-refundable, except in the case of Division error.

3. There shall be no additional change fee for changing the site of a reservation at a campground, group campground, group picnic area, and event facility if the reservation dates remain the same or are further extended. If a customer changes the site of their reservation, they shall be charged or refunded the difference in the price for the site type only, if applicable.

4. If a customer fails to occupy the site of their reservation during the selected dates or fails to contact the park, recreation area or vendor to inform them that they will not occupy the site of their reservation during the selected dates, the fees for any nights or days passed will be retained and the customer will be ineligible for a refund for those nights or days passed.

5. If a customer makes a reservation for a campground site, group campground site, group picnic area, or event facility where one or more dates of the stay are more than six months from the reservation date, the reservation will be frozen to changes or cancellations for 14 days immediately following the date the reservation was created.

 # 708 - PASS AND PERMIT FEE SCHEDULE

1. The fees for the types of vehicle passes issued by the Division are as follows.

   a. Aspen leaf annual pass.....$70.00

   b. Annual affixed vehicle pass.....$80.00

   c. State parks annual transferable pass ……$120.00

   d. Each additional annual affixed vehicle pass for noncommercial vehicles……...$40.00

      (1) Each additional Aspen Leaf vehicle pass for noncommercial vehicles.……$35.00

   e. Each replacement annual affixed vehicle pass, without proof of necessary replacement ……..$40.00

      (1) Each replacement additional annual affixed vehicle pass, without proof of necessary replacement ……..…….....$20.00

      (2) Each replacement Aspen Leaf vehicle pass, without proof of necessary replacement ……..…….....$35.00

      (3) Customers with proof of necessary replacement shall be issued a replacement annual affixed vehicle pass, additional annual affixed vehicle pass, or Aspen Leaf vehicle pass at no cost. Circumstances for necessary replacement include vehicle stolen, destroyed, traded, or sold; windshield replaced; pass damaged or faded; new legal name or address; or Division error. Other circumstances will be considered by the Division on a case-by-case basis.

   f. Each replacement state parks annual transferable vehicle pass ……..$60.00

   g. Each daily vehicle pass (exceptions follow)…….$9.00

      (1) At Cherry Creek, Chatfield, and Boyd Lake State Recreation Areas, and Castlewood Canyon, Eldorado Canyon, Golden Gate Canyon, Highline Lake, Lake Pueblo, Roxborough and Staunton State Parks.....$10.00

   h. Each daily vehicle pass for a passenger van or bus operated by a commercial business:

      (1) carrying up to fifteen passengers…….....$10.00

      (2) carrying sixteen to thirty passengers…….....$40.00

(3) carrying more than thirty passengers……..…….....$50.00

2. The fees for the types of individual passes issued by the Division are as follows. Eligibility requirements are stated in regulation # 701.

   a. Columbine or Centennial annual pass……..$14.00

   b. Each replacement Columbine or Centennial annual pass shall be provided at no cost.

   c. Individual daily passes (applies to persons sixteen years of age or older) for Barr Lake, Castlewood Canyon, Crawford, Colorado State Forest, Eldorado Canyon, Eleven Mile, Elkhead Reservoir, Fishers Peak, Golden Gate Canyon, Harvey Gap, Highline Lake, Jackson Lake, James M. Robb - Colorado River, John Martin Reservoir, Lathrop, Lory, Mancos, Mueller, Navajo, North Sterling, Paonia, Pearl Lake, Rifle Gap, Rifle Falls, Roxborough, Spinney Mountain, St Vrain, Stagecoach, Staunton, Steamboat Lake, Sweitzer Lake, Sylvan Lake, Trinidad Lake, Vega and Yampa River State Parks and Arkansas Headwaters Recreation Area.....$4.00

3. The fees associated with special activities, as provided for in regulation # 703 are:

   a. Special activity alternate individual fee (applies to groups of twenty or more people in size).....$4.00

   b. Special activity application filing fee.....$30.00

   c. Arkansas Headwaters Recreation Area special activity application filing fees:

      1. Standard…….$30.00

      2. Commercial boating……..$400.00

      3. Other commercial activities, such as walk and wade fishing, shuttle services, imaging, vendor services, hiking, mountain biking and rock climbing……..$250.00

4. The fees for the type of campground-use permits issued by the Division are as follows. Campground classes are defined in regulation # 704. These fees do not include any applicable accommodations tax.

   a. Campground-use permit for "Full Hookup Campgrounds" ……..…….$41.00/night

   b. Campground-use permit for "Electrical Campgrounds" ……..$36.00/night

   c. Campground-use permit for “Tent-Only Campgrounds”……..$36.00/night

   d. Campground-use permit for "Basic Campgrounds" ……..…….$28.00/night

   e. Campground-use permit for "Primitive Campgrounds" ……..…….$18.00/night

5. The fees for reduced rate Aspen Leaf and senior Columbine, Centennial, Independence, Blue Spruce or Volunteer park pass campground-use permits issued by the Division are as follows. Eligibility requirements are stated in regulation # 701, # 705 and # 712. Reduced rates are offered all days of the year when the campground is open, except weekends and holidays. These fees do not include any applicable accommodations tax.

a. Campground-use permit for "Full Hookup Campgrounds" ……..…….$38.00/night

b. Campground-use permit for "Electrical Campgrounds" ……..……..$33.00/night

c. Campground-use permit for “Tent-Only Campgrounds”……..$36.00/night

d. Campground-use permit for "Basic Campgrounds" ……...….$25.00/night

e. Campground-use permit for "Primitive Campgrounds" ……..…….$15.00/night

6. The fees for types of campground-use areas are as follows. Campground classes are defined in regulation # 704. These fees do not include any applicable accommodations tax.

a. In group camp areas of “Full Hookup Campgrounds,” the fee shall be $41.00 per night per campsite assigned to such group area.

b. In group camp areas of “Electrical Campgrounds,” the fee shall be $36.00 per night per campsite assigned to such group area.

c. In group camp areas of Tent-Only Campgrounds,” the fee shall be $36.00 per night per campsite assigned to such group area.

d. In group camp areas of “Basic Campgrounds,” the fee shall be $28.00 per night per campsite assigned to such group area.

e. In group camp areas of “Primitive Campgrounds,” the fee shall be $18.00 per night per campsite assigned to such group area.

7. The fees for types of tipis, cabins and yurts are as follows. These fees do not include any applicable accommodations tax:

a. For tipis.....$50.00/night

b. For small cabins and yurts that may accommodate a maximum of six people:

(1) Standard……..…….$90.00/night

(2) Premium……..……..……$120.00/night

c. For large cabins and yurts that may accommodate seven or more people:

(1) Standard……..…….....$120.00/night

(2) Premium two bedroom.....$150.00/night

(3) Premium three bedroom…….....$190.00/night

(4) Premium four bedroom…….$250.00/night

(5) Each additional premium bedroom over four bedrooms……..$60.00/night

d. For Mueller State Park Cabins and Harmsen Ranch at Golden Gate Canyon State Park:

(1) Premium two bedroom……$150.00/night

(2) Premium three bedroom……$210.00/night

(3) Premium four bedroom……..$270.00/night

e. The maximum occupancy shall be posted in each cabin and yurt.

f. There shall be an additional fee of $10.00/night for pets where pets are allowed. For barn and corral facilities, there shall be a boarding fee of $10.00/animal/night.

g. Premium facilities contain showers and flush toilets.

8. The group picnic area permit fees for the permits issued by the Division are as follows. Group picnic area classes are defined in regulation # 706.

a. Permit for “Class A - Deluxe Group Picnic Area” ……$150.00

b. Permit for “Class B - Improved Group Picnic Area” ……$100.00

c. Permit for “Class C - Basic Group Picnic Area” ……...$50.00

9. Event facility permit fees are as follows.

a. For Bridge Canyon Overlook and Pikes Peak Amphitheater at Castlewood Canyon State Park, Prairie Falcon Amphitheater at Cheyenne Mountain State Park, Panorama Point at Golden Gate Canyon State Park, Soldier Canyon Shelter at Lory State Park, and Lyons Overlook at Roxborough State Park:

(1) Monday through Friday……$150.00/2 HOURS

(2) Saturday and Sunday……$300.00/2 HOURS

b. For event facilities numbers 1 and 3 at Castlewood Canyon State Park and Timber Event Facility at Lory State Park:

(1) Monday through Friday……..$100.00

(2) Saturday and Sunday……..$150.00

c. For event facility number 2 at Castlewood Canyon State Park, Fountain Valley Overlook at Roxborough State Park and South Eltuck Event Facility at Lory State Park:

(1) Monday through Friday……..$75.00

(2) Saturday and Sunday……...$125.00

d. For the Red Barn at Golden Gate Canyon State Park:

(1) Monday through Friday……$150.00

(2) Saturday and Sunday……..$200.00

e. For Mariner Point at Boyd Lake State Park:

(1) Monday through Friday……..$90.00

(2) Saturday, Sunday, and holidays…….$180.00

f. For Prairie Skipper event facility at Cheyenne Mountain State Park:

(1) Monday through Friday ……$150.00/DAY

(2) Saturday and Sunday…….$200.00/DAY

g. For PA-CO-CHU-PUK event facilities at Ridgway State Park:

(1) Single event shelter A or B:

(a) Monday through Thursday……$125.00 plus $10 non-refundable reservation fee/DAY

(b) Friday through Sunday and holidays ….$190.00 plus $10 non-refundable reservation fee/DAY

h. For Overlook event facility at Ridgway State Park:

(1) Monday through Thursday…….$190 plus $10 non-refundable reservation fee/ 4 HOURS

(2) Friday through Sunday and holidays….$240 plus $10 non-refundable reservation fee/ 4 HOURS

i. Conference and/or meeting rooms……...……...$100.00/DAY

j. The maximum occupancy and hours of operation shall be posted at each event facility.

10. The fees associated with dog off leash areas at Chatfield State Park and Cherry Creek State Park, as provided for in regulation # 100 are:

a. Dog off-leash annual pass……..$25.00

b. Dog off-leash daily pass……...$3.00

11. The fee associated with the mandatory youth education course for motorboat operators…$15.00

12. The fees associated with the Cheyenne Mountain State Park Field/3D Archery Range are as follows:

a. Daily individual archery range permit……$3.00

b. Annual individual archery range permit……$30.00

13. The fees associated with the Cameo Shooting and Education Complex are as follows:

a. Individual passes:

(1) Individual day use pass (single day) ……$12.00

(2) Individual day use pass (5 consecutive days) ……..$48.00

(3) Individual day use pass (10 consecutive days) ..……..$84.00

(4) Individual annual pass ……$150.00

(5) Individual three-year pass ……..$400.00

b. Youth (ages 7-17) individual passes:

(1) Youth individual day use pass (single day) ……$3.00

(2) Youth individual day use pass (5 consecutive days) …….. $12.00

(3) Youth individual day use pass (10 consecutive days)..……$21.00

(4) Youth individual annual pass …….. $50.00

c. Two adult (Buddy) passes:

(1) Two adult day use passes (single day) ……..$20.00

(2) Two adult day use passes (5 consecutive days) ……..…$80.00

(3) Two adult day use passes (10 consecutive days) ……..$140.00

(4) Both adult passes must be used on the same day(s).

d. Family passes (Two adults and all children (ages 7-17) that live at the same address):

(1) Family annual pass ……$300.00

(2) Family three-year pass ……..$600.00

e. Group day use passes:

(1) Day use passes for 10 to 19 individuals ……$9.00/person

(2) Day use passes for 20 to 29 individuals ……$7.00/person

(3) Day use passes for 30 or more individuals ……...$3.00/person

f. Corporate passes:

(1) Annual corporate pass (10 unassigned passes per day) ...$3,000.00

g. All annual passes for the Cameo Shooting and Education Complex are valid 365 days from the date of purchase.

14. It is unlawful for any person to transfer, sell, or assign any pass or permit issued by the Division, including special activity permits, campground use permits, and group picnic area permits, unless otherwise permitted by these regulations.

 # 709 - REGISTRATION FEE SCHEDULE

1. The fees for types of vessel registrations issued by the Division are as follows:

    a. Vessel registration (including annual resident registration and each rental vessel registration):

        (1) For vessels less than twenty feet in length……..$35.00

        (2) For vessels twenty feet to less than thirty feet in length…….$45.00

        (3) For vessels thirty feet or more in length…….$75.00

            (a) Dealer registration for all vessels owned by a dealer which are operated for research, testing, experimentation, or demonstration purposes only:

                (i) When the dealer sells twenty-five or fewer vessels within the preceding year…….$45.00

                (ii) When the dealer sells more than twenty-five vessels within the preceding year…….$75.00

            (b) Manufacturer registration for all vessels owned by a manufacturer which are operated for demonstration or testing purposes only.....$25.00

            (c) Nonresident annual vessel registration for a person from a state or country where registration is not permitted.....$50.00

2. The fees for the types of snowmobile registrations issued by the Division are as follows:

    a. Snowmobile registration (including annual resident registration and each rental snowmobile).....$30.00

    b. Dealer registration for all snowmobiles owned by a snowmobile dealer which are operated for demonstration or testing purposes only:

        (1) When the dealer sells twenty-five or fewer snowmobiles within the preceding year.....$35.00

        (2) When the dealer sells more than twenty-five snowmobiles within the preceding year.....$60.00

    c. Manufacturer registration for all snowmobiles owned by a manufacturer which are operated for research, testing, experimentation or demonstration purposes only.....$35.00

    d. Nonresident annual snowmobile permit…….$30.00

3. The fees for the types of off-highway vehicle registrations issued by the Division are as follows:

    a. Off-highway vehicle registration and nonresident off-highway vehicle permit.....$25.00

    b. Dealer registration for all off-highway vehicles owned by an off-highway vehicle dealer and operated for demonstration or testing purposes only:

(1) When the dealer sells twenty-five or less off-highway vehicles within the preceding year.....$35.00

(2) When the dealer sells more than twenty-five off- highway vehicles within the preceding year.....$60.00

c. Manufacturer registration for off-highway vehicles owned by a manufacturer which are operated solely for research, testing, experimentation, or demonstration purposes..... $35.00

d. Registration for off-highway vehicles owned by a lessor for rental purposes only:

(1) When the lessor owns ten or less off-highway vehicles within the preceding year.....$35.00

(2) When the lessor owns more than ten off-highway vehicles within the preceding year.....$60.00

4. A duplicate vessel, snowmobile, or off-highway vehicle registration.....$5.00

 # 710 - Lone Mesa State Park Hunting Special Use Permit

1. Purpose: This hunting management plan is designed to establish administration of hunting activities on Lone Mesa State Park.

2. Special Use Permit Procedure

a. Permit Numbers

(1) Colorado Parks and Wildlife (CPW) deems hunting activities on Lone Mesa State Park as those which currently require “special planning and/or scheduling for proper management.” Therefore, CPW issues special use permits to visitors wishing to engage in hunting use of the park.

(2) The maximum number of approved Hunting Special Use Permits (HUPs) on Lone Mesa State Park at any one time during the following big game seasons is:

Archery: twenty (20)

Muzzle-loading: twelve (12)

1 st separate elk rifle: fifteen (15)

2 nd combined deer/elk rifle: twenty-five (25)

3 rd combined deer/elk rifle: thirty-five (35)

4 th combined deer/elk rifle: thirty-five (35)

(3) Each year, the Division, by action of the Park Manager, will allocate HUPs up to the maximums after evaluating harvest and other data in the interest of creating a high quality hunter opportunity consistent with wildlife objectives.

b. Permit Fees

(1) Successful permit applicants shall pay the fee associated with their HUP (see fee schedule section b.5) at least thirty (30) days prior to any access to Lone Mesa State Park.

(2) Upon payment of the fee and attendance of the mandatory orientation session, an HUP shall be issued to the applicant.

(3) If an applicant who is successful in the drawing (see section c.7.) fails to pay the HUP fee, a permit will not be issued to them. The next qualified applicant on the drawing log (see section c. 8.), or the next first-come, first-served applicant will be offered an HUP.

(4) If, at a later date, an applicant's payment of the HUP fee is found to be insufficient due to payment stops, insufficient funds or any other reason, an HUP will not be issued to them. And, if an HUP had been issued prior to CPW discovering the insufficient payment, that permit will be voided.

(5) The schedule of fees associated with the HUP is as follows:

(a) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt during archery season, $100.

(b) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt during archery season, $200.

(c) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt antlerless elk and/or antlerless deer during muzzleloading season, $100.

(d) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt antlered elk and/or antlered deer during muzzleloading season, $200.

(e) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt antlerless elk and/or antlerless deer during muzzleloading season, $200.

(f) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt antlered elk and/or antlered deer during muzzleloading season, $300.

(g) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt elk during the first elk-only rifle season, $150.

(h) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt elk during the first elk-only rifle season, $250.

(i) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt antlerless elk and/or antlerless deer during the second, third, or fourth combined elk/deer rifle season, $100.

(j) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt antlerless elk and/or antlerless deer during the second, third, or fourth combined elk/deer rifle season, $200.

(k) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt antlered elk and/or antlered deer during the second, third, or fourth combined elk/deer rifle season, $200.

(l) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt antlered elk and/or antlered deer during the second, third, or fourth combined elk/deer rifle season, $300.

(6) Only one access permit is required per hunter, per season. A hunter possessing valid licenses for multiple species among deer, elk and bear will pay the highest applicable permit fee and can hunt with all valid licenses. The HUP continues to be valid until termination of the permitted season or harvest of all valid deer, elk, and bear licenses in the hunter's possession, whichever comes first.

c. Allocation of Permits

(1) Advertising: it shall be the responsibility of the park manager or his/her designee to advertise the availability of HUPs for Lone Mesa through normal media and internet formats.

(2) Application requests: requests for the application for the HUP on Lone Mesa State Park can be made by contacting the Lone Mesa State Park office: 1321 Railroad Ave, PO Box 1047, Dolores, Colorado 81323, Phone: 970-533-7065, Fax: 970-882-4640, e-mail: **lone.mesa.park@state.co.us**. Applications may also be accessed via the internet at **www.cpw.state.co.us**

(3) Requests for permit applications shall be acted upon promptly, and an application for permit shall be mailed, faxed or e-mailed to the prospective permittee within five days of receiving the request.

(4) Permit applications must be mailed, e-mailed, or faxed to the Lone Mesa State Park office at the above address prior to the application deadline. It is the applicant's responsibility to confirm receipt.

(5) Permit applications will be secured by the park manager or his/her designee until the scheduled public drawing to be held at the Lone Mesa State Park office at least 60 days prior to the opening of the archery season. The public opening of applications will be advertised locally and to the applicants.

(6) Once opened, the HUP applications will be checked for completeness, logged by applicant name, season desired, and application number, and a drawing "chip" - reflecting the application number- will be created for each complete and legible qualifying application.

(7) Drawing: after applications are opened and logged in the application log, the drawing for successful applicants will take place. There will be drawings for each of the six big game seasons for which hunting will be permitted on Lone Mesa: archery, muzzleloading, 1 st separate limited elk, 2 nd combined deer and elk, 3 rd combined deer and elk, and 4 th combined deer and elk. Permits will be issued up to the numbers outlined in this regulation, #601.2.a.

(8) The drawing will continue until all "chips" are drawn, and a drawing log will be completed which will list the applicants in the order drawn. The drawing log will

be used to facilitate fair re-allocation of permits per the re-allocation of unused permits protocol (see section 3.c.).

(9) Successful applicants will be notified of their success by mail via a letter of successful application, which shall include a summary of rules associated with the HUP (a complete list shall be provided with the permit during the required orientation and information for remittance of the HUP fee).

d. Reporting and Filing

(1) All files pertaining to the HUP for Lone Mesa State Park will be stored at the Lone Mesa State Park office.

(2) The park manager or designee will include a summary of hunting activity under permit on the park manager monthly report.

(3) Revenues derived from the HUP fee will be deposited in the parks cash fund and reflected on the consignment usage/revenue report for the month such fees are deposited.

3. Field Enforcement Procedure

a. Possession of Permit

(1) Copies of the permitted hunter list will be made available to commissioned CPW officers and the officers of other cooperating agencies in the interest of maintaining compliance with this plan.

(2) It shall be the permittee's responsibility to adequately identify themselves as a permit holder when contacted while hunting in Lone Mesa State Park.

b. Statute and Regulation Compliance

(1) Permit holders will be supplied a list of rules associated with the HUP upon issuance of the permit. Failure to comply with the rules of the permit may result in permit revocation.

(2) Nothing in this plan or in the rules of the HUP shall imply or be construed to imply that HUP holders are exempt from any statute or regulation governing hunting, motor vehicle operation, conduct on a state park, or other activity in which the permit holder may engage while performing the activities allowed under the permit. These statutes and regulations include, but are not limited to:

(a) Permit holders must possess a valid license issued by CPW for the Game Management Unit, species, and season hunted.

(b) Vehicles involved in hunting-use of the park are required to display a valid Colorado State Parks pass, unless the vehicle displays a Disabled Veteran license plate or a Purple Heart license plate.

c. Reallocation of Permits

(1) Permit re-allocations may take place in the event a permittee is unable to engage in the activities of the permit for any reason, including sickness, death, hunting license revocation, permit revocation, park eviction, or simple changes in plans.

(2) Re-allocations of HUPs will be conducted following this procedure:

(a) The park manager or designee will attempt to contact the next individual on the drawing log by phone.

(b) If the next individual is unable to be contacted upon the first call, the park manager or designee will continue down the drawing log until an individual can be contacted and notified of the availability of an HUP for Lone Mesa.

(c) If no hunter on the drawing log can be contacted, no applicant is qualified, or none is available to hunt the remainder of the season, the availability of the HUP will be advertised by the park manager or designee and the permit may be allocated on a first-come, first-served basis.

(d) Hunters who are contacted via the drawing log and who obtain or decline an HUP for Lone Mesa will have their name removed from the drawing log.

(3) Re-allocated permits shall not be valid until payment of the HUP fee and attendance of the hunter orientation by the new permittee.

 # 711 - GOLDEN GATE CANYON STATE PARK HUNTING SPECIAL USE PERMIT

1. Purpose: this hunting management plan is designed to establish administration of hunting activities on the Green Ranch portion of Golden Gate Canyon State Park.

2. Special use permit procedure

A. Permit numbers

(1) Colorado Parks and Wildlife deems hunting activities on the Green Ranch portion of Golden Gate Canyon State Park as those which currently require “special planning and/or scheduling for proper management.” Therefore, the Division issues special use permits to visitors wishing to engage in hunting on the Green Ranch portion of the park.

(2) The maximum number of approved hunting special use permits (HUPs) for the Green Ranch on Golden Gate Canyon State Park at any one time during the 2003 big game season is as follows:

Archery (pre-muzzleloading and post-muzzleloading): twenty (20)

Muzzle-loading: ten (10)

1st separate elk rifle: ten (10)

2nd combined deer/elk: ten (10)

3rd combined deer/elk: ten (10)

4th combined deer/elk: ten (10)

(3) The number of HUPs allocated in each of the subsequent years will be determined by CPW after evaluating harvest and other data at the close of each year's hunting.

B. Application and permit fees

(1) Each applicant must submit a $10.00 application fee for each application submitted.

(2) Successful permit application holders shall pay a special use permit fee of $100, which must be received by Golden Gate Canyon State Park (address below) prior to any access to the Green Ranch.

(3) Upon payment of the fee, a HUP for the Green Ranch shall be issued to the applicant.

(4) If an applicant who is successful in the drawing (see section c.7) fails to pay the special use permit fee within 10 days prior to the start of the applicant's season, a permit will not be issued to them. The next qualified applicant on the alternate list (see section c.8) will be offered an HUP.

(5) If, at a later date, an applicant's payment of the HUP fee is found to be insufficient due to payment stops, insufficient funds or any other reason, an HUP will not be issued to them. If an HUP had been issued prior to CPW discovering the insufficient payment, that permit will be voided.

C. Allocation of permits

(1) Advertising: it shall be the responsibility of the park manager or his/her designee to advertise the availability of the HUPs for the Green Ranch through normal media and internet formats.

(2) Application requests: requests for the application for the HUP for the Green Ranch can be made by sending a self-addressed stamped envelope (SASE) to Golden Gate Canyon State Park, Attn: Green Ranch Hunt: 92 Crawford Gulch Road, Golden, Colorado 80403, phone: 303 582-3707. Applications may also be accessed via the internet at www.cpw.state.co.us

(3) Requests for permit applications shall be acted upon promptly, and an application for permit shall be mailed to the prospective applicant within five days of receiving the SASE.

(4) Permit applications must be mailed to Golden Gate Canyon State Park at the above address and clearly marked "Green Ranch Hunt" on the envelope. All applications must be received by July 31st for the upcoming big game season.

(5) Permit applications will be checked for completeness and require a copy of the hunting license, if applicable (for limited licenses). All complete and correct permit applications will be recorded for future use.

(6) If additional information is needed to process the permit application, the park manager or his/her designee will make reasonable attempts to contact the applicant to rectify the application.

(7) Drawing: the drawing will be held no later than the first Sunday in August. There will be one random drawing for each of the six seasons on the Green Ranch: pre-muzzleloading archery, muzzleloading, post-muzzleloading archery, 1st separate limited elk, 2nd combined deer and elk, 3rd combined deer and elk, and 4th combined deer and elk. Permits will be issued up to the numbers outlined in this regulation, #711.2.a.

(8) Up to fourteen names will be drawn for each of the hunting seasons; a maximum of ten for the “hunter list” and four “alternates” for each season. If one of the hunters drawn does not wish to accept the HUP, an alternate will be contacted in the consecutive order that they were drawn.

(9) Successful applicants will be notified of their success by mail via a letter of successful application, which shall include a summary of rules associated with the HUP (a complete list to be provided with the permit during the required orientation) and information for remittance of the special use permit fee.

D. Reporting and filing

(1) All files pertaining to the HUP for the Golden Gate Canyon State Park Green Ranch will be stored at the Golden Gate Canyon State Park office.

(2) The park manager or his/her designee will include a summary of hunting activity under permit on the park manager monthly report.

(3) Revenues derived from the HUP and application fee will be deposited in the parks cash fund and reflected on the consignment usage/revenue report for the month such fees are deposited.

3. Field enforcement procedure

A. Possession of permit

(1) Copies of the “hunter list” will be made available to commissioned CPW officers and the officers of other cooperating agencies in the interest of maintaining compliance with this plan.

(2) It shall be the permittee's responsibility to carry the access permit with them while hunting the Green Ranch portion of Golden Gate Canyon State Park.

B. Statute and regulation compliance

(1) Permit holders will be supplied a list of rules associated with the HUP upon issuance of the permit. Failure to comply with rules of the permit may result in permit revocation.

(2) Nothing in this hunting management plan or in the rules of the special use permit shall imply or be construed to imply that HUP holders are exempt from any statute or regulation governing hunting, motor vehicle operation, conduct on a state park, or other activity in which the permit holder may engage while

performing the activities allowed under the permit. These statutes and regulations include, but are not limited to:

(a) Permit holders must possess a valid hunting license issued by CPW for the game management unit, species and season hunted.

(b) Vehicle involved in hunting-use on the Green Ranch are required to display a valid Colorado State Parks pass, unless the vehicle displays a disabled veteran license plate or a Purple Heart license plate.

C. "Alternate" system

(1) Alternate hunters may be contacted in the event a permittee is unable to engage in the activities of the permit for any reason, including sickness, death, hunting license revocation, permit revocation, park eviction or simple changes in plans.

(2) Alternates will be contacted in the following manner:

(a) The park manager or his/her designee will attempt to contact the next individual on the alternate list by phone.

(b) If the next individual is unable to be contacted upon the first call, the park manager or his/her designee will continue down the alternate list until an individual can be contacted and notified of the availability of an HUP for the Green Ranch.

(c) If no hunter on the alternate list can be contacted, the park manager or his/her designee will return to the applicant pool of the individual season and randomly draw up to four more alternates. This process will be continued until the hunting slot is filled by a qualified applicant.

(d) If no hunter can be contacted, no applicant is qualified, or none is available to hunt the remainder of the season, the availability of the HUP will be advertised by the park manager or his/her designee and the permit may be issued on a first-come, first-served basis.

(e) Hunters who are contacted via the hunting list or alternate list and who obtain or decline a HUP for the Green Ranch will have their name removed from the applicant pool.

(2) Alternate permits shall not be valid until payment of the HUP and application fee are made by the new permittee.

D. Refund policy

(1) Refunds will only be provided according to the current pass refund policy of the Division and by relinquishing the HUP for the Green Ranch before the opening day of the season for which the permit is valid.

 # 712 – FEE WAIVERS, SPONSORSHIPS, MARKETING DISCOUNTS AND REDUCED RATE CAMPING

1. As referenced in this chapter, "Park Product" means any entry pass, permit, facility, event or other user fee as defined in regulation # 700 through # 701, # 703 through # 708 and #710 through #711.

2. Park product fees may be waived for errors committed by the Division.

3. Park product fees may be waived by the Division for Division sponsored education, outreach, volunteer or safety activities (events); for supporting partner activities (events) and research activities that directly support the Division; for official business by other governmental agencies conducted on a state recreation area or state park or for Division administrative purposes.

4. The Division may waive entry fees as described in regulation # 700 through # 701 up to four days annually to market and increase awareness of state recreation areas and state parks.

5. Park Managers may provide any combination of park product(s) up to $500 in value per fiscal year, per park, to be used as a sponsorship as a part of a fundraiser, promotion or marketing effort for local community supporting partners.

6. Region Offices and the Creative Services and Marketing Office may provide up to twenty annual affixed vehicle passes and twenty state parks annual transferable passes as defined in regulation # 700-3.b and #700-3.c. per fiscal year, per office, to be used as part of a regional or statewide fundraiser, promotion or marketing effort. In addition, Region Offices and the Creative Services and Marketing Office may provide daily vehicle passes as defined in regulation # No. 700-4 up to $500 in value per fiscal year, per office, to be used as part of a regional or statewide fundraiser, promotion or marketing effort.

7. The Division may offer discounts up to 50 percent off established fees for annual affixed vehicle and daily vehicle passes as defined in regulation # 700-3 through # 700-4 as part of a consistent statewide effort to market state recreation areas and state parks.

8. Annual affixed vehicle passes or state parks annual transferable passes purchased in large quantities during a single sale, transaction will be discounted as follows.

   (a) Twenty or more passes, but less than fifty……..…...20% discount

   (b) Fifty or more passes, but less than one hundred…….....25% discount

   (c) One hundred passes or more.....30% discount

9. Notwithstanding the established campground fees, the Region Manager may lower a campground's classification by one class, and consequently lower the campground fee, when the Region Manager determines that it is necessary to do so based upon one or more of the following criteria:

   (a) A significant increase in the vacancy rate for the campground exists.

   (b) A significant need to rehabilitate the campground facilities exists.

   (c) A temporary closure of campground facilities is necessary in order to implement repairs.

   Upon a determination by the Region Manager that the cause for lowering the campground classification has been abated, the original campground classification will be reinstated.

10. Notwithstanding the established campground, cabin and yurt fees, the Regional Manager may reduce the fees for use of all campsites, cabins and yurts when determined necessary to encourage occupancy and otherwise increase use, up to 50 percent.

11. Notwithstanding the established event facility permit fees, the Regional Manager may offer half-day facility rentals and reduce the fees for use of event facilities when determined necessary to encourage occupancy and otherwise increase use, up to 50 percent.

12. Individuals possessing a valid Aspen Leaf annual pass per regulation # 705 or a Columbine, Centennial, Blue Spruce, Independence, or Volunteer individual pass holder per regulation # 701 who is 64 years of age or older, shall receive campground use permits at a reduced rate equal to the current Aspen Leaf pass holder camping permit rate. This reduced rate applies to all nights of the year when such areas are open, except weekend nights and the night before a legal holiday. For the purpose of determining reduced rate campground permit eligibility, “weekend” night means the time period beginning at 12 noon on Friday through 12 noon on Sunday, and the night before a legal “Holiday” shall mean the time period beginning at 12 noon on the day prior to the legal holiday through 12 noon of the legal holiday. The discount is only valid for a single campsite per day, per pass holder. The pass holder must hold a pass that qualifies them for the reduced rate at both the time of reservation and at the time of occupancy. The pass holder must also be the one to make the reservation and be an occupant of the campsite for the entirety of the reservation.

    The camping permit reduced fees associated with the Aspen Leaf annual pass are identified in regulation # 708.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00467

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (405 Series, Parks)

on 09/01/2021

2 CCR 405-7

CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 17, 2021 09:18:30

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (405 Series, Parks)

CCR number

2 CCR 405-8

Rule title

2 CCR 405-8 CHAPTER P-8 - AQUATIC NUISANCE SPECIES (ANS) 1 - eff 11/01/2021

Effective date

11/01/2021

FILING - 09/21/2021

FINAL REGULATIONS - CHAPTER P-8 - AQUATIC NUISANCE SPECIES (ANS)

ARTICLE 1 - GENERAL PROVISIONS

 # 800 - DEFINITIONS

Also see 33-10.5-102, C.R.S, for other applicable definitions.

A. Aquatic Nuisance Species (ANS)

1. Aquatic nuisance species means exotic or nonnative aquatic wildlife or any plant species that have been determined by the Commission to pose a significant threat to the aquatic resources or water infrastructure of the state, including, but not limited to the following:

Animals:

Common Name	**Scientific Name**
Crayfish, rusty	Orconectes rusticus
Mussel, quagga	Dreissena bugensis
Mussel, zebra	Dreissena polymorpha
New Zealand mudsnail	Potamopyrgus antipodarum
Waterflea, fishhook	Cercopagis pengoi
Waterflea, spiny	Bythotrephes longimanus (also known as Bythotrephes cederstroemi)

Plants:

Common Name	**Scientific Name**
African elodea	Lagarosiphon major
Brazilian elodea	Egeria densa
Eurasian watermilfoil	Myriophyllum spicatum
Giant salvinia	Salvinia molesta
Hyacinth, water	Eichornia crassipes
Hydrilla	Hydrilla verticillata
Parrotfeather	Myriophyllum aquaticum
Yellow floating heart	Nymphoides peltata

2. In addition to these species, the Director may jointly and temporarily designate a species as an aquatic nuisance species for a period not to exceed nine months when they determine that a species not listed herein poses a significant threat to Colorado's aquatic resources. Whenever such species are so designated, public notice shall be given, including posting at all watercraft inspection and decontamination facilities and the posting of any lands or waters where the designated species is known by the Divisions to be present.

B. "Aquatic Plant" means a vascular plant (floating leafed, floating, submerged, or emergent vegetation) that naturally grows in water or saturated soils.

C. "Authorized Agent" means a person that has passed the Division's watercraft inspection and decontamination training course and is otherwise authorized by statute and regulation to perform inspections and decontaminations at authorized locations in Colorado, and is employed by or, as evidenced by written authorization, is otherwise acting on behalf and at the direction of a local, state or federal government or subdivision of government.

D. "Authorized location" means a location or an address where watercraft inspection and decontamination (WID) procedures are authorized and certified by the Division, and inspections are mandatory prior to launching or exiting, including, but not limited to, Division offices, government field stations, or non- governmental facilities as designated by the Division.

E. "Clean" means a vessel or other floating device that does not show visible ANS or attached vegetation, debris or surface deposits. This includes mussel shells or residue on the watercraft, trailer, outdrive, or equipment that could mask the presence of attached mussels or other ANS.

F. "Detected water" means a water body in which an aquatic nuisance species has been detected per #806D.

G. "Director" means the Director of the Division of Parks and Wildlife.

H. "Drain" means to the extent practical, all water is drained from all water holding compartments including live-well, bait-well, storage compartment, equipment lockers, bilge area, engine compartment, deck, ballast tanks or bags, water storage and delivery system, cooler or any other water storage area on the vessel or other floating device.

I. "Dry" means no visible sign of standing water, or wetness on or in the vessel or other floating device. Watercraft that has been out of the water long enough for attached mussels to desiccate.

J. "Private inspector and/or decontaminator" means a person employed by a business who is certified by the Division to provide services in the form of inspections only or both inspections and decontaminations, at sites other than authorized locations.

K. "Vessels or other floating device" means watercraft of any and all kinds including their motors or engines, trailers, compartments, and any other associated equipment or containers that routinely or reasonably could be expected to contain or have come into contact with water. The term does not include hand-launched and hand-powered rafts, kayaks, belly boats, float tubes, canoes, windsurfer boards, sail-boards, paddle boards, rowing shells, or inner tubes or foldable plastic boats.

L. "Water Drain Plug" means a valve or device on or in a vessel or other floating device which is used to control the drainage of water from a compartment designed to hold water, including but not limited to, a bilge, well, compartment, locker, or ballast system.

M. “WID procedures” means Watercraft Inspection and Decontamination procedures, as set forth in these chapter 8 regulations and documented in the State Watercraft Inspection and Decontamination Training Curriculum.

N. “WID seals” means Watercraft Inspection and Decontamination device or marker, including any attaching wire that temporarily locks the vessel or other floating device to the trailer to indicate the vessel or other floating device has not launched since the last inspection or decontamination as documented on the accompanying WID seal receipt.

O. "WID Seal Receipt" means the written or electronic documentation required to verify a WID seal is valid.

 # 801 - POSSESSION OF AQUATIC NUISANCE SPECIES

A. Except as provided in these regulations or authorized by the Division or under Title 33 or Title 35 C.R.S., it shall be unlawful for any person to possess, import, export, ship, transport, release, place, plant, or cause to be released, placed, or planted into the waters of the state any aquatic nuisance species.

B. The Division’s authorized personnel, authorized agents, qualified peace officers, private inspectors, and private decontaminators are permitted to possess and transport live or dead aquatic nuisance species samples for the purposes set forth in Article 10.5 of Title 33, C.R.S. and in these regulations.

C. It is unlawful for any person to, or to attempt to, launch onto, operate on or remove from any water of the state or vessel staging area any vessel or other floating device without first submitting the same to an inspection for aquatic nuisance species, and completing said inspection, if such an inspection is requested by any qualified peace officer or authorized agent. Further, it is unlawful for any person to fail to complete the removal and disposal of aquatic nuisance species if such removal and disposal is requested by any qualified peace officer.

D. It is unlawful for any person to, or to attempt to, launch onto, operate on or remove from any water of the state or vessel staging area any vessel or other floating device if they know the vessel or other floating device contains any aquatic nuisance species.

 # 802 - PRIVATE INSPECTORS, AUTHORIZED AGENTS, TRAINING, CERTIFICATION, AND QUALITY ASSURANCE

A. The Division may certify private inspectors and/or decontaminators. Such persons shall not be authorized to stop, detain, or impound a vessel or other floating device, or order a vessel or other floating device to be decontaminated, impounded or quarantined. Such persons, once certified, are only authorized to provide inspections and/or decontaminations in accordance with WID procedures to persons transporting vessel or other floating device who voluntarily request their services.

B. Authorized agents shall be certified by the Division prior to providing any inspection or decontamination services. A description of training and certification requirements is available from the Division. After receiving proper training and written certification from the Division, authorized agents may stop, detain, inspect and decontaminate a vessel or other floating device. Authorized agents shall be authorized to perform decontaminations with the permission of the vessel owner, at the direction of a qualified peace officer, or at the voluntary request of any person transporting a vessel or other floating device. Authorized agents do not have any authority to order vessel or other floating device to be decontaminated, nor do they have the authority to impound or order the quarantine of any vessel or other floating device.

C. Prior to providing any inspection and/or decontamination services, authorized agents and private inspectors and/or decontaminators must successfully complete the Division's training course, must maintain active certification and must comply with all quality assurance requirements as listed herein.

D. Any authorized agent or private inspector and/or decontaminator may be certified by the Division to perform inspections and/or decontaminations based on the person's training and the equipment available at the authorized location.

E. The Division shall conduct quality assurance checks at all authorized locations, including but not limited to, inspection of facilities and records, and interviewing authorized location personnel to verify proper procedures are being utilized.

1. If the Division documents quality assurance violations, including, but not limited to, improper facilities, maintenance, equipment, records or failures to use proper WID procedures, then the Division may, at their discretion, issue a written warning notice, disallow aquatic nuisance species inspections, decontaminations, and/or training at the specific location or by the applicable agent or private inspector/decontaminator until the Division has documented compliance with all quality assurance checks, or decertify the applicable agent(s), private inspector(s)/decontaminator(s), location(s) or trainer(s) until they have been recertified in accordance with these regulations.

 # 803 - INSPECTIONS

A. Inspections may be conducted by:

1. Any qualified peace officer;

2. Any authorized agent or private inspector and/or decontaminator who has been properly trained as required by the Division, who holds a valid, active certification and who is in good standing with the Division's quality assurance checks.

B. All persons transporting a vessel or other floating device from a detected water of the state, as determined in regulation #806 D, must be inspected prior to leaving the detected water, or if state authorized inspection facilities are not open or otherwise available, must be inspected prior to launch in any other water of the state. All detected waters shall be posted and a list of detected waters will also be available from the Division.

C. All persons transporting a vessel or other floating device must go to a state authorized inspection location and submit to and receive documentation of an inspection prior to launching in any water of the state if the vessel or other floating device has been in another state's waters in the last 30 days, or if the vessel or other floating device is not registered in Colorado.

D. All persons transporting a vessel or other floating device must submit to an inspection prior to launching and/or exiting at an Authorized Location.

E. Inspectors will determine if there is a reasonable belief that aquatic nuisance species are present by interviewing the person transporting the vessel or other floating device and using visual and/or tactile inspection methods and using appropriate forms supplied by the Division.

F. All vessels or other floating devices of any kind, are subject to inspection in accordance with WID procedures prior to launch onto, operation on or departure from any waters of the state or vessel staging areas. All compartments, equipment and containers that may hold water, including, but not limited to, live wells and ballast and bilge areas shall be drained as part of all inspections.

G. It is the responsibility of the vessel or other floating device operator to clean, drain water from all compartments and motors/engines in between launches and dry the vessel or other floating device in between launches.

H. Upon removal of a vessel or other floating device from waters of the state, and before leaving the boat launch or parking area, the operator is required to remove aquatic plants and water drain plug(s). It is prohibited to transport a vessel or other floating device over land with aquatic plants or water drain plugs in place.

I. Any vessel or other floating device found or reasonably believed to contain aquatic nuisance species shall be decontaminated by an authorized agent using WID procedures before said vessel or other floating device will be allowed to launch onto, operate on or depart from any waters of the state or vessel staging areas.

J. Compliance with the above aquatic nuisance species inspection and removal and disposal requirements is an express condition of operation of any vessel or other floating device on waters of the state. Any person who refuses to permit inspection of their vessel or other floating device or to complete any required removal and disposal of aquatic nuisance species shall be prohibited from launching onto or operating the vessel or other floating device on any water of the state. Further, the vessel or other floating device of any person that refuses to allow inspection or to complete any required removal and disposal of aquatic nuisance species prior to departure from any water of the state or vessel staging area where any aquatic nuisance species is known to be present is subject to impoundment until said aquatic nuisance species inspection and/or decontamination is completed.

K. Any person operating a vessel or other floating device may be ordered to remove the vessel or device from any water of the state by any qualified peace officer or authorized agent if they reasonably believe the vessel or other floating device was not properly inspected prior to launch or may otherwise contain aquatic nuisance species. Once removed from the water, the vessel or other floating device shall be subject to inspection for, and the removal and disposal of aquatic nuisance species.

L. Any authorized agent or private inspector or private decontaminator who, through the course of an inspection, determines there is a reasonable belief that aquatic nuisance species are present shall document the inspection, including but not limited to, type and number of aquatic nuisance species suspected and/or detected and identification of the vessel or other floating device, including license plate numbers and hull and/or vehicle identification numbers, if available. Further, the authorized agent or private inspector/decontaminator shall advise the operator that the vessel or other floating device is suspected of possessing aquatic nuisance species and that it must be decontaminated according to WID procedures as soon as possible. Only qualified peace officers have the authority to order decontamination, impound or quarantine of a vessel or other floating device.

M. Once a vessel or other floating device is inspected and/or decontaminated, a WID seal will be attached to the vessel or other floating device by a qualified peace officer, authorized agent, or private inspector/decontaminator. A receipt using the Division's form shall accompany all WID seals. WID seals shall be attached to a vessel or other floating device as specified by the Division. A WID seal, once properly attached to a vessel or other floating device by a qualified peace officer, authorized agent, or a private inspector/decontaminator, and when accompanied by the proper receipt, documents an inspection or decontamination procedure.

    1. It is unlawful for any person to deface or tamper with, or attempt to deface or tamper with, any WID seal or WID seal receipt.

2. Any WID seal or WID seal receipt that has been defaced or tampered with is void. A vessel or other floating device bearing a void WID seal or WID seal receipt must be inspected prior to launch.

3. As used in this subsection M., “deface” and “tamper” have the meanings set forth in section 18-1-901, C.R.S.

N. If a vessel or other floating device contains live aquatic organisms in water as bait, then the owner or operator will be required to produce a receipt for the bait from a Colorado bait dealer with a purchase date clearly printed on the receipt per regulation 8 CCR 1201-21, VI. E and the purchase date is no more than 7 days previous. If the owner or operator does not have such a receipt, and the bait is allowed for use at the water body per regulation 2 CCR 406-1 #104.H.2, then they will be required to submit the bait for transfer into water from a known source and the bait container to decontamination as per the State ANS Watercraft Decontamination Manual available from the Division.

 # 804 - DECONTAMINATION

A. The Division will only recognize the decontamination methods listed herein that are recognized as proper WID procedures. All decontaminations will be employed following all applicable laws, disposal methods, recommended safety precautions, and safety equipment and procedures.

B. To decontaminate water compartments, equipment or containers in a vessel or other floating device to address potential presence of larvae or waterborne aquatic nuisance species, the only acceptable methods will be rinsing and flushing with water of 120-140 degrees F.

C. To decontaminate the exterior of a vessel or other floating device, remove or destroy attached aquatic nuisance species, all visible mud, plants, and organisms. The entire exterior of the vessel or other floating device, including the trailer and all intakes will be thoroughly decontaminated with hot water (140 degrees F) and as necessary use high pressure water (between 2500-3000psi).

D. All interior vessel or other floating device compartments, equipment and containers that may hold water including, but not limited to live wells, ballast and bilge areas, will be flushed with hot water (up to, but no more than 120 degrees F) at low pressure. If a bilge pump is present, then it will be run until the bilge appears to be empty.

E. The lower unit of the motor or engine will be thoroughly flushed with hot water (140 degrees F).

F. After decontamination, authorized agents, private decontaminators, or qualified peace officers must re-inspect the vessel or other floating device to ensure complete decontamination prior to the release of the vessel or other floating device.

G. Proof for all decontaminations consists of a WID Seal and WID Seal Receipt. Proof of decontamination for an infested mussel boat consists of a WID seal and WID Seal Receipt, in addition to the form “ANS Documentation and Vessel Decontamination Form” provided by the Division. Such forms shall document the reasons for the decontamination, any aquatic nuisance species found, the date and location of the decontamination, and the type of decontamination performed. Authorized agents, private decontaminators, or qualified peace officers will also apply a WID seal to document decontamination procedures.

 # 805 - IMPOUNDMENT

A. All vessels or other floating devices are subject to impoundment if:

1. The person in possession of the vessel or other floating device refuses to allow an inspection of the vessel or other floating device to be conducted by an authorized agent or qualified peace officer.

2. The person in possession of the vessel or other floating device refuses to allow a decontamination of the vessel or other floating device when decontamination is ordered by a qualified peace officer.

3. The vessel is unable to be fully decontaminated or the ANS are unable to be completely removed for any reason.

B. If the person in charge of the vessel or other floating device is not the registered owner then the registered owner shall be notified by mail, return receipt requested, within ten days of the location of the impounded vessel or other floating device. Such notification must also include contact information for the qualified peace officer ordering the impoundment. If the registered owner is present when the vessel or other floating device is ordered impounded, then the same information shall be provided to the registered owner at the time the order is issued.

C. All vessels or other floating devices will be held in impound at the risk and expense of the owner. A vessel or other floating device under impound for non-compliance with aquatic nuisance species laws may be released only after a qualified peace officer is satisfied by inspection or quarantine that the vessel or other floating device is no longer a threat to the aquatic resources and water infrastructure of the state. Only a qualified peace officer may authorize the release of the vessel or other floating device.

D. No vessel or other floating device impounded may be moved or released until an impound release form is signed and executed by a qualified peace officer. The Division will provide impound release forms.

 # 806 - MONITORING AND IDENTIFICATION

A. All aquatic nuisance species sampling and monitoring will be coordinated with the Division.

B. Aquatic nuisance species sampling equipment, vessels or other floating devices, and gear will be decontaminated at the conclusion of each sampling event in compliance with WID procedures prior to launching on another water of the state.

C. Aquatic nuisance species sampling and specimen collection for plankton tows, substrate sampling, or shoreline surveys will be conducted using standards and procedures approved in writing by the Division in advance of sampling occurring.

D. To initially identify detected waters, the following standards will be applied before notifying the public of the existence of these aquatic nuisance species:

1. Zebra and quagga mussel veligers. A multi-phase testing process involving both visual and molecular identification methods on the same sample will be completed in accordance with the State ANS Sampling and Monitoring Manual available from the Division.

2. Zebra and quagga mussel adults or New Zealand mudsnails. Concurring identification by two or more mollusk identification experts.

3. Non-native crayfish and other crustaceans. Concurring identification by two or more crustacean identification experts.

4. Aquatic nuisance species plants. Concurring identification by two or more aquatic botanical experts.

 # 807 - REPORTING ANS FINDINGS

A. Identification of an aquatic nuisance species through sampling and monitoring procedures at a location where that species has not been known to exist will be reported immediately to the Division.

B. If an aquatic nuisance species is suspected, but the identity is not known, for example a plant of unknown identity or organic material resembling juvenile mollusks, then the Division shall be contacted within 48 hours and collected samples will be submitted as stated in regulation # 806C.

C. Any person that becomes aware that an aquatic nuisance species is present at a specific location shall report the aquatic nuisance species presence to an authorized agent or a qualified peace officer of the Division's Invasive Species Program Office. Aquatic nuisance species reports should include the date and time of the detection of the aquatic nuisance species, the exact location of sighting (water body and specific location on the water body), the suspected species, and the name and contact information of the reporter.

D. Aquatic nuisance species or suspected aquatic nuisance species may be reported by:

1. Telephone: 1-303-291-7295

2. Website: http://www.cpw.state.co.us

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00468

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (405 Series, Parks)

on 09/01/2021

2 CCR 405-8

CHAPTER P-8 - AQUATIC NUISANCE SPECIES (ANS)

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 17, 2021 09:19:53

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-0

Rule title

2 CCR 406-0 CHAPTER W-0 - GENERAL PROVISIONS 1 - eff 11/01/2021

Effective date

11/01/2021

FINAL REGULATIONS - CHAPTER W-0 - GENERAL PROVISIONS

Appendix F - Wildlife License and Pass Prices

(1) Resident and nonresident licenses

License	Residency	Fees
3-year possession/hunting raptor license	Resident	$ 156.02***
Annual possession/hunting raptor license	Nonresident	$ 83.21***
Peregrine falcon capture license	Resident	$ 312.05***
Extra rod stamp	Resident	$ 9.36**
Extra rod stamp	Nonresident	$ 9.36**
Fishing - 1 day	Resident	$ 12.48**
Fishing - 1 day	Nonresident	$ 15.60**
Fishing - additional day	Resident	$ 5.20**
Fishing - additional day	Nonresident	$ 5.20**
Fishing - 5 day	Nonresident	$ 31.20**
Fishing- annual	Resident	$ 34.33**
Fishing - annual	Nonresident	$ 98.82**
Youth (ages 16-17) annual fishing	Resident	$ 8.32**
Senior annual fishing	Resident	$ 8.32**
Small game hunting	Resident	$ 29.12**
Senior lifetime fishing upgrade to annual combination fishing and small game hunting^	Resident	$ 20.43**
Small game hunting	Nonresident	$ 83.21**
Small game - 1 day	Resident	$ 12.48**
Small game - 1 day	Nonresident	$ 15.60**
Small game - additional day	Resident	$ 5.20**
Small game - additional day	Nonresident	$ 5.20**
Furbearer license	Resident	$ 29.12**
Furbearer license	Nonresident	$ 83.21**
Turkey, fall	Resident	$ 23.92**
Turkey, fall	Nonresident	$ 156.02**
Turkey, spring	Resident	$ 29.12**
Turkey, spring	Nonresident	$ 156.02**
Turkey (youth)	Resident	$ 14.56**
Turkey (youth)	Nonresident	$ 104.02**
Combination fishing and small game hunting	Resident	$ 49.93**
Senior (ages 65 and older) combination fishing and small game hunting	Resident	$ 28.75**
Pronghorn	Resident	$ 39.53**
Pronghorn	Nonresident	$ 410.86**
Bear, fall	Resident	$ 38.00**
Bear, fall	Nonresident	$ 100.00**
Bear, fall (youth)	Resident	$ 14.00*
Bear, fall (youth)	Nonresident	$ 50.00*
Deer	Resident	$ 39.53**
Deer	Nonresident	$ 410.86**
Elk	Resident	$ 55.13**
Elk (antlered or either sex)	Nonresident	$ 686.51**
Elk (antlerless)	Nonresident	$ 514.88**
Mountain goat	Resident	$ 312.05**
Mountain goat	Nonresident	$ 2,298.76**
Moose	Resident	$ 312.05**

Moose	Nonresident	$ 2,298.76**
Mountain lion	Resident	$ 49.93**
Mountain lion	Nonresident	$ 350.00**
Rocky mountain bighorn sheep	Resident	$ 312.05**
Rocky mountain bighorn sheep	Nonresident	$ 2,298.76**
Desert bighorn sheep	Resident	$ 312.05**
Desert bighorn sheep	Nonresident	$ 2,298.76**

Resident low-income senior lifetime fishing	Resident	$ 8.10**
Youth big game (deer, elk, pronghorn)	Resident	$ 14.55 each*
Youth big game (deer, elk, pronghorn)	Nonresident	$ 104.01 each*
Youth small game hunting	Resident	$ 1.29
Youth small game hunting	Nonresident	$ 1.29
Colorado wildlife habitat stamp, purchased in conjunction with the purchase of a hunting or fishing license	Resident	$ 10.40
Colorado wildlife habitat stamp, purchased in conjunction with the purchase of a hunting or fishing license	Nonresident	$ 10.40
“Lifetime” Colorado wildlife habitat stamp	Resident	$ 312.05***
“Lifetime” Colorado wildlife habitat stamp	Nonresident	$ 312.05***

*Plus additional surcharge of $1.50 for the Wildlife Management Public Education Fund.
**Plus additional surcharge of $1.50 for the Wildlife Management Public Education Fund and $0.25 for the Search and Rescue Fund.
***Plus additional surcharge of $0.25 for the Search and Rescue Fund.
^Valid only for resident senior Lifetime Disability and Low Income Fishing license holders.

License prices established in this table are the actual license price. Some license prices have discounts applied from the statutory maximum price as provided for in Chapters W-2 and W-3.

(2) Special licenses

License	**Fees**
Scientific collecting license	$ 29.12
Importation license	$ 78.01
Field trial license	$ 23.92
Commercial lake license	$ 208.03
Private lake license	$ 14.56
Commercial wildlife park license	$ 156.02
Noncommercial park license	$ 29.12
Wildlife sanctuary license	$ 156.02
Zoological park license	$ 156.02

(3) The fee for each migratory waterfowl stamp is $10.40.

(4) The fee for each Federal Waterfowl Stamp is $31.00.

(5) The nonrefundable application-processing fee for each limited license is $7.00 for resident applications and $9.00 for nonresident applications.

(6) Colorado State Wildlife Area passes

Pass	**Fees**

Colorado State Wildlife Area Pass - annual	$ 34.58**
Colorado State Wildlife Area Pass - 1 day	$ 7.50*
Youth (ages 16-17) annual Colorado State Wildlife Area Pass	$ 8.57*
Senior (ages 65 and older) annual Colorado State Wildlife Area Pass	$ 8.57*
Low-income annual Colorado State Wildlife Area Pass	$ 8.57*

*Plus a surcharge of $1.50 for the wildlife management public education fund.
**Plus a surcharge of $1.50 for the wildlife management public education fund and a fee of $10.40 for a Colorado wildlife habitat stamp.

In order to qualify for an annual low-income Colorado State Wildlife Area Pass, an individual must show photo identification and provide written proof, in the form of a federal or state income tax return from the immediately preceding calendar year, that the federal taxable income of such individual is at or below one hundred percent of the official poverty line for an individual or a family, as appropriate to the applicant, defined by the federal office of management and budget based on federal bureau of the census data. If said tax return is not available, a return for the year immediately preceding such year shall suffice. If a person's income is at a level where such person is not required to file an income tax return, such individual shall sign a statement under penalty of perjury in the second degree to such effect. No such affidavit shall be required to be notarized.

The federal taxable income of such individual cannot be greater than the applicable guideline set forth in the Annual Update of the HHS Poverty Guidelines, 86 Fed. Reg. 7732-01 (February 1, 2021) issued by the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Room 422F.5, Humphrey Building, Department of Health and Human Services, Washington, DC 20201. This federal guideline, but not later amendments to or editions thereof, has been incorporated by reference. Information regarding how and where the incorporated materials may be examined, or copies obtained, is available from:

Regulations Manager
Policy and Planning Unit
Colorado Division of Parks and Wildlife
6060 Broadway
Denver, Colorado 80216

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00457

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (406 Series, Wildlife)

on 09/01/2021

2 CCR 406-0

CHAPTER W-0 - GENERAL PROVISIONS

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 17, 2021 09:11:01

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-3

Rule title

2 CCR 406-3 CHAPTER W-3 - FURBEARERS AND SMALL GAME, EXCEPT MIGRATORY BIRDS 1 - eff 11/01/2021

Effective date

11/01/2021

FILING - 09/21/2021

FINAL REGULATIONS - CHAPTER W-3 - FURBEARERS and SMALL GAME, EXCEPT MIGRATORY BIRDS

ARTICLE I - GENERAL PROVISIONS

#315 - Greater Sage-grouse

A. Season Dates, Units and Limits, Except North Park

1. Units 2, 3, 11, 13, 18 except that portion of unit 18 east of Colo 125 in Grand County, 27, 28 except that portion of GMU 28 north and east of Grand Co Rd 50 (Church Park Rd) and US 40, 37, 181, 201, 211, 301 and 441.
   a. September 11 - September 17, 2021.
   b. Extended Falconry Season: September 1 - January 31 annually.
2. Daily Bag and Possession Limits
   a. Daily Bag Limit - Two (2) birds.
   b. Possession Limit - Four (4) birds.

B. Season Dates, Units and Limits, North Park

1. Units 6, 16, 17, 161, and 171.
   a. September 11 - September 12, 2021.
   b. Extended Falconry Season: September 1 - January 31 annually.
2. Daily Bag and Possession Limits
   a. Daily Bag Limit - Two (2) birds.
   b. Possession Limit - Two (2) birds.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00460

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (406 Series, Wildlife)

on 09/01/2021

2 CCR 406-3

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

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 17, 2021 09:12:19

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-16

Rule title

2 CCR 406-16 CHAPTER W-16 - PARKS AND WILDLIFE PROCEDURAL RULES 1 - eff 11/01/2021

Effective date

11/01/2021

FILING - 09/21/2021

FINAL REGULATIONS - 1CHAPTER W-16 - PARKS AND WILDLIFE PROCEDURAL RULES

ARTICLE I - MEETINGS

#1601 - Conduct of Meetings

See Article 4 of Title 24, CRS, for rule making and other applicable meeting and hearing requirements

A. Regular Meetings

1. Public Presentation - In addition to normally scheduled opportunities to testify on matters before the Commission, persons or groups wishing to participate in a regular Commission meeting may request to be placed on the agenda by submitting a written request to the Director at least 30 days before the meeting. The public may participate during the meeting at the discretion of the Chairman or presiding officer.

B. Adjudicatory Hearings

1. Review of Game Damage Settlements and Claim Denials

See §§ 33-3-101 to 204, CRS, for additional detail and requirements

a. Game Damage Claims Settled by Agreement Between Claimants and the Division
   1) Only settlements of game damage claims equaling or exceeding $5,000 in total value must be reviewed by the Commission, and then only where the damage is something other than forage loss to wild ruminants on privately owned or leased private land. All other settlements may be paid by the Division without Commission review.
   2) Review will be based on the written materials and documentary evidence provided to the Commission by the Division and, unless the Commission directs otherwise, there will be no oral presentations or further submittals to the Commission on the settlement.
   3) Except as may otherwise be directed by the Commission, game damage settlements will be reviewed at the next regular meeting of the Commission following their receipt, provided the settlement, together with its supporting materials and documentation, is received by the Commission at least thirty days prior to the meeting. The settlement will be placed on the consent agenda unless the claimant makes an oral presentation to the Commission pursuant to #1601.A.1.

b. Game Damage Claims Recommended for Denial by the Division
   1) Any claimant seeking or otherwise requiring Commission review of a game damage claim recommended for denial by the Division, or a game damage claim where the claimant and the Division have otherwise failed to reach a settlement, shall file a written request for review with the Commission. The requirement for a written request for review applies to all claimants, including claimants that have waived arbitration of a forage loss to wild ruminants on privately owned or leased private land. Such request for review shall be mailed to the Commission within ten (10) days of claimant's receipt of the Division's written notice of denial or offer of settlement unacceptable to the claimant.
   2) The request for review shall include:
      a. the claimant's name, address and telephone number;

b. a narrative statement of the claim, including the amount at issue and a complete statement of the factual and statutory basis supporting payment of the claim as requested;
c. copies of the ten (10) day notification(s) and proof of loss filed with the Division;
d. copies of the written documentation submitted with, and in support of, the proof of loss;
e. any other documentary evidence supporting the claim or disputing the grounds stated as the basis for the Division's action in its notice of denial or offer of settlement, including photographs, and;
f. any other written materials supporting the claim or disputing the grounds stated as the basis for the Division's notice of denial or offer of settlement, including signed statements by third party witnesses.

3) Commission review will be based on the request for review and any written materials or documentary evidence provided to the Commission by the Division in response to the request for review submitted by the claimant, and unless the Commission directs otherwise, there will be no oral presentations or further submittals to the Commission.
4) Except as may otherwise directed by the Commission, such claims will be reviewed at the next regular meeting of the Commission following their receipt, provided the request for review is received by the Commission at least thirty days prior to the meeting. The denial will be placed on the consent agenda unless the claimant makes an oral presentation to the Commission pursuant to #1601.A.1.

2. License Suspension Appeals

See § 33-6-106, CRS for additional detail and requirements

a. All license suspensions will be heard initially and decided by a Commission hearing examiner. A copy of the hearing examiner's initial decision shall be sent to the licensee by certified mail, return receipt requested, to the last known address of such person. The hearing examiner's initial decision shall advise the licensee of their right to appeal the initial decision to the Commission. Any person seeking or otherwise requiring Commission review of the hearing examiner's initial decision shall file a written notice of appeal with the Commission within thirty (30) days of the licensee's receipt of the hearing examiner's initial decision, but no later than 45 days from the date contained in the certificate of service accompanying the initial decision. The notice of appeal must be sent to "CPW License Appeals" 6060 Broadway, Denver, CO 80216. If a timely appeal is not made to the Commission, the hearing examiner's initial decision shall become final, effective 45 days from the date contained in the certificate of service accompanying the initial decision. If a timely appeal is made to the Commission, the hearing examiner shall send notice to the licensee of the date of their scheduled hearing before the Commission and advise that the hearing examiner's initial decision to suspend is automatically stayed pending Commission review and final action.
b. The notice of appeal shall include:
   1) the person's name, address, telephone number and case file number;
   2) a narrative statement of the person's position, including a complete statement of the factual and statutory basis supporting relief from the decision of the hearing examiner and the relief requested;
   3) copies of any written documentation or documentary evidence submitted to the hearing examiner;
   4) copy of the hearing examiner's decision, including the findings of fact and conclusions of law, and;

5) a copy of the transcript of the hearing on the suspension of license privileges conducted by the hearing examiner. The person requesting review shall be responsible for the production of the transcript.

c. Commission review will be based on the notice of appeal and any additional written materials and documentary evidence provided to the Commission by the hearing examiner in response to the notice of appeal, and unless the Commission directs otherwise, there will be no oral presentations or further submittals to the Commission.

d. Except as may otherwise be directed by the Commission, license suspensions will be reviewed at the next regular meeting of the Commission following their receipt, provided the notice of appeal is received by the Commission at least thirty days prior to the meeting. The appeal will be placed on the consent agenda unless the licensee makes an oral presentation to the Commission pursuant to #1601.A.1. The final decision of the Commission is effective upon mailing to the licensee and must contain a certificate of mailing.

e. Written notice of the final decision of the commission shall be sent to the licensee by certified mail to the last known address of such person. The notice shall advise the licensee that he or she may appeal the Commission's suspension decision to the state district court as provided in § 24-4-106, C.R.S., by bringing an action for judicial review within 35 days after such action becomes effective.

f. When deciding upon the duration of any license privileges suspension term, the hearing examiner will consider the facts of the underlying violation(s) giving rise to the criminal conviction(s) and the administrative license suspension hearing, along with all relevant written materials and documentary evidence contained in the Division's records, all written materials and documentary evidence provided by the party prior to the administrative license suspension hearing, and all evidence provided during the hearing, and will give specific consideration to the absence or presence of the following factors:
   1) Whether the violation(s) caused or resulted in the take of wildlife, injury or death of a person, or damage to or destruction of public or private property;
   2) The number of violations arising from the same transaction or occurrence;
   3) Whether the violation(s) involved the take of species listed as endangered, threatened or of special concern;
   4) Whether the violation(s) involved the take of trophy wildlife;
   5) Whether the violation(s) showed an intentional, knowing, or negligent disregard for wildlife or public safety;
   6) Whether the violation(s) involved intentional, knowing or negligent action on behalf of the party;
   7) Whether the party has any prior violations of wildlife statutes or regulations, or violations of state or federal law committed while hunting, fishing, or engaging in a related activity;
   8) Whether the party has any prior license suspensions;
   9) Whether the violation(s) occurred while the party was subject to a prior suspension or otherwise unlicensed;
   10) Whether the violation(s) involved any assault or threat to or resisting a peace officer;
   11) Whether the party self-reported the violation(s) or otherwise attempted to remedy or ameliorate the harm caused by the violation(s);
   12) The experience and age of the party and other social factors or circumstances associated with the violation(s);
   13) Whether the party interfered with or hindered the investigation of the violation(s);
   14) The criminal penalties imposed as part of the violation(s);
   15) Whether the party acted alone or in concert with other parties;
   16) The species and the number of wildlife taken, and;
   17) Whether the violation(s) involved any specified illegal manner of take (use of bait, traps, snares, poison, etc.).

Based on all the evidence presented, the hearing examiner will determine the weight to be given to any factor and that factor's effect on the duration of the suspension term.

3. Mid-Suspension Review

a. Except as specified in subsection b. of this regulation, any person who has had their privilege of applying for, purchasing, or exercising the benefits conferred by any or all licenses issued by the division pursuant to articles 1 to 6 of title 33 ("license privileges") may file a petition for mid-suspension review seeking to modify the expiration date of their suspension. Such petitions may be filed once every five years either:
   1) After half of a suspension of at least 20 years, but less than a lifetime, has elapsed; or
   2) After fifteen years of a lifetime suspension have elapsed.

b. Applicability
   1) Any person who has had their license privileges suspended by the commission for less than 20 years may not file a petition for mid-suspension review.
   2) Any person who has had their license privileges suspended by the commission on two or more occasions may not file a petition for mid-suspension review.
   3) Any person who has been convicted of wildlife violations of another state, or any Canadian province, United States territory, or federal agency which is a member of the "Wildlife Violator Compact," §§ 24-60-2601 – 2604, CRS, since the date of the hearing examiner's initial decision entered pursuant to § 33-6-106(7), CRS, may not file a petition for mid-suspension review.
   4) Any person who has been charged with wildlife violations of another state, or any Canadian province, United States territory, or federal agency which is a member of the "Wildlife Violator Compact," §§ 24-60-2601 – 2604, CRS, since the date of the hearing examiner's initial decision entered pursuant to § 33-6-106(7), CRS, may not file a petition for mid-suspension review until such charges are finally resolved.

c. Contents of petition for mid-suspension review and course of proceedings
   1) The petition for mid-suspension review must include an affidavit signed by the petitioner under penalty of perjury stating:
      a. The petitioner has not had their license privileges suspended by the commission on two or more occasions;
      b. The petitioner has not been convicted of wildlife violations of another state, or any Canadian province, United States territory, or federal agency which is a member of the "Wildlife Violator Compact," §§ 24-60-2601 – 2604, CRS, since the date of the hearing examiner's initial decision entered pursuant to 33-6-106(7), CRS; and,
      c. There are no pending charges against the petitioner for wildlife violations of another state, or any Canadian province, United States territory, or federal agency which is a member of the "Wildlife Violator Compact," §§ 24-60-2601 – 2604, CRS.
   2) The petition for mid-suspension review must include a detailed justification for the request. Time served on the suspension, and/or financial penalties incurred do not constitute good cause for modifying the expiration date of any suspension.
   3) The petition for mid-suspension review must demonstrate the petitioner's ongoing and concerted efforts to ameliorate the harm caused by their violation(s) in the form of education, mentoring, volunteering, wildlife conservation efforts, or other means.
   4) The division may file a response to the petition. Unless the commission directs otherwise, there will be no oral presentations or further submittals to the commission and the petition will be placed on the consent agenda with an appropriate recommendation by the Director.

d. Standard of review: The commission, in its discretion, may modify the duration of a previously-imposed license suspension if the petitioner proves the duration of their original suspension no longer serves the remedial purpose of protecting the state's wildlife. The commission shall consider the totality of the circumstances, which include, but need not be limited to, the following factors:
   1) The credibility of the petitioner's written statements or testimony, if any;
   2) The credibility of written statements by third parties;
   3) The adequacy of petitioner's ameliorative efforts;
   4) The risk of future wildlife offenses; and,
   5) Aggravating or mitigating factors leading to the original suspension.

3. Review of Petitions for Declaratory Orders

   See §§ 24-4-105(11), CRS for additional detail and requirements

   a. Any person may petition the Commission for a declaratory order to terminate a controversy or to remove uncertainty as to the applicability to the petitioner of any statutory provision or any rule or order of the Commission.
   b. The petition must be in writing and shall include:
      1) the petitioner's name, address and telephone number;
      2) the statutory provision, rule or order at issue;
      3) a narrative statement of all facts necessary to show the nature of the controversy or uncertainty and the manner in which the statutory provision, rule or order applies or potentially applies to the petitioner;
      4) whether the petitioner holds any permits, passes, or registrations issued pursuant to Articles 10 through 15 of Title 33, C.R.S., as amended.
   c. The Commission will determine, in its discretion and without notice to the petitioner, whether to rule upon the petition. In determining whether to rule upon a petition filed pursuant to this regulation, the Commission will consider the following matters, among others:

      1) Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to the petitioner of any statutory provision or of any regulation of the Commission.

      2) Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Commission or a court involving one or more of the petitioners.

      3) Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Commission or a court but not involving the petitioner.

      4) Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.

      5) Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Rule 57, Colorado R. Civ. P., which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, regulation, or order in question.

d. Commission review, if any, will be based on the petition and any additional written materials and documentary evidence provided to the Commission by the Division in response to the petition, and unless the Commission directs otherwise, there will be no oral presentations or further submittals to the Commission.
e. Except as may otherwise be directed by the Commission, petitions for declaratory orders will be reviewed at the next regular meeting of the Commission following their receipt, provided the petition is received by the Commission at least thirty days prior to the meeting.
f. If the Commission determines that it will rule on the petition, the following procedure will apply:
    1) The Commission may rule upon the petition based solely upon the facts presented in the petition. In such a case:
        i. Any ruling of the Commission will apply only to the extent of the facts presented in the petition and any amendment to the petition.
        ii. The Commission may order the petitioner to file a written brief, memorandum or statement of position.
        iii. The Commission may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
        iv. The Commission may dispose of the petition on the sole basis of the matters set forth in the petition.
        v. 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.
        vi. The Commission may take administrative notice of the facts pursuant to the State Administrative Procedure Act and may utilize available experience, technical competence and specialized knowledge in the disposition of the petition.
        vii. If the Commission rules upon the petition without a hearing, it shall promptly notify the petitioner of its decision and the reasons for such action.
    2) The Commission may, in its discretion, set the petition for hearing, upon due notice to the petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The notice to the petitioner setting such hearing shall set forth, to the extent known, the factual or other matters into which the Commission intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all of the facts stated in the petition, all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statutory provision, rule or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Commission to consider.
g. The parties to any proceeding pursuant to this regulation shall be the division and the petitioner. Any other person 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 the same matters as required by # 600-4. Any reference to “petitioner” in this regulation also refers to any person who has been granted leave to intervene by the Commission.
h. Any declaratory order or other order disposing of a petition pursuant to this regulation shall constitute final agency action subject to judicial review pursuant to section 24-4-106, C.R.S.

4. All Other Adjudicatory Hearings

See §§ 24-4-105 and 33-1-111, CRS for additional detail and requirements

a. Unless the Commission directs otherwise, all other adjudicatory matters within the jurisdiction of the Commission will be heard initially and decided by an administrative law judge within the Division of Administrative Hearings.
b. Any person requesting an adjudicatory hearing on a matter within the jurisdiction of the Commission shall file a written request for a hearing with the Commission.
c. The request for an adjudicatory hearing shall include:
    1) the person's name, address and telephone number;
    2) a narrative statement of the person's position, including a complete statement of the factual basis and legal justification for any relief requested;
    3) copies of any written documentation or documentary evidence supporting the person's position;
d. Except as may otherwise be directed by the Commission, requests for adjudicatory hearings will be reviewed at the next regular meeting of the Commission following their receipt, provided the request is received by the Commission at least thirty days prior to the meeting.
e. The person will be notified of the assignment of the matter to the Division of Administrative Hearings or whether the Commission will hear the matter itself.
f. All further proceedings will be conducted in accordance with §§ 24-4-105, CRS

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00464

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (406 Series, Wildlife)

on 09/01/2021

2 CCR 406-16

CHAPTER W-16 - PARKS AND WILDLIFE PROCEDURAL RULES

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 17, 2021 09:13:18

Philip J. Weiser
Attorney General
by Eric R. Olson
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 11/01/2021

Effective date

11/01/2021

(2 CCR 502-1)

21.200 CARE AND TREATMENT OF CHILDREN, YOUTH AND FAMILIES

21.200.1 BEHAVIORAL HEALTH SERVICES FOR CHILDREN AND YOUTH

21.200.11 Definitions

A. "Psychotherapy" or "psychotherapy services" as defined in Section 12-245-202(14), C.R.S., means the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate behavioral and mental health disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors that interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention that takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief psychotherapy, psychotherapy can be a single intervention.

B. "Youth" in this section means, under the age of twenty-one (21), unless otherwise noted.

21.200.12 General Provisions

A. In addition to these rules, programs providing behavioral health services to children and adolescents must follow provisions made in Sections 21.110 through 21.190.

B. Residential child care facilities licensed by the Colorado Department of Human Services, Division of Child Welfare, shall follow Sections 21.120 and 21.200, where applicable.

21.200.13 Rights of Children and Adolescents

These provisions shall not apply to any youth admitted to a facility designated under Title 27, Article 65, C.R.S., Care and Treatment of Persons with Mental Illness, for behavioral health purposes pursuant to the Children's Code, Title 19, C.R.S., when there have been judicial proceedings authorizing the placement of the youth into a facility.

A. In addition to the individual rights in Section 21.280.26 for adults, youth who are fifteen (15) years of age or older, with or without the consent of a parent or legal guardian, have the right to:

1. Consent to receive behavioral health services from an agency or a professional person;

2. Consent to voluntary hospitalization;

3. Object to hospitalization and to have that objection reviewed by the court under the provision of Section 27-65-103, C.R.S.; and

4. Consent to release of information.

B. Parents or legal guardians shall be contacted without the youth's written or verbal consent if:

1. The individual presents as a danger to self or others; or,

2. Essential medical information is necessary for parents or legal guardians to make informed medical decisions on behalf of youth.

C. Behavioral health facilities must obtain parental or legal guardian consent for youth under fifteen (15) years of age, with the following exception:

1. Section 12-245-203.5(2), C.R.S. allows psychotherapy services, as defined in Section 12-245-202(14)(a), C.R.S., to be provided to a youth who is twelve (12) years of age or older, with or without the consent of the youth's parent or legal guardian if the youth is knowingly and voluntarily seeking such services and the provision of psychotherapy services is clinically indicated and necessary to the youth's well-being. The following mental health professionals are the only professionals allowed to provide outpatient psychotherapy services in an outpatient setting, to a youth who is twelve (12) years of age or older, with or without the consent of the youth's parent or legal guardian:

   a. A professional person as defined in Section 27-65-102(17), C.R.S., which means a person licensed to practice medicine in this state, a psychologist certified to practice in this state, or a person licensed and in good standing to practice medicine in another state or a psychologist certified to practice and in good standing in another state who is providing medical or clinical services at a treatment facility in this state that is operated by the armed forces of the united states, the united states public health service, or the united states department of veterans affairs;

   b. A mental health professional licensed pursuant to Article 245, of Title 12, C.R.S., which in accordance with Section 12-245-203.5, C.R.S., includes:

      1) A psychologist licensed pursuant to Part 3 of Article 245, of Title 12, C.R.S. or a psychologist candidate pursuant to Part 3 of Article 245, of Title 12,C.R.S.;

      2) A social worker licensed pursuant to Part 4 of Article 245, of Title 12, C.R.S.;

      3) A marriage and family therapist licensed pursuant Part 5 of Article 245, of Title 12, C.R.S.;

      4) A professional counselor licensed pursuant to Part 6 of Article 245, of Title 12, C.R.S. or a licensed professional counselor candidate pursuant to Part 6 of Article 245, of Title 12, C.R.S.;

5) An addiction counselor licensed pursuant to Part 8 of Article 245, of Title 12, C.R.S.; or

c. A school social worker licensed by the Department of Education.

D. Youth who are under the age of fifteen (15) have the right to object to hospitalization and to have a guardian ad litem appointed pursuant to Section 27-65-103, C.R.S.

E. Appropriate educational programs shall be available for all school age youth who are residents of the designated facility in excess of fourteen (14) calendar days. These educational programs may be provided by either the local school district or by the designated facility. If provided by the designated facility, the educational program shall be approved by the Colorado Department of Education.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00401

Opinion of the Attorney General rendered in connection with the rules adopted by the

Behavioral Health

on 09/03/2021

2 CCR 502-1

BEHAVIORAL HEALTH

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 23, 2021 08:59:53

Philip J. Weiser
Attorney General
by Eric R. Olson
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 11/01/2021

Effective date

11/01/2021

(2 CCR 502-1)

21.000 BEHAVIORAL HEALTH

****

21.110 DEFINITIONS

“Inspection” means a process of review to ensure licensed or designated entities are operating in substantial conformity with applicable licensing and/or designation rules. Inspections may be conducted remotely for licensure or designation renewals if the entity has received an on-site visit within three (3) years or for entities providing telehealth-only services.

****

21.120.1 General Provisions

D. Based on compliance issues identified through application review and inspection, the agency may be issued a provisional or probationary license or designation.

****

21.120.22 Initial Licenses

B. An agency may be approved for licensure, granted provisional approval, or have its application denied. The applicant shall be advised of the decision in writing within sixty (60) business days of the initial inspection.

****

21.120.23 Provisional Licenses

C. During the term of the provisional license, reviews and inspections may be conducted to determine if the applicant is in compliance and meets the requirements for a license.

****

21.120.4 DESIGNATION PROCEDURE

D. Receipt of the application shall be acknowledged in writing and state what additional information or documents, if any, are required for review prior to an inspection.

E. For initial designation applications, the applicant shall be advised in writing within sixty (60) calendar days of initial inspection of the decision of the Department. The facility may be approved for designation, granted provisional approval, or the application may be denied.

****

21.120.42 Re-Designation

E. Facilities designated to provide care and treatment to persons with mental health disorders pursuant to Section 27-65-101, et seq., C.R.S., shall receive an annual review for compliance. All other designated facilities shall be reviewed ~~on-site~~ at least every two (2) years.

****

21.240 DUI/DWAI, BUI, AND FUI EDUCATION AND TREATMENT

21.240.1 DEFINITIONS

“Face-to-Face”, for purposes of this section 21.240, means that the individual is physically in the same room as a professional person at an office of a behavioral health licensed or approved site or video technology is being utilized.

****

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00477

Opinion of the Attorney General rendered in connection with the rules adopted by the

Behavioral Health

on 09/03/2021

2 CCR 502-1

BEHAVIORAL HEALTH

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 23, 2021 09:02:24

Philip J. Weiser
Attorney General
by Eric R. Olson
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 Accident and Health (General) 1 - eff 11/01/2021

Effective date

11/01/2021

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-45

UNIFORM INDIVIDUAL AND SMALL GROUP HEALTH BENEFIT PLAN APPLICATIONS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-107.5(1), and 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to promulgate rules concerning the uniform individual and small group health benefit plan applications.

Section 3 Applicability

This regulation applies to all carriers offering individual and small group health benefit plans that are subject Colorado insurance laws accepting applications for coverage on or after November 1, 2020. This includes carriers offering coverage under Parts 2, 3, and 4 of Article 16 of Title 10 of the Colorado Revised Statutes.

Section 4 Definitions

A. "Exchange" shall have the same meaning as found at § 10-16-102(26), C.R.S.

B. "Uniform Individual Application" means, for purposes of this regulation, the individual application developed and published by the Division of Insurance (Division) for use by carriers in collecting information from an applicant to determine what plans are appropriate for the applicant to consider.

C. "Uniform Small Group Application" means, for purposes of this regulation, the small group application developed and published by the Division of Insurance (Division) for use by carriers in collecting information from employees to determine what plans are appropriate for the employee to consider.

Section 5 Rules

A. Carriers must comply with the following requirements concerning electronic and non-electronic applications:

1. All carriers offering individual health benefit plans outside of the Exchange must use the Uniform Individual Application when collecting enrollment information from consumers. The Uniform Individual Application can be found in Appendix A of this regulation.

2. All carriers offering individual health benefit plans within the Exchange will use the Uniform Individual Application for the non-electronic collection of enrollment information from consumers.

3. All carriers offering small group health benefit plans must use the Uniform Small Group Application when collecting enrollment information from employees and their dependents.

   a. This application will be utilized by the Exchange as the non-electronic enrollment application for small group employees in the Small Business Health Options Program (SHOP).

   b. The Uniform Small Group Application can be found in Appendix B of this regulation.

4. Carriers may not alter, modify, or change the uniform applications developed by the Division.

5. Carriers may not add logos or other graphics or text to the uniform applications except where designated on the uniform applications found in Appendix A and Appendix B.

6. A carrier shall not deny an application for a health benefit plan solely on the basis of an applicant electing to not provide a Social Security Number, Tax Identification Number, or Alternative Identification Number.

B. The Exchange may require additional information, through the use of an electronic application or a supplemental questionnaire, to collect information to comply with federal law for on-Exchange products.

C. Carriers shall make electronic and non-electronic applications available in Spanish.

Section 6 Severability

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

Section 7 Enforcement

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

Section 8 Effective Date

This regulation shall become effective on November 1, 2021.

Section 9 History

New regulation effective October 15, 2013.
Amended regulation effective November 1, 2020.
Amended regulation effective November 1, 2021

Appendix A

[CARRIER LOGO]

COLORADO UNIFORM **INDIVIDUAL** APPLICATION FOR MAJOR MEDICAL HEALTH BENEFIT PLANS

This form is designed for an individual's application for coverage. Please contact your carrier with questions regarding this form.

Federal financial assistance may be available for coverage purchased through Connect for Health Colorado. If purchasing coverage through Connect for Health Colorado, you will need to provide additional information for determination of eligibility for federal financial assistance. Further information may be found at www.connectforhealthco.com.

COVERAGE INFORMATION

Application Type: (check all that apply)	☐ New Coverage ☐ Change/Modification to Existing Coverage ☐ Open Enrollment ☐ Special Enrollment*				
Is the applicant purchasing this plan using a reimbursement arrangement (if applicable):	☐ Yes ☐ No	If so, what type:	☐ HRA	☐ ICHRA	☐ QSEHRA
Special Enrollment Period Qualifying event: ☐ Loss of Coverage ☐ Birth/Adoption/Placement for Adoption ☐ Marriage ☐ Other:_____ Date of Event:_____					
Requested Effective Date:	_____ /_____/_____(MM/DD/YYYY)				

* Proof of eligibility for special enrollment will be required – information available on the DOI website at: https://www.colorado.gov/pacific/dora/division-insurance

PRIMARY APPLICANT/INSURED INFORMATION

Instructions: Please type or print using black or blue ink. Please fill out the entire application for each person for whom coverage is being sought. If a person is currently enrolled in

First Name:		Middle Initial:		Last Name:	
SSN/TIN/ALT ID #:		Date of Birth:	/ /	Current Age:	Gender: ☐ M ☐ F ☐ X

SSN is only necessary to determine eligibility for federal Advance Premium Tax Credit and Cost Sharing Reductions. Not filling out this field shall not be a reason to deny an application for coverage

Physical				City:	
County:		State:		Zip:	
Mailing Address (If different, can be P.O.				City:	
County:		State:		Zip:	
Home Phone:		Alternate		Email:	

Are you (check one): ☐ Single ☐ Married ☐ Common Law ☐ Civil Union ☐ Legally Separated ☐ Divorced ☐ Under 21

Are you or is anyone in your family American Indian or Alaskan Native? ☐ Yes ☐ No

This question is being asked as American Indians and Alaskan Natives have an enhanced ability to enroll in health benefit

ADDITIONAL APPLICANTS

Complete ONLY if your spouse/partner, and/or child(ren) under the age of 26 (older if medically disabled) are applying for coverage. If a dependent child is applying as an individual rather than as part of a family list the child as the primary applicant. If there is not enough space provided, please attach additional family information. Please sign and date the additional sheet. SSN is only necessary to determine eligibility for federal Advance Premium Tax Credit and Cost Sharing Reductions. Not filling out that field shall not be a reason to deny an application for coverage

Name First, MI, Last)	SSN/TIN/ALT ID #:	Gender	Relationship	Disability Y/N	Birth Date (MM/DD/YY)
		☐ M ☐ F ☐ X	SPOUSE/PARTNER	☐ Yes ☐ No	
		☐ M ☐ F ☐ X	☐ Child ☐ Dependent	☐ Yes ☐ No	
		☐ M ☐ F ☐ X	☐ Child ☐ Dependent	☐ Yes ☐ No	
		☐ M ☐ F ☐ X	☐ Child ☐ Dependent	☐ Yes ☐ No	
		☐ M ☐ F ☐ X	☐ Child ☐ Dependent	☐ Yes ☐ No	

Do(es) the child(ren) named within the application live with you at the same physical address shown above? ☐ Yes ☐ No (if no, complete below)							
Child(ren)'s		Mailing Address (If					
City:		County:		State:		Zip:	
Home Phone:		Alternate Phone:		Email:			

Name of the Legal Guardian or Parent responsible for carrying health insurance for the child:							
If the primary applicant is under the age of 21 and different from above, provide the name and mailing address of the legal							
Legal Guardian or Custodial Parent's		Mailing Address (If					
City:		County:		State:		Zip:	
Home Phone:		Alternate		Email:			

Please answer the following questions to the best of your knowledge. 45 CFR 147.102(a)(1)(iv) "For purposes of this section, tobacco use means use of
tobacco on average four or more times per week within no longer than the past 6 months. This includes all tobacco products, except that tobacco use does not include religious or ceremonial use of tobacco. Further, tobacco use must be defined in terms of when a tobacco product was last used."

Name of Person	Used Tobacco Products	
	☐ Yes	☐ No
	☐ Yes	☐ No
	☐ Yes	☐ No
	☐ Yes	☐ No

MEDICARE/MEDICAID INFORMATION		
Is any applicant enrolled in Medicare?	☐ Yes	☐ No
Name of person covered by Medicare: _____. **For this applicant, please stop here, this insurance may duplicate existing Medicare coverage.**		
Is any applicant enrolled in Medicaid, CHIP+, or other governmental health program?	☐ Yes	☐ No
Name of person covered by Medicaid or other governmental health program: _____. For this applicant, please be aware that obtaining individual health insurance may affect which coverage is primary and/or applicant's eligibility for APTC.		

CURRENT MEDICAL COVERAGE

Do you, your spouse/partner, or your dependent child(ren) listed in this application currently have health insurance? ☐ Yes ☐ No

(Dental Coverage in next Section)

Name	Carrier Name	Effective Date of Coverage	Termination Date of Coverage (MM/DD/YY)	Coverage Type

If any applicant has current health coverage, will that applicant cancel current coverage if this application is accepted? ☐ Yes ☐ No

Type of Coverage Key: G = Group Comprehensive Major Medical; I = Individual Comprehensive Major Medical; MS = Medicare Supplement; H = Hospital Coverage Only; V = Vision Coverage Only O=Other, (Please specify)

CERTIFICATION OF DENTAL INSURANCE COVERAGE	
Pediatric dental coverage is a required essential health benefit. The plan you select may not include pediatric dental coverage. Do you have pediatric dental coverage under another plan?	☐ Yes ☐ No Note: you may be required to provide proof that you have obtained coverage before this policy will be approved

TERMS AND CONDITIONS

I acknowledge that I have read all sections of this Application, and I certify on behalf of my eligible family dependents and myself that the answers contained in this Application are complete and accurate to the best of my knowledge.

I understand that my answers, together with any supplements or additional pages, are the basis for the certificate or policy that is issued. I agree that no insurance will be effective until the date specified by the carrier on the certificate or policy.

I understand that my signature constitutes an attestation that I have obtained the required pediatric dental coverage under a separate policy, and may be required to provide proof of this pediatric dental policy prior to this policy being issued and approved. (Certification of dental insurance coverage is not required when purchasing coverage through Connect for Health Colorado)

I understand that any intentional misrepresentation relied upon by the carrier may be used to deny a claim. I further understand that this contract can be voided if, within the first 24 months from the date of the policy or certificate, it is determined that I or a family member made an intentional misrepresentation in this application.

It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance carrier for the purpose of defrauding or attempting to defraud the carrier. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance carrier or agent of an insurance carrier who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

I understand that I may request a copy of this Application. I agree that a photographic copy of this Application shall be as valid as the original. A legible facsimile signature shall have the same force and effectiveness as the original. This document, or the information contained herein, will become a part of the contract when coverage is approved and issued.

I would like to receive all policy notices, premium notices, and other notices relating to this policy through the supplied email address above. ☐ Yes ☐ No

I understand I can change this designation at a later date by contacting my carrier directly, and understand it is my responsibility to notify my carrier of any changes to my email address.

Signature of Primary Applicant/Parent or Legal Guardian for Child-Only Plans	Date Signed:
Complete this section if someone assisted you in the completion of this Application	
The following person assisted me in completing the Application:	Please explain the assistant's relationship to you and your family:

AGENT/PRODUCER INFORMATION	
This section is to be completed by Agent or Producer.	
Agent / Agency of Record: (for commissions and	Writing Agent / Producer:
Name (print):	Name (print):
Agent ID # (NPN):	Agent ID #(NPN):
Agent replacement questions: Will this policy replace any existing accident and sickness insurance policy(s)? ☐ Yes ☐ No As the Writing Agent/Producer, I acknowledge that I am responsible to personally interact with the primary applicant submitting this application in order to fully and accurately represent the terms and conditions of the plans and services of the offering or insuring entity, or one of its subsidiaries. These provisions are	
Writing Agent Signature	Date

DISCLOSURES

This document is a publication of the Colorado Division of Insurance. If you have questions about the content of this document please contact our offices at 303-894-7499 or visit our website at http://www.dora.colorado.gov/insurance. For questions regarding coverage or enrollment please see your carrier.

This section may be used to provide additional information that was required in the sections above and did not fit in the space provided.

_____

_____

_____

_____

_____

Signature of Primary Applicant: _____ Date Signed: _____

_____

Appendix B

COLORADO UNIFORM EMPLOYEE APPLICATION FOR **SMALL GROUP** HEALTH BENEFIT PLANS

This form is designed for an employee's initial application for coverage. Please contact your agent or the carrier to determine if this form should be used in other situations once the group is enrolled with the carrier.

COVERAGE INFORMATION				
Application Type:	☐ New Coverage	☐ Change/Modification to Existing Policy	☐ Open Enrollment	☐ Special Enrollment*
Special Enrollment Period Qualifying event: ☐ Loss of Coverage ☐ Birth/Adoption/Placement for Adoption ☐ Marriage ☐ Other:_____ Date of Event:_____				

* Proof of eligibility for special enrollment will be required – information on special enrollment periods is available at: https://www.colorado.gov/pacific/dora/division-insurance

EMPLOYER INFORMATION			
Employee		Employer	
Proposed Effective		Group Number (if	

EMPLOYEE INFORMATION							
Employee Instructions: Please type or print using black or blue ink. Please fill out the entire application for each person for whom coverage is being sought.							
First Name:		Middle		Last Name:			
SSN/TIN/ALT ID #: Not filing out this field shall not be a reason to deny an application for coverage		Date of Birth:	/ /	Current Age:	Gender: ☐ M ☐ F ☐ X		
Physical Address:				City:			
County:		State		Zip:			
Mailing Address (If different, can be P.O.				City:			
County:		State		Zip:			
Home		Alternate		Email:		Home	Work
First day of employment?		How many hours, on average, do you work		Work Phone:			
Are you (check one): ☐ Single ☐ Married ☐ Civil Union ☐ Legally Separated ☐ Divorced ☐ Designated Beneficiary ☐ Widow/Widower ☐ Common Law ☐ Designated Beneficiary - A common law or designated beneficiary certification may be required by the carrier							
Are you on COBRA or State Continuation?	☐ Yes	☐ No	Start Date:		Stop Date:		
It should be noted that American Indians and Alaskan Natives have an enhanced ability to enroll in individual health benefit plans under the Affordable Care Act.							

TYPE OF HEALTH COVERAGE

List all dependents (spouse/partner and child(ren)) applying for coverage. If you need additional space, please use a separate sheet of paper and attach it to this application (please print your name and sign and date the additional sheet).

Please select the type of health insurance coverage for which you are applying:	☐ Employee Only	☐ Employee & Spouse	☐ Employee & Child	☐ Employee & Family
Name of plan selected: _____				

Dependent Information- List all dependents to be covered					
Name First, MI, Last)	SSN/TIN/ALT ID # (can leave blank):	Gender	Relationship	Disability Y/N	Birth Date (MM/DD/YY)
		☐ M ☐ F ☐ X	SPOUSE/PARTNER	☐ Yes ☐ No	
		☐ M ☐ F ☐ X	☐ Child ☐ Dependent	☐ Yes ☐ No	

		☐ M ☐ F ☐ X	☐ Child ☐ Dependent	☐ Yes ☐ No	
		☐ M ☐ F ☐ X	☐ Child ☐ Dependent	☐ Yes ☐ No	

Employee Name:	Employer Name:

TOBACCO USE	
Please answer the following questions to the best of your knowledge. 45 CFR 147.102(a)(1)(iv) "For purposes of this section, tobacco use means use of tobacco on average four or more times per week within no longer than the past 6 months. This includes all tobacco products, except that tobacco use does not include religious or ceremonial use of tobacco. Further, tobacco use must be defined in terms of when a tobacco product	
Name of Person	Used Tobacco Products
	☐ Yes ☐ No
	☐ Yes ☐ No

EMPLOYEE/DEPENDENT WAIVER OF COVERAGE

Complete this section ONLY if you are not enrolling yourself or your spouse/partner or dependents. Waiver must be completed for all of your dependents to be eligible for enrollment on this plan in the event of changing circumstances. I understand that I am eligible to apply for group health coverage through my employer. I do NOT want, and hereby waive, group health coverage for:

	Name (Last, First,	Birth Date (Mo/Day/Year)
Employee		
Spouse/Partner		
Dependent 1		
Dependent 2		
Dependent 3		
Dependent 4		
Dependent 5		
Dependent 6		

I am waiving group health coverage for myself and/or the dependents listed above because (check all that apply, copy of ID card may be required):	
☐	I am covered under my spouse/partner's group policy
☐	My spouse/partner is covered under another plan (including this plan, if spouse/partner is also an employee)
☐	My dependents are covered under another plan
☐	I wish to continue other coverage obtained through an Individual Plan or Medicare
Other (Please explain):	

WAIVER: I certify that I have been given the opportunity to apply for group health coverage and decline to enroll as indicated above, on behalf of myself, my spouse/partner and my dependent child(ren). I understand that by signing this waiver, I, my spouse/partner, and my dependent child(ren) forfeit the right to coverage. I was not pressured, forced or unfairly induced by my employer, the agent or the carrier(s) into waiving or declining the group health coverage. If in the future I apply for coverage, I, my spouse/partner, or any of my dependent child(ren) may be treated as a late enrollee and subject to postponement of coverage for up to 12 months.

I understand that if I am declining enrollment for myself, my spouse/partner, or my dependent child(ren) because of other health coverage, I may, in the future, be able to enroll myself, my spouse/partner, or my dependent child(ren) in this plan, as required by law, provided that I request enrollment within 30 days after my other health coverage ends or a qualifying event occurs. If I do not request enrollment within 30 days of the above events, I understand that I may not be able to enroll for coverage until my company's Open Enrollment period. I understand that I can obtain information related to my enrollment eligibility from my employer or small group health carrier.

Signature of Employee:_____ Date Signed:_____

Employee Name:	Employer Name:

Employee Name:	Employer Name:

MEDICARE INFORMATION

If you need to complete this section for more than one person, please use a separate sheet of paper and attach it to this application (please sign and date the additional sheet). A copy of your ID card may be required.

Are you, your spouse/partner or your child(ren) covered by:

Medicare Part A?	☐ Yes	☐ No	Medicare Part B?	☐ Yes	☐ No	Medicare Part D?	☐ Yes	☐ No

If "Yes," reason for Medicare:	☐ 65+	Effective Date:	☐ Disability	Effective Date:
	☐ End-stage Renal Disease (ESRD)	Effective Date:	☐ Disability and ESRD	Effective Date:

Name of person covered by Medicare:

CURRENT MEDICAL COVERAGE

Will you, your spouse/partner, or your dependent child(ren) listed in this application have other health insurance coverage that will be in effect at the same time as the coverage you are applying for on this application? ☐ Yes ☐ No

Your information will help the small employer carrier(s) to coordinate benefits with any other group health coverage you may have.

Name	Carrier Name Carrier Phone	Plan Name Group Number	Effective Date of Coverage (MM/DD/YY)	Termination Date of Coverage (MM/DD/YY)	Type of Coverage (See Key Below)

Type of Coverage Key: G = Group Comprehensive Major Medical; I = Individual Comprehensive Major Medical; MS = Medicare

This is being asked to determine if there will be coordination of benefits if any of the individuals on the application have existing coverage

PRIMARY CARE PHYSICIAN SELECTION, IF APPLICABLE

This section should be completed only if the small employer group insurance for which you are applying requires the selection of a primary care provider. A selection should be made for each individual applying for such coverage. The provider information may be listed in the provider materials that are supplied by each carrier to your employer. Use additional sheets if necessary.

Covered Person's	Medical Plan	Primary Care Physician	Primary Care Physician Address:	Is this your current

Employee Name:	Employer Name:

CERTIFICATION OF DENTAL INSURANCE COVERAGE (Certification of dental insurance coverage is not required when purchasing coverage through Connect for Health Colorado)	
Pediatric dental coverage is a required essential health benefit. The plan you select may not include pediatric dental coverage. Do you have pediatric dental coverage under another plan?	☐ Yes ☐ No Note: you may be required to provide proof that you have obtained coverage before this policy will be approved

TERMS – CONDITIONS- DISCLOSURES

I acknowledge that I have read all sections of this Colorado Uniform Employee Application for Small Employer Group Health Coverage (Application), and I certify on behalf of my eligible family dependents and myself that the answers contained in this Application are complete and accurate to the best of my knowledge. I understand and agree that neither my employer nor any insurance agents have any authority to waive my complete answer to any question, agree to insurability, alter any contract, or waive any Colorado small employer carrier's other rights or requirements.

I hereby apply for enrollment for myself and for my eligible family dependents listed. On behalf of my eligible family dependents and myself, I agree to all of the terms and conditions of the group contract(s) with Colorado small employer carrier(s) under which I wish to enroll for coverage. I have indicated in this Application, if required, what product(s) or provider(s) I have selected. I agree that no coverage will be effective until the date specified by the Colorado small employer carrier(s) with whom I enroll, after this application has been accepted by such carrier(s).

I understand and agree that any information obtained in connection with this Application will be used by Colorado small employer carrier(s) to determine eligibility for coverage.

It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance carrier for the purpose of defrauding or attempting to defraud the carrier. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance carrier or agent of an insurance carrier who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

When applicable, I authorize my employer to deduct contributions from my earnings to be applied to the cost of coverage.

I agree to any applicable group contract provisions for the resolution of disagreements and disputes, including arbitration when required and as allowed by law. Please refer to any arbitration provisions in the group contract(s).

I understand that I may request a copy of this Application. I agree that a photographic copy of this Application shall be as valid as the original. A legible facsimile signature shall have the same force and effectiveness as the original. This document will become a part of the contract when coverage is approved and issued.

Employee Name: Employer Name:

COLORADO INSURANCE LAW REQUIRES ALL CARRIERS IN THE SMALL GROUP MARKET TO ISSUE ANY APPLICABLE HEALTH BENEFIT PLAN IT MARKETS IN COLORADO TO ANY SMALL EMPLOYER THAT APPLIES FOR THE PLAN AND AGREES TO MAKE THE REQUIRED PREMIUM PAYMENTS, AND SATISFIES THE OTHER PROVISIONS OF THE HEALTH BENEFIT PLAN.

This document is a publication of the Colorado Division of Insurance. If you have questions about the content of this document please contact our offices at 303-894-7499 or visit our website at https://www.colorado.gov/pacific/dora/division-insurance. For questions regarding coverage or enrollment please see your employer.

Signature of Employee:_____ Date Signed:_____

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00474

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 09/10/2021

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 09/10/2021 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.

September 29, 2021 19:36:15

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Colorado Podiatry Board

CCR number

3 CCR 712-21

Rule title

3 CCR 712-21 Rule 330 - Rules Regarding the Use of Benzodiazepine 1 - eff 10/30/2021

Effective date

10/30/2021

DEPARTMENT OF REGULATORY AGENCIES

Colorado Podiatry Board

RULE 330 – Rules Regarding the Use of Benzodiazepine

3 CCR 712-21 *[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

21.1 STATEMENT OF BASIS AND PURPOSE

The basis for the Board's promulgation of these rules and regulations is sections 12-20-204(1) and 12-290-106(1)(a), C.R.S. The specific statutory authority for the promulgation of this Rule is section 12-30-109(6), C.R.S.

The purpose for the Board's promulgation of these rules and regulations are to implement rules required by section 12-30-109(6), C.R.S., related to requirements for prescribing benzodiazepines to patients for whom licensees have not previously prescribed benzodiazepines within the last twelve months.

21.2 RULES AND REGULATIONS

A. Licensees must limit any prescription for a continuous benzodiazepine to a 30-day supply, for any patient to whom the licensee has not prescribed a benzodiazepine in the last 12 months.

B. Prior to prescribing the second fill of a benzodiazepine, a licensee must comply with the requirements of section 12-280-404(4), C.R.S. Failure to comply with section 12-280-404(4), C.R.S., constitutes unprofessional conduct or grounds for discipline under section 12-290-108(3), C.R.S.

C. The limitation stated in Section (A) of this Rule does not apply to patients for whom licensees prescribe benzodiazepines for the following conditions:

1. Epilepsy;

2. A seizure, a seizure disorder, or a suspected seizure disorder;

3. Spasticity;

4. Alcohol withdrawal; or

5. A neurological condition, including a post-traumatic brain injury or catatonia.

D. These rules do not require or encourage abrupt discontinuation, limitation, or withdrawal of benzodiazepines. Licensees are expected to follow generally accepted standards of podiatry practice, based on an individual patient's needs, in tapering benzodiazepine prescriptions.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00476

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Colorado Podiatry Board

on 09/10/2021

3 CCR 712-21

Rule 330 - Rules Regarding the Use of Benzodiazepine

The above-referenced rules were submitted to this office on 09/10/2021 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.

September 28, 2021 14:38:34

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Public Utilities Commission

CCR number

4 CCR 723-6

Rule title

4 CCR 723-6 RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE 1 - eff 10/30/2021

Effective date

10/30/2021

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-6

PART 6

RULES REGULATING TRANSPORATION BY MOTOR VEHICLE

* * * *

[indicates omission of unaffected rules]

6511. Rates and Charges.

(a) Drop Charge. A towing carrier may assess a drop charge if the owner, authorized operator, or authorized agent of the owner of the motor vehicle that is parked without the authorization of the property owner appears in person to retrieve the motor vehicle after the motor vehicle is hooked up to the tow truck, but before the motor vehicle is removed from the property.

(I) The maximum drop charge is published on the Commission's website for the following classifications:

(A) motor vehicles with a GVWR less than or equal to 10,000 pounds;

(B) motor vehicles with a GVWR greater than 10,000 pounds and less than or equal to 19,000 pounds;

(C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds; and

(D) motor vehicles with a GVWR greater than 33,000 pounds.

(E) Maximum drop charges may be less than these amounts if required by municipal ordinance or by the tow agreement with the property owner and shall be enforced by the Commission pursuant to this rule.

(II) The maximum drop charge shall be adjusted annually based upon the Consumer Price Index – Denver-Aurora-Lakewood, as published by the Colorado Department of Local Affairs. The adjusted rates shall be published on the Commission's website no later than January 31 of each year. The effective date of any rate change shall be January 31 of each year.

(III) The minimum drop charge is $0.00.

(IV) The towing carrier shall halt any tow in progress, including preparation therefor, prior to removal from the private property, and advise the owner, authorized operator, or authorized agent of the owner of the motor vehicle that he or she may offer payment of

the towing carrier's drop charge. The towing carrier shall concurrently advise the owner, authorized operator, or authorized agent of the owner of the motor vehicle of acceptable forms of payment under rule 6512. Such advisements shall be provided via delivery of a charge notification card, in addition to any other means desired by the towing carrier.

(V) If the towing carrier does not advise the owner, authorized operator, or authorized agent of the owner of the motor vehicle of the acceptable forms of payment under rule 6512 or accept such forms of payment, the towing carrier shall not charge or retain any fees or charges for the services it performs. Any money collected must be returned to the owner, authorized operator, or authorized agent of the owner of the motor vehicle.

(b) The towing rates for PPI tows consists of up to four elements: a base rate for the tow; a mileage charge, including any applicable fuel surcharge; a charge for motor vehicle storage; and a charge for release from storage pursuant to paragraph 6511(f), if applicable.

(I) The base rates for PPI tows are published on the Commission's website for the following classifications:

(A) motor vehicles with a GVWR less than or equal to 10,000 pounds;

(B) motor vehicles with a GVWR greater than 10,001 pounds and less than or equal to 19,000 pounds;

(C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds; and

(D) motor vehicles with a GVWR greater than 33,000 pounds.

(II) The base rates shall be adjusted annually based upon the Consumer Price Index – Denver-Aurora-Lakewood, as published by the Colorado Department of Local Affairs. The adjusted rates shall be published on the Commission's website no later than January 31 of each year. The effective date of any rate change shall be January 31 of each year.

(III) The maximum mileage charge a towing carrier may assess for a PPI tow of a motor vehicle is $3.80 per mile for each mile that the motor vehicle is towed, subject to the following limits: The maximum mileage that may be charged for a PPI tow is 12 miles for tows within ten miles of either side of U.S. Interstate Highway 25, and 16.5 miles for mountain areas and eastern plains communities that lie farther than ten miles from U.S. Interstate Highway 25.

(IV) An additional fuel surcharge may be assessed when the price per gallon of diesel fuel exceeds a base rate of $2.60. The Commission shall, each month, adjust the maximum mileage charge when the price per gallon of diesel fuel exceeds the base rate. The surcharge shall be based on the United States Department of Energy "weekly retail on-highway diesel prices" for the Rocky Mountain region (DOE's Weekly Diesel Price). The fuel surcharge adjustment shall provide a one-percent increase in the mileage rate for every ten-cent increase in the DOE's Weekly Diesel Price, or a one-percent decrease in the mileage rate for every ten-cent decrease in the DOE's Weekly Diesel Price, but in no event decreasing below the base rate.

(V) A towing carrier shall not charge or retain any additional fees not identified in these rules for the nonconsensual tow of a motor vehicle from private property.

(c) Maximum towing rates for law enforcement ordered tows and recovery operations are to be calculated on an hourly basis, per required tow truck, as follows, with no additional fees, charges, or surcharges permitted.

(I) The maximum hourly rates for tow truck and driver, billable in ¼ hour increments after the first hour, for the towing or recovery of motor vehicles, are published on the Commission's website for the following classifications:

(A) motor vehicles with a GVWR less than or equal to 10,000 pounds;

(B) motor vehicles with a GVWR greater than 10,000 pounds and less than or equal to 19,000 pounds;

(C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds; and

(D) motor vehicles with a GVWR greater than 33,000 pounds.

(E) The recovery of a motor vehicle requiring the use of a Heavy Rotator (60+ tons) shall not exceed $585 per hour.

(II) The maximum hourly rates for tow truck and driver shall be adjusted annually based upon the Consumer Price Index – Denver-Aurora-Lakewood, as published by the Colorado Department of Local Affairs. The adjusted rates shall be published on the Commission's website no later than January 31 of each year. The effective date of any rate change shall be January 31 of each year

(III) Mileage and fuel surcharges authorized elsewhere in rule 6511 do not apply to law enforcement-ordered tows or recovery operations.

(IV) Any towing carrier billing greater than one hour for any tow truck and driver for a given tow shall:

(A) include, in addition to requirements of rule 6509, the following information on the tow record/invoice, recorded at the time of occurrence: the time of dispatch; the time the tow truck leaves the yard or other staging location; the time the tow truck arrives on scene; the time the tow truck leaves the scene, and the time the towed motor vehicle is unhooked from the tow truck;

(B) include an advisement on the tow record/invoice that documentation of costs billed in excess of one hour for any tow truck and driver for such tow are available upon request from the towing carrier;

(C) only begin billing from a time not earlier than the towing carrier leaves their yard or staging area en route to the scene of the requested tow until the towed motor vehicle is unhooked;

(D) not bill more than the reasonable time necessary to perform the tow at hourly rates for one tow truck and driver, plus the towing carrier's actual and reasonable cost of recovery equipment and labor in excess of one tow truck and driver, plus an additional twenty-five percent of those actual and reasonable costs;

(E) provide an owner, authorized operator, or authorized agent of the owner of the motor vehicle documentation of actual and reasonable costs billed in excess of one hour for any tow truck and driver for such tow upon request; and

(F) not, under any circumstances, bill rates and charges provided in paragraph (b) for a PPI tow.

(d) The maximum rates for a tow from a storage facility, when directed by a law enforcement officer who is performing an accident reconstruction or stolen vehicle investigation, are as follows:

(I) $91.00 for one additional hookup;

(II) $91.00 per hour waiting time; and

(III) mileage charges as provided in paragraph (b).

(e) Storage for nonconsensual tows.

(I) Storage charges may accrue from the time a motor vehicle is placed in storage and shall not exceed the rates published on the Commission's website, based on a 24-hour period or any portion of a 24-hour period, for the following classifications:

(A) motor vehicles having a GVWR of less than 10,000 pounds;

(B) motor vehicles having a GVWR of 10,000 pounds or more; or

(C) in lieu of the storage rates published on the Commission's website, and at the option of the towing carrier, storage may be charged according to the motor vehicle's length, including the tongue of a trailer, at $1.50 per foot or portion thereof.

(D) For the purposes of this rule, the 24-hour time period commences when the motor vehicle enters the towing carrier's storage facility. The second day of storage, for the purposes of charges, shall not begin until 24 hours after the motor vehicle entered the towing carrier's storage facility.

(II) The storage charges shall be adjusted annually based upon the Consumer Price Index – Denver-Aurora-Lakewood, as published by the Colorado Department of Local Affairs. The adjusted rates shall be published on the Commission's website no later than January 31 of each year. The effective date of any rate change shall be January 31 of each year.

(III) Storage charges shall not be charged, collected, or retained for any time during which garage keeper's liability insurance coverage is not kept in force.

(IV) Maximum storage charges for abandoned motor vehicles towed from private property. Storage charges after the tow and storage of an abandoned motor vehicle subject to Part 21 of Title 42, C.R.S., shall not be accumulated beyond 120 days after the mailing date of the report required by § 42-4-2103(4), C.R.S.

(f) For a nonconsensual tow, the maximum additional charge for release of a motor vehicle from storage at any time other than the towing carrier's business hours is published on the Commission's website. The release charge shall be adjusted annually based upon the Consumer Price Index – Denver-Aurora-Lakewood, as published by the Colorado Department of Local

Affairs. The adjusted rates shall be published on the Commission's website no later than January 31 of each year. The effective date of any rate change shall be January 31 of each year.

(g) Noncompliance. If a tow is performed, or storage is provided, in violation of state statute or Commission rule, the towing carrier may not charge or retain any fees or charges for the services it performs. Any motor vehicle that is held in storage and that was towed without proper authorization may be released without charge to the persons authorized in paragraph 6512(a). Any money collected must be returned to the owner, authorized operator, or authorized agent of the owner of the motor vehicle.

(h) Abandoned motor vehicles.

(I) Notifications. The charges for notification(s) to the owner and the lien holder(s) of the motor vehicle held in storage shall be in accordance with §§ 42-4-1804 and 42-4-2103, C.R.S., and the rules of the Colorado Department of Revenue. For purposes of notification, any motor vehicle in possession of the towing carrier, including motor vehicles incidental to the tow (for example, loaded on a trailer when the trailer was towed) shall comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S.

(II) Consequences of failure to notify. A towing carrier holding a motor vehicle in storage who cannot demonstrate that it has made a good faith effort, as set forth in §§ 42-4-1804 and 42-4-2103, C.R.S., to comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S., shall not charge, collect, or retain any fees associated with the tow or storage of the motor vehicle.

(III) Sale of an abandoned motor vehicle to cover the outstanding towing and storage charges must be done in accordance with the notice and procedural requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S.

(IV) Additional costs that may be charged when a stored motor vehicle is sold.

(A) When a stored motor vehicle is sold, a towing carrier may charge the costs of maintaining that motor vehicle while in storage in accordance with § 38-20-109, C.R.S.

(B) When a stored motor vehicle that does not come within the provisions of § 38-20-109, C.R.S., is sold, a towing carrier may charge the costs of maintaining that motor vehicle, up to a maximum of $90.00.

(C) "Cost of maintaining a motor vehicle" means a documented cost that is incurred by the towing carrier and that keeps a motor vehicle in safe and operable condition.

(D) Certified VIN verification procedure. When an abandoned motor vehicle that is less than five model years old and that the Colorado Department of Revenue cannot find in its records must be sold, the maximum rates that may be charged for a certified VIN verification are as follows:

(i) rates as provided in paragraph (d); and

(ii) in addition, the towing carrier may charge for all other documented expenses of obtaining the VIN verification.

(i) Trailers.

(I) No additional fees may be charged for the towing of a power unit and trailer in combination as a single motor vehicle.

(II) A vehicle in or on a trailer is considered in combination as a single unit.

(III) No additional fees may be charged for the towing of cargo in combination; however, additional fees may be charged for towing a trailer when reasonably and actually conducted as a separate tow from a power unit.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00322

Opinion of the Attorney General rendered in connection with the rules adopted by the

Public Utilities Commission

on 09/07/2021

4 CCR 723-6

RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

The above-referenced rules were submitted to this office on 09/08/2021 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.

September 27, 2021 12:13:30

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

CCR number

4 CCR 730-1

Rule title

4 CCR 730-1 ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULES AND REGULATIONS 1 - eff 10/30/2021

Effective date

10/30/2021

DEPARTMENT OF REGULATORY AGENCIES

State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors

ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULES AND REGULATIONS

4 CCR 730-1

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

…

1.4 Rules of Administrative Procedure

All of the Rules in Section 1.4 apply to all architecture, engineering, and land surveying applicants, examinees and licensees unless noted otherwise.

A. Applications

1. **…**

…

g. **Endorsement Applications.** …

To obtain a license by endorsement, an applicant must qualify for licensure under the provisions of the Occupational Credential Portability Program in sections 12-20-202(3), 12-120-213(1), 12-120-313(1), or 12-120-413(3), C.R.S., and submit an application according to the Board's published application procedures. Written or electronic verifications must be received from the jurisdiction where licensure was originally obtained indicating how the applicant qualified for licensure and the status of the applicant's license.

…

I. Licenses.

1. **Reinstatement of Expired or Retired Licenses.**

a. **Reinstatement of Expired or Retired Licenses Two Years or Less.** …

(1) **Reinstatement of Expired or Retired Licenses Two Years or Less for Architects ONLY.** In addition to the requirements set forth in Board Rule 1.4(I)(1)(a), an expired or retired architect license may be reinstated by attesting to the completion of twelve CEHs for the calendar year while their license was active, and an additional twenty-four CEHs as set forth in Board Rule 1.4(I)(3)(a), acquired within the two years immediately preceding the date the application was received.

(a) **Repealed.**

b. **Reinstatement of Expired or Retired Licenses More Than Two Years.** Pursuant to sections 12-20-202(2), 12-120-214(3), 12-120-314(3), and 12-120-415(4), C.R.S., a licensee whose license has expired or been retired for more than two years must prove to the Board that the licensee …

…

2. **Reactivation of Inactive Licenses for Architects ONLY.**

a. **Reactivation of Inactive License to Active within Two Years or Less.** Should a licensee wish to resume the practice of architecture two years or less after being placed on an inactive licensee list, the licensee ...

b. **Reactivation of Inactive License to Active more than Two Years.** Pursuant to section 12-20-203(3), C.R.S., … the licensee … the licensee …

…

3. **Renewal of Licenses**.

a. **Architects**

(1) **Reserved**

(2) **Continuing Education Requirements for Renewal.**

(a) **Statutory Basis.** Pursuant to section 12-120-416, C.R.S., the Board shall adopt rules establishing requirements for continuing education (CE) that an architect shall complete in order to renew a license. …

(c) **Requirements.** Architects shall complete Continuing Education Hours (CEHs) in Health, Safety, and Welfare (HSW) subjects and participate in a process or procedure that demonstrates the architect obtained the required continuing education in order to renew a license to practice architecture in Colorado.

…

(e) **Credit Required for License Renewal.** Architects shall complete a minimum of twelve CEHs during each calendar year.

Licenses expire October 31, in odd numbered years. The reporting period for CEHs in order to renew a license is the even calendar year prior to the year in which the license expires and the odd calendar year in which the license expires. In odd calendar years the licensee has until midnight (MST) on December 31, to complete these CEH.

…

(g) **Carryover of CEH Credit.** Excess CEHs may not be credited to a past or future renewal period or calendar year requirements.

Exception: The Board may allow CEH to be obtained outside of the calendar year as part of disciplinary action or settlement with the Board when CEH have not been obtained in compliance with Board Rule 1.4(I)(3). This includes the Audit process within Board Rule 1.4(I)(3)(a)(2)(q)(iii).

(h) **Health, Safety and Welfare Subjects.** Health, Safety and Welfare (HSW) subjects are defined as technical …

…

(i) **Process or Procedure that Demonstrates the Architect Obtained the Required CEH.** A process or procedure that demonstrates CEH was obtained may be in the form of one of the following:

(i) Certificate of Completion;

(ii) Board Approved Transcripts; or

(iii) A structured report process in a format defined by the Board.

Refer to Board Rule section 1.4(3)(a)(2)(n) Recordkeeping, for the record keeping requirements for these documents.

(j) **Continuing Education Activity Criteria.** To qualify for CEH credit, continuing education activities must be structured educational efforts meeting the following criteria:

…

(k) **Acceptable Continuing Education Activities.** The Board deems the following types of activities to be acceptable:

…

(ii) Formal Certification Programs, e.g. Historic Preservation, Health & Wellness, Architectural Acoustics, Urban Design, LEED.

…

(vi) Presentations and Preparation. This includes teaching assigned courses at college, university, or other educational institutions.

CEHs shall be awarded for the initial presentation only. Credit is available for either presentation OR preparation.

…

(l) **Unacceptable Continuing Education Activities.** The Board deems the following to be unacceptable:

…

(iv) Repeal;

…

(ix) Any activity that does not include a structured educational effort with a process or procedure to demonstrate the architect attended the CEH activity.

…

(n) **Record keeping.** CEHs shall be documented. The documentation shall be maintained by the architect for six years from the date of award.

(i) The documentation shall contain no less than the following information:

(aa) Architect name;

(bb) Type of acceptable continuing education activity per Rule 1.4(I)(3)(a)(2)(k);

(cc) Activity date(s);

(dd) Activity title and description of content and objectives;

(ee) Sponsor/Continuing Education Provider (e.g. organization, institution, association, employer, vendor, publication) name and contact information;

(ff) Monitor/Facilitator name and contact information, as applicable;

(gg) Number of CEHs; and,

(hh) A declaration that the CEHs are considered HSW.

(ii) Board Approved Transcripts obtained to comply with this Recordkeeping requirement shall be from organizations/programs that can ensure all information in rule 1.4(I)(3)(a)(2)(n)(i) is available upon request and the transcript shall contain no less than:

(aa) Architect name;

(bb) Activity date(s);

(cc) Activity title;

(dd) Number of CEHs; and

(ee) A declaration that the CEHs are considered HSW.

…

(r) **Compliance with Continuing Education Requirements**

…

(ii) Licensees shall provide all documents requested for review or audit within 30 days.

…

K. Name and Address Changes.

…

1. Acceptable documentation for name, social security number, and individual taxpayer identification number Changes. The Board requires one of the following forms of documentation to change a licensee's name, correct a social security number, or individual taxpayer identification number:

…

c. Court order;

d. Documentation from the Internal Revenue Service verifying the licensee's valid individual taxpayer identification number; or

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

…

Editor's Notes

History

Entire rule eff. 04/01/2008.

Rules 3.1.2, 4.9 eff. 12/31/2008.

Entire rule eff. 01/01/2010.

Entire rule eff. 01/01/2011.

Rules 4.8.2.2.1, 4.8.3 eff. 06/01/2011.

Rules 2.1, 1.2.2, 2.2, 3.1.9, 3.2.1.1, 4.1.1.3, 4.1.1.8, 4.3.3, 4.3.5, 4.7.2.2, 4.7.2.3, 4.9.1, 4.9.2, 4.9.3.1.2, 5.2.3, 6.2.3, 7.1.4 eff. 01/01/2012.

Rules 2.1-2.2, 3.1.10, 4.1.1.3, 4.1.1.6, 4.1.1.7-4.1.1.10, 4.3.4-4.3.5, 4.4.1, 4.5, 4.5.2-4.5.4, 4.6.1.10, 4.6.2.5, 4.6.7, 4.7.1.2, 4.7.1.4, 4.7.2.1, 4.8.2.1-4.8.2.2, 4.8.6, 4.9.1-4.9.1.2.1.1, 4.9.3.1.2.5, 4.9.3.1.2.15-4.9.3.1.2.16, 4.10.1, 4.11, 5.2.2, 6.5.1, 6.5.1.1, 6.5.4-6.5.4.2, 7.1.1, 7.1.5, 7.2 eff. 09/01/2015. Rules 4.4.1.1, 4.6.1.3, 4.6.2.3, 4.8.4, 4.10.2, 6.6.2(c), 7.1.7, 7.3 repealed eff. 09/01/2015.

Rule 4.9.1 eff 03/17/2017. Rules 4.9.1.1.1.1, 4.9.1.2.1.1 repealed eff 03/17/2017.

Rules 4.6.5, 4.8.1 emer. rules eff. 05/15/2019.

Rules 4.6.5, 4.8.1 emer. rules eff. 06/14/2019.

Rules 4.6.5, 4.8.1 eff. 09/14/2019.

Rules 1.2 A, 1.2 B.17.b, 1.3 A.3, 1.3 A.10.a, 1.3 C.3.a, 1.3 D.6, 1.3 E.2, 1.4 A, 1.4 F.1.d, 1.4 F.2.e, 1.4 G.2.a, 1.4 H.2.c, 1.4 I.1.a.(1), 1.4 I.1.b.(1), 1.4 I.3.a.(2)(d), 1.4 I.3.e, 1.4 I.3.(g), 1.4 I.3.(k), 1.4 I.3.(l)(iv), 1.4 I.3.(n)(ii), 1.4 I.3.(q)(iii), 1.4 K.1.d, 1.5 A, 1.6 A.2, 1.6 A.3, 1.6 A.7, 1.6 B, 1.6 D.3, 1.6 E.3, 1.6 L, 1.7 B eff. 08/14/2020.

Rules 1.7 A.2-3 eff. 08/30/2020.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00485

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

on 09/10/2021

4 CCR 730-1

ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/10/2021 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.

September 29, 2021 19:37:21

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Board of Licensed Professional Counselor Examiners

CCR number

4 CCR 737-1

Rule title

4 CCR 737-1 LICENSED PROFESSIONAL COUNSELOR EXAMINERS RULES AND REGULATIONS 1 - eff 10/30/2021

Effective date

10/30/2021

DEPARTMENT OF REGULATORY AGENCIES

Board of Licensed Professional Counselor Examiners

LICENSED PROFESSIONAL COUNSELOR EXAMINERS RULES AND REGULATIONS

4 CCR 737-1

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

…

1.8 REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-20-204(1), 12-245-204, 12-245-206)

…

B. Any of the following documentation is required to change a Licensee's name or correct a social security number or individual taxpayer identification number: marriage license, divorce decree, court order, or documentation from the Internal Revenue Service verifying the licensee's valid individual taxpayer identification number. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Director of Support Services.

…

Editor's Notes

History

Rules 10, 17 emer. rules eff. 01/29/2008.

Rules 10, 17 eff. 03/01/2008.

Rules 12, 15, 19, 20 emer. rules eff. 01/01/2011.

Rules 12, 15, 19, 20 eff. 03/01/2011.

Entire rule emer. rule eff. 12/13/2011.

Entire rule eff. 02/01/2012.

Rule 14 eff. 07/01/2012.

Rule 12 eff. 03/16/2016.

Rules 1.6 A, 1.6 B.2, 1.7, 1.14, 1.22 emer. rules eff. 09/25/2020.

Rules 1.6 A, 1.6 B.2, 1.7, 1.12, 1.14, 1.16, 1.22, 1.23, Appendix A eff. 11/14/2020.

Rule 1.6 A eff. 04/30/2021.

Annotations

Rules 1.12 C., 1.12 D., 1.23 E.4. (adopted 09/25/2020) were not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00484

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Board of Licensed Professional Counselor Examiners

on 09/10/2021

4 CCR 737-1

LICENSED PROFESSIONAL COUNSELOR EXAMINERS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/10/2021 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.

September 29, 2021 19:38:29

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Funeral Home and Crematory Registration

CCR number

4 CCR 742-1

Rule title

4 CCR 742-1 OFFICE OF FUNERAL HOME AND CREMATORY REGISTRATION 1 - eff 10/30/2021

Effective date

10/30/2021

DEPARTMENT OF REGULATORY AGENCIES

Office of Funeral Home and Crematory Registration

FUNERAL HOME AND CREMATORY REGISTRATION RULES

4 CCR 742-1

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

…

1.7 Custody and Responsibility

…

D. **…**

…

2. **Identification of Decedent Remains.** Remains shall have an identification tag attached to the urn or container holding the remains and a matching identification tag shall also be placed inside the urn or container. If remains are separated, additional tags shall be placed similarly with all containers holding remains.

E. **…**

2. Custody shall terminate for a funeral home and/or crematory at the date and time of release of the remains expressly agreed upon, in writing, by the funeral home and/or crematory and the person, or representative thereof, with right of final disposition, or the release of the remains to the person, or representative thereof, with right of final disposition, whichever occurs first in time.

   a. Termination of custody shall not relieve the funeral home and/or crematory of the requirements of sections 12-135-109(5) and 12-135-302(2), C.R.S.

3. **…**

   b. The chain of custody record shall be completed for each transfer of the human remains prior to final disposition for funeral establishment and prior to release of remains to the person, or representative thereof, with right of final disposition.

…

Editor's Notes

History

Entire rule eff. 01/01/2010.

Rules 5, 8 eff. 12/30/2016.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00472

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Funeral Home and Crematory Registration

on 09/08/2021

4 CCR 742-1

OFFICE OF FUNERAL HOME AND CREMATORY REGISTRATION

The above-referenced rules were submitted to this office on 09/08/2021 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.

September 27, 2021 13:24:37

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Inspection and Consumer Services Division

CCR number

8 CCR 1202-15

Rule title

8 CCR 1202-15 RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PET ANIMAL CARE AND FACILITIES ACT 1 - eff 10/30/2021

Effective date

10/30/2021

DEPARTMENT OF AGRICULTURE

Inspection and Consumer Services Division

RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PET ANIMAL CARE AND FACILITIES ACT

8 CCR 1202-15

Part 2. Application for Licensure and Conditions for Licensure

2.5.1 In addition to all other requirements for licensure, an applicant for a pet animal facility license must successfully complete the required qualifying education course. Proof of course completion is required prior to license approval. The required qualifying education course will be an online, self-paced course designed and provided by the Colorado Department of Agriculture. The course shall be free, available to applicants and their staff, and the course may be accessed by contacting the PACFA program at the Colorado Department of Agriculture. The qualifying education course will cover topics including, but not limited to:

2.5.1.1 The Pet Animal Care and Facilities Act program overview;

2.5.1.2 Rule and regulations;

2.5.1.3 Cleaning, sanitation, veterinary care, animal care; and

2.5.1.4 Importation and transportation.

2.5.2 The applicant for a licensed pet animal facility must successfully complete a continuing education course, at least once during the span of two (2) 12-month license periods after the first initial license period has expired. Proof of course completion is required prior to license renewal. The required continuing education course will be an online, self-paced course designed and provided by the Colorado Department of Agriculture. The course shall be free, available to applicants and their staff, and the course may be accessed by contacting the PACFA program at the Colorado Department of Agriculture. The continuing education course will cover topics including, but not limited to:

2.5.2.1 Changes to PACFA statutes and rules;

2.5.2.2 Noncompliance trends by licensees;

2.5.2.3 Good practices that promote the health and welfare of pet animals; and

2.5.2.4 Other relevant topics related to the PACFA program.

2.5.3 A pet animal facility licensed prior to October 30, 2021 is required to take the qualifying education course to satisfy the continuing education requirement in Part 2.5.2 by a date prescribed by the Commissioner, but no later than December 31, 2024.

Part 25. Statements of Basis, Specific Statutory Authority and Purpose

25.8. Adopted September 8, 2021 – Effective October 30, 2021

Statutory Authority:

The Commissioner of Agriculture adopts these rules pursuant to §35-80-109(2), C.R.S.

Purpose:

The Purpose of the rulemaking is to add qualifying and continuing education as an additional requirement for licensure found in subsection 2.5.

Factual Policy and Issues:

Many regulated professions that serve the general public require a level of qualifying and continuing education as a condition to licensure. Educational requirements for licensed professionals maintain a basic level of competency and establish consistent standards within the profession. Under Title 35, Article 80 of the Colorado Revised Statutes, the Commissioner has the authority to establish qualifications of any applicant for licensure and the ability to issue and renew any license based on established requirements. By incorporating qualifying and continuing education, licensees will have a better understanding of the regulatory requirements, industry standards, and best practices related to animal care; thereby, increasing compliance and improving the health and safety of pet animals throughout the state. The education courses will be required to be completed by the applicant who applies for a new license or to renew an existing license. However, facility staff may voluntarily take the courses at their own discretion.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00436

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/08/2021

8 CCR 1202-15

RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PET ANIMAL CARE AND FACILITIES ACT

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 27, 2021 12:53:07

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Inspection and Consumer Services Division

CCR number

8 CCR 1202-17

Rule title

8 CCR 1202-17 RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PRODUCE SAFETY ACT 1 - eff 10/30/2021

Effective date

10/30/2021

DEPARTMENT OF AGRICULTURE

Inspection and Consumer Services Division

RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PRODUCE SAFETY ACT

8 CCR 1202-17

Pursuant to the provisions and requirements of the Produce Safety Act, Title 35, Article 77, C.R.S., the following rules are hereby promulgated to enforce under Colorado law the federal Standards for the Growing, Harvesting, Packing and Holding of Produce for Human Consumption, 21 CFR § 112.

Part 3 REGISTRATION REQUIREMENT

3.5 For the 2022 registration year of January 1, 2022 to December 31, 2022, a farm that sold an average monetary value of produce during 2018, 2019 and 2020 with more than $28,561 must register with the Department.

Part 27 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

27.2 Adopted September 8, 2021 - Effective October 30, 2021

Statutory Authority

The Commissioner of Agriculture adopts these rules pursuant to §35-77-106(1), C.R.S.

Purpose

The purpose of this rule change is to increase the threshold limit for farms Exempt from the rule.

Factual and Policy Basis

Increased limits allowed for Exempt status are consistent with FDA's annual adjusted for inflation calculations.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00437

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/08/2021

8 CCR 1202-17

RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PRODUCE SAFETY ACT

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 27, 2021 12:54:14

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of State

Agency

Secretary of State

CCR number

8 CCR 1505-2

Rule title

8 CCR 1505-2 BINGO AND RAFFLES GAMES 1 - eff 11/01/2021

Effective date

11/01/2021

COLORADO SECRETARY OF STATE

[8 CCR 1505-2]

Rules Concerning Bingo and Raffles Games

Rules as Adopted - Clean

September 7, 2021

(Publication instructions/notes):

8 CCR 1505-2 is amended as follows:

Amendments to Rules 3.1.5(b) and (d) concerning closing a bingo game:

(b) The caller may not call the next ball removed from the machine or otherwise selected, until the signaled bingo is verified or invalidated. If a bingo has been signaled and a worker acknowledges the player but the caller was unaware and continues to call the next ball, the effect of the preceding ball is suspended pending verification or invalidation of the last bingo. If the signaled bingo is verified, the caller must return the ball to the machine unless the verified bingo is part of a multi-part or continuing game.

[No changes to (c)]

(d) When a player or worker signals "Bingo", a worker on the floor must place the card, sheet, or electronic bingo aid device in front of at least one other player at a different table to confirm the bingo.

Amendments to Rule 5.4.1 and 5.4.3 concerning progressive pull tab operations:

5.4.1 Number allowed. A licensee may not offer, put into play or have in play more than one progressive pull tab deal at any time. A licensee may open the next deal in the pull tab game if a winner is not immediately discovered. The licensee must announce the winner of the deal twice and allow a reasonable amount of time for the winner to claim their prize. If no winner comes forward, the licensee must display the flare card for at least 15 days to allow time for the winner to claim their prize.

[No changes to 5.4.2]

5.4.3 Offered for play. Once a progressive pull tab game starts at a bingo occasion, a licensee must offer the game at each succeeding bingo occasion sponsored by the licensee until the jackpot is won. If a progressive pull tab game starts on the licensee’s premises, the licensee must offer the game on each successive day that the premises are open. A licensee may suspend play of progressive pull tab games only while operating a pari-mutuel bingo occasion. Once the pari-mutuel occasion has ended, the progressive pull tab game must continue during the next regular bingo occasion.

Amendments to Rule 8.4 concerning progressive raffles, including New Rule 8.4.1(b)(1). Current Rule 8.4.1(b)(1) is amended and re-codified as Rule 8.4.1(b)(1)(ii):

(b) Playing card progressive raffles

(1) A licensee may conduct a playing card progressive raffle game by selecting a Jackpot Prize Card from either:

(i) A specifically designed prepackaged game purchased from a licensed supplier; or

(ii) A standard deck of 52 cards or a standard deck of 52 cards plus two joker cards (for a total of 54 playing cards).

New Rule 8.4.1(b)(2):

(2) If using a prepackaged game:

(i) The board must have a serial number and the licensee must retain the used board for at least six months after the final game.

(ii) The licensee must post the Jackpot Prize Card for the raffle with the board's serial number at the location of the progressive raffle game. The licensee must post Jackpot Prize Card so that it is out of the reach of all players but also fully visible to all players.

(iii) The licensee must break or tear open the Jackpot Prize Card's window in plain view of all individuals present.

Current Rule 8.4.1(b)(2) is re-codified as Rule 8.4.1(b)(3)(i) and Current Rules 8.4.2(a) though (c) are re-codified as Rules 8.4.1(b)(3)(ii) through (iv):

(3) If using a playing card deck with envelopes or other containers:

(i) The licensee must place the cards from the deck in identical separate envelopes or other containers, one card per container, through which the card is not visible. The container must be sealed so that the licensee must tear, break, or rip a portion of the container in order to access the card.

(ii) Before sealing cards in the containers, the games manager and at least one other licensee member must verify that all cards are present.

(iii) The licensee must shuffle the envelopes containing the cards before putting them on public display.

(iv) Once the licensee places the envelopes on display, the licensee must keep them in a locked container at all times except during drawings. Only the games manager and licensee officers are allowed access to the keys for the container.

Current Rules 8.4.1(b)(3) though (6) are amended and re-codified as Rule 8.4.1(b)(4)(i) though (iv):

(4) For both methods of playing card progressive raffles:

(i) After selling raffle tickets, the licensee must hold a drawing with the pool containing all tickets purchased for that drawing.

(ii) The purchaser of the drawn ticket is given the opportunity to select one or more of the windows or envelopes. The number of windows or envelopes selected per draw must remain constant throughout the progression.

(iii) If the ticket purchaser selects the window or envelope containing the Jackpot Prize Card, the ticket purchaser wins the raffle prize amount, consisting of the prize money accumulated since the last winning draw.

(iv) If the ticket purchaser's selected window or envelope does not contain the Jackpot Prize Card, there is no winner and the prize amount is added to the jackpot for the next drawing.

8.4.2 Additional rules for both methods of playing card progressive raffles

[Current Rules 8.4.2 (a) though (c) are re-codified as Rules 8.4.1(b)(3)(ii) through (iv) above]

Amendments to Current Rules 8.4.2(d) through (g), including renumbering:

(a) A ticket holder must be present at the drawing in order to claim a progressive raffle prize. If the winning ticket purchaser is not present at the drawing, the licensee must continue to draw tickets until selecting a ticket purchaser who is present.

(b) If the window or envelope selected by the drawing winner does not contain the Jackpot Prize Card, the licensee must display the selected card at all future drawings until the licensee awards the jackpot prize.

(c) The licensee must determine the amount of the jackpot based on a percentage of gross raffle ticket sales from each raffle in the progressive sequence, not to exceed 70%.

(d) The licensee may offer a cash consolation prize for a winning ticket purchaser that does not select the Jackpot Prize Card.

(1) Consolation prizes do not count against the $15,000 maximum progressive raffle prize limit.

(2) Before conducting a progressive raffle offering a consolation prize, the licensee must designate the consolation prize as either a specified amount or a specified percentage of the gross proceeds collected from the sale of raffle tickets for a particular drawing.

Current Rule 15.6.3 is repealed.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00431

Opinion of the Attorney General rendered in connection with the rules adopted by the

Secretary of State

on 09/07/2021

8 CCR 1505-2

BINGO AND RAFFLES GAMES

The above-referenced rules were submitted to this office on 09/07/2021 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.

September 27, 2021 12:14:35

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Income Maintenance (Volume 3)

CCR number

9 CCR 2503-7

Rule title

9 CCR 2503-7 LOW-INCOME ENERGY ASSISTANCE PROGRAMS (LEAP) 1 - eff 11/01/2021

Effective date

11/01/2021

DEPARTMENT OF HUMAN SERVICES

Income Maintenance (Volume 3)

OTHER ASSISTANCE PROGRAMS

9 CCR 2503-7

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

3.751 GENERAL PROVISIONS

3.751.1 DEFINITIONS [Rev. eff. 12/1/14]

"Eligibility Period": There shall be one eligibility period for the Basic Low-Income Energy Assistance Programs from November 1st through April 30th. If April 30th for a particular calendar year falls on a holiday or weekend, then the eligibility period shall be extended until midnight the next business day. This program is contingent upon the continued availability of funds in accordance with Sections 3.750.15 and 3.758.48.

"Emergency Applicant": This is a household which has had heat service discontinued or is threatened with discontinuance, or is out of fuel or will run out of fuel within fourteen calendar days or the client is responsible for heating costs that are included in rent and has received an eviction notice to vacate the premises within thirty (30) calendar days.

Emergency applications for households approved in these situations shall be processed expeditiously and eligibility determined within fourteen calendar days of notification of the emergency by the applicant to the county department. Emergency applications being denied for failure to provide the requested verifications shall be processed and eligibility determined within fifteen calendar days. If the fourteenth or fifteenth day falls on a weekend or holiday the eligibility determination shall be processed by the close of business the next business day.

"Overpayment": of heating fuel assistance program benefits shall mean a household has received benefits in excess of the amount due that household based on eligibility and payment determination in accordance with these rules.

"Program Year": means from November 1st through April 30th for the Heating Fuel Assistance Program. If April 30th for a particular calendar year falls on a holiday or weekend, then the eligibility periods shall be extended until midnight the next business day. This program is contingent upon the continued availability of funds in accordance with Sections 3.750.15 and 3.758.48.

3.752.1 APPLICATION PERIOD [Rev. eff. 11/1/13]

To apply for LEAP, the general public shall submit a State prescribed application form (IML-4) during the period of November 1st through April 30th. If April 30th for a particular calendar year falls on a holiday or weekend, then the eligibility periods shall be extended until midnight the next business day. These programs are contingent upon the continued availability of funds in accordance with Sections 3.750.15 and 3.758.48. The county department shall accept all application forms that are received or postmarked during the application period. Facsimile copies of completed application forms shall be accepted as valid. Preference shall be given to application forms received from public assistance households (such as Colorado Works, Old Age Pension (OAP), Aid to the Needy Disabled (AND), Aid to the Blind (AB), and Supplemental Social Security Disability Benefits.) Such applications received prior to November 1st shall be accepted and may be processed; however, eligibility shall not be effective until November 1st.

Application forms received or postmarked after the closing date shall be denied. Eligibility will be determined based on the applicant's circumstances on the date the application is received by the county department. Although applications may be accepted and processed earlier, the effective date of application shall not be before November 1st.

3.752.21 Countable Unearned Income [Rev. eff. 12/1/14]

Countable unearned income includes but is not limited to the following, as well as payments from any other source, which is considered to be a gain or benefit to the applicant or recipient:

A. Inheritance, gifts, and prizes;

B. Dividends and interest paid out or withdrawn on savings bonds, leases, bank accounts, 401Ks, IRAs, savings bonds, etc.;

C. Proceeds of a life insurance policy to the extent that they exceed the amount expended by the beneficiary for the purpose of the insured recipient's last illness or burial that are not covered by other benefits;

D. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or required to be expended for medical care;

E. Strike benefits;

F. Income from jointly owned property: - in a percentage at least equal to the percentage of ownership or, if receiving more than percentage of ownership, the actual amount received;

G. Lease bonuses (oil or mineral) received by the lessor as an inducement to lease land for exploration are income in the month received;

H. Oil or mineral royalties received by the lessor are income in the month received;

I Supplemental Security Income (SSI) benefits received by an applicant or recipient shall be considered income in the month received. When determining income, do not consider cents in the gross benefit amount.

J. Income derived from monies (or other property acquired with such monies) received pursuant to the “Civil Liberties Act of 1988”, P.L. 100-383;

K. Amounts withheld from unearned income because of a garnishment are countable as unearned income.

L. Public Assistance Income as defined in 3.751.1: Colorado Works, Old Age Pension (OAP); Aid To The Needy Disabled (AND); Aid To The Blind (AB); Non-Categorical Refugee Assistance (NCRA); Social Security Disability Insurance (SSDI).

3.752.22 Income and Household Size Criteria [Rev. eff. 11/1/15]

D. All applicant households whose countable income for the eligibility period is up to and including 60 percent (60%) of the state median income level released by the U.S. Department of Health and Human Services for federal fiscal year 2022 shall meet the income requirements for the Heating Fuel Assistance Program. The State Department shall adjust the income limits annually based on funds available and the state median income guidelines.

State median income level means the income level for a household as set forth in the federal register 86 FR 7732, 7732-7734, as of February 1, 2021. This rule does not contain any later amendments or editions. These guidelines are available for no cost at https://www.federalregister.gov/. These guidelines are also available for public inspection and copying at the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203, or at any state publications library during regular business hours.

3.752.23 Income Exclusions [Rev. eff. 11/1/15]

F. Payments to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (score) and Active Corps of Executives (ace), AmeriCorps and any other program under Title I (Vista) when the value of all such payments adjusted to reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and III of the Domestic Volunteer Services Act;

3.753.12 Verification of Lawful Presence in the United States [Eff. 12/1/14]B. In order to verify his or her lawful presence in the United States, an applicant must:

1. Produce and provide:

   a. A valid Colorado driver's license or a VALID Colorado identification card issued pursuant to Article 2 of Title 42, C.R.S.; or,

   b. A United States military card or military dependent's identification card; or,

   c. A United States coast guard merchant mariner card; or,

   d. A Native American tribal document; or,

   e. Any other document authorized by rules adopted by the Department of Revenue 1 CCR 204-30; or,

   F. Copies of birth certificates OR U.S. Certificates of Naturalization; or,

   g. Those applicants who cannot produce one of the required documents may demonstrate lawful presence by both executing the affidavit and executing a request for waiver. The request for waiver must be provided to the Colorado Department of Revenue in person, by mail, or online, and must be accompanied by all documents the applicant can produce to prove lawful presence. A request for a waiver can be provided to the Department of Revenue by an applicant representative.

   Once approved by the Department of Revenue, the waiver is assumed to be permanent, but may be rescinded and cancelled if, at any time, the Department of Revenue becomes aware of the applicant's violation of immigration laws. If the waiver is rescinded and cancelled, the applicant has the opportunity to appeal.

   The county department is responsible for verifying that the applicant is the same individual indicated as being lawfully present through the waiver.

3.755.12 Conflicting Information [Rev. eff. 12/1/14]

If the county/contractor obtains information which would affect the initial determination of an applicant household's eligibility or payment level and which is different than information provided by the applicant, the county/contractor shall inform the applicant and provide an opportunity for response or explanation. Eligibility shall be determined by using the correct information. In these cases, an applicant who meets eligibility criteria shall not be denied because the applicant provided information that was different than information subsequently obtained by the county/contractor. Information used to determine eligibility and benefit level shall be documented in the system. However, in appropriate cases, the counties/contractor may institute fraud proceedings.

3.755.2 VERIFYING INCOME

3.755.21 Adequate Verification of Income [Rev. eff. 11/1/15]

D. Earned ongoing income shall be verified for at least four (4) weeks of the eight (8) weeks prior to the application date and shall consist of pay stubs or statements from employers which state the actual gross income earned.

I Verification of self-employment income shall include, at a minimum:

1. Written or verbal declaration of monthly gross income, which may include Profit and loss statements, i.e., self-employment ledger; and,

2. Receipts for business-related expenses are required in order to be considered as deductions:

    a. Rent or mortgage is not an allowable expense when the applicant is operating a business from his or her residence.

    b. Utilities, data and phone bills including cell phones are not allowable expenses when the account is in the name of an individual.

    c. Fuel expenses are allowable for vehicles used solely for business and for individuals who use personal vehicles that are directly related to the work and necessary to conduct business. The county may accept gas receipts and/or documentation of mileage for those vehicles that are not used solely for business. If using a mileage log, the deduction is then based on the number of miles times the county’s established reimbursement rate.

    D. Rental property allowable expenses shall be limited to the costs of maintenance of the property.

3. Credit card and bank statements are not allowable receipts for business related expenses.

3.755.45 Propane Purchase/Other Bulk Fuels [Eff. 11/1/15]

Applicants who use propane or other bulk fuels, referred to in definitions in these rules, as their primary heating fuel must provide a receipt or statement from their vendor. Receipts must include the vendor’s name, date, and the name and service address of the buyer.

3.756.14 Determination of Eligibility [Rev. eff. 11/1/93]

A county department/contractor shall have up to thirty (30) calendar days from the date of application as defined in section 3.751.1 of these rules to determine eligibility. The date of application is considered day zero. If the thirtieth day falls on a weekend or a holiday, the county/contractor shall have until close of business on the following business day to determine eligibility.

3.758.32 Death of Payee Affecting Issuance of Payment [Rev. eff. 12/1/14]

When the payee for a Heating Fuel Assistance Program benefit dies, any payment to which the payee was entitled shall be kept available according to the following rules:

B. In the case of a single member household client payment the executor of the estate may claim the payment. If the client payment is not claimed the payment will expunge after three hundred sixty-five (365) days. In the case of a single member household vendor payment, the vendor will follow the process outlined in the vendor agreement.

3.758.47 Methodology for Calculating Heating Fuel Assistance Program Benefits [Rev. eff. 11/1/15]

2. For any applicant whose home heating costs for the prior year's heating season are not available or determined by the county department to be invalid, the county department shall use the flat rate amount. The State Department shall adjust the flat rate amounts annually, based on the average actual home heating costs found in the LEAP system by dwelling type for the prior year's heating season contained in the following table:

	NAT. GAS	PROPANE FUEL OIL	ELEC.	WOOD	COAL	PROPANE BOTTLES	WOOD GATHERING
House, Mobile Home	$385	$945	$1,286	$630	$700	$393	$200
Duplex, Triplex, Fourplex, Townhouse	$301	$801	$998	$614	$482	$341	$200
Apartment, Condominium , Hotel, Cabin, Tiny Home	$226	$838	$629	$594	$482	$461	$200
Camper, 5th Wheel, RV	$408	$696	$794	$560	$432	$624	$200

3. The State Department shall adjust the standard rates for heating costs that are included in rent annually, based on the flat rate amounts adjustment contained in the following table:

	NATURAL GAS	PROPANE FUEL OIL	ELECTRIC	WOOD	COAL
House, Mobile Home	$135	$331	$450	$221	$245
Duplex, Triplex, Fourplex, Townhouse	$105	$280	$349	$245	$169
Apartment, Condominium, Hotel, Cabin, Tiny Home	$100	$293	$220	$208	$169
Camper, 5th Wheel, RV	$143	$244	$267	$196	$152

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00402

Opinion of the Attorney General rendered in connection with the rules adopted by the

Income Maintenance (Volume 3)

on 09/03/2021

9 CCR 2503-7

LOW-INCOME ENERGY ASSISTANCE PROGRAMS (LEAP)

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 23, 2021 09:01:36

Philip J. Weiser
Attorney General
by Eric R. Olson
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 - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 1 - eff 11/10/2021

Effective date

11/10/2021

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Free Standing Emergency Departments, Sections 8.126 & 8.320
Rule Number: MSB 21-03-03-A
Division / Contact / Phone: Health Programs / 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 21-03-03-A, Free Standing Emergency Departments.

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) 8.126.1 and 8.320.1, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.126.1 wit the proposed text beginning at 8.126.1.J.11 through the end of 8.126.1.J.11. Replace the current text at 8.320 wit the proposed text beginning at 8.320 through the end of 8.320.4.A. This rule is effective November 10, 2021.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Free Standing Emergency Departments, Sections 8.126 & 8.320
Rule Number: MSB 21-03-03-A
Division / Contact / Phone: Health Programs / 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).

   This revision aligns Department rule with new Colorado Department of Public Health and Environment (CDPHE) licensure for free standing emergency departments (FSED). The FSED license will replace the existing community clinic and emergency center (CCEC) license. The new FSED license is the result of Colorado General Assembly House Bill 19-1010, a legislative mandate to create a new licensure category for FSEDs. Many of these facilities are currently licensed as CCEC but the new legislation dictates that these facilities must be re-licensed as FSED no later than June 30, 2022.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   42 CFR §§ 440.20, 440.90 (2021)

4. State Authority for the Rule:

   Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021);
   Sections 25.5-5-102(1)(b), 25.5-5-202(1)(b), C.R.S. (2021)

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Free Standing Emergency Departments, Sections 8.126 & 8.320
Rule Number: MSB 21-03-03-A
Division / Contact / Phone: Health Programs / Russ Zigler / 303-866-5927

REGULATORY ANALYSIS

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

   Community Clinic and Emergency Centers (CCEC) are affected by the proposed rule. CCECs will bear the cost of changing their licensure from CCEC to Free Standing Emergency Department.

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

   The qualitative impact of the rule is aligning Department rule with the appropriate Colorado Department of Public Health and Environment (CDPHE) license categories.

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

   There are no costs to the Department or any other agency to implement and enforce the proposed rule. There is no anticipated effect on state revenues.

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

   There are no costs to aligning Department rule with CDPHE licensing requirements. The benefit of the proposed rule is aligning with CDPHE licensing requirements. There are no benefits to inaction. The cost of inaction is misalignment between Department rule and CDPHE licensing requirements.

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

   There are no less costly or intrusive methods for aligning Department rule with CDPHE licensing requirements.

DO NOT PUBLISH THIS PAGE

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   There are no alternative methods for aligning Department rule with CDPHE licensing requirements.

8.126 COLORADO NPI RULE

8.126.1 Definitions

J. Provider Type means a classification of Health Care Provider or Organization Health Care Provider to which the payer issues payment for services provided to individuals enrolled in the Medical Assistance Program, according to the Provider Type license, accreditation, certification, and/or service provided. The Provider Types recognized by the Department are as follows:

11. Community Clinic means a health care entity that is:

a. Licensed as a Community Clinic or Freestanding Emergency Department (FSED) by the Colorado Department of Public Health and Environment;

b. Certified by the Centers for Medicare and Medicaid Services to participate in the Medicare program; and

c. Owned by a Medicare participating hospital.

8.320 COMMUNITY CLINIC, INCLUDING FREESTANDING EMERGENCY DEPARTMENTS

8.320.1 Definitions

A. Community Clinic (CC) means a hospital-owned health care facility, licensed as a Community Clinic under 6 CCR 1011-1, Chapter IX or as a Freestanding Emergency Department (FSED) under 6 CCR 1011-1, Chapter XIII and enrolled as a CC provider type, that provides health care services on an ambulatory basis.

B. CMS means the Centers for Medicare and Medicaid Services.

C. Department means the Department of Health Care Policy and Financing.

D. Emergency Care Services, for the purposes of this rule, means services for a medical condition, including active labor and delivery, manifested by acute symptoms of sufficient severity, including severe pain, for which the absence of immediate medical attention could reasonably be expected to result in: (1) placing the client's health in serious jeopardy, (2) serious impairment to bodily functions or (3) serious dysfunction of any bodily organ or part.

E. Observation Stay means a stay in the CC for no more than 48 hours for the purpose of (a) evaluating a client for possible Inpatient admission; or (b) treating clients expected to be

stabilized and released in no more than 24 hours; or (c) extended recovery following a complication of an Outpatient procedure. Only rarely will an Observation Stay exceed 24 hours.

8.320.2 Requirements for Enrollment as a CC

8.320.2.A.

1. The facility is licensed as a Community Clinic or FSED by the Colorado Department of Public Health and Environment (CDPHE) in accordance with CDPHE rule at 6 CCR 1011-1, Chapter IX or Chapter XIII; and

2. The facility location is certified by CMS under the operating hospital's Medicare certification.

8.320.3 Services

8.320.3.A The following services provided by a CC are eligible for reimbursement:

1. Outpatient services, as defined in the Department's rule at 10 CCR 2505-10, section 8.300.3.B, section 8.300.B.2, 8.300.B.3; and

2. Observation stays, as defined in the Department's rule at 10 CCR 2505-10, section 8.300.3.B.1.

8.320.4 Reimbursement

8.320.4.A CC services are reimbursed as:

1. Outpatient services, in accordance with the Department's rule at 10 CCR 2505-10, section 8.300.6, using the hospital base rate for the hospital that is identified in the CMS certification of the CC.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00386

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 09/10/2021

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY

The above-referenced rules were submitted to this office on 09/10/2021 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.

September 28, 2021 14:41:39

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (405 Series, Parks)

CCR number

2 CCR 405-1

Rule title

2 CCR 405-1 CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS 1 - eff 09/01/2021

Effective date

09/01/2021

Expiration date

12/30/2021

FILING - 09/21/2021

EMERGENCY REGULATIONS - CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS

ARTICLE I - GENERAL PROVISIONS APPLICABLE TO ALL PARKS AND OUTDOOR RECREATION LANDS AND WATERS

PARK-SPECIFIC RESTRICTIONS

D. In addition to the general land and water regulations, the following restrictions shall also apply:

12. Fishers Peak State Park

a. Public access is allowed only from sunrise to sunset, except as otherwise authorized in a Special Activity Permit issued in accordance with (h) of these regulations.

b. Visitors shall remain on the designated trails except as otherwise authorized in a Special Activity Permit issued in accordance with (h) of these regulations.

c. Trail use is restricted to pedestrian use only.

d. Pets or other domestic animals are prohibited outside of designated parking areas, except as otherwise authorized in a Special Activity Permit issued in accordance with (h) of these regulations.

e. Snowmobile and off-highway vehicle use are prohibited.

f. Parking is prohibited, except in designated areas.

g. Raptor nest buffers

(1) From December 15-July 15, all visitors must remain outside of the ½-mile buffer established for Golden Eagle nests as posted.

(2) From March 15-July 15, all visitors must remain outside of a ½-mile buffer established for Peregrine Falcon nests as posted.

h. Hunting is permitted only in accordance with parts (1) through (4) below:

(1) A Special Activity Permit authorizing access will be issued to successful applicants through a drawing as provided in these regulations. Failure to comply with the conditions stated in the permit, statutes or regulations may result in permit revocation.

(2) Only the successful Special Activity Permit holder and one nonhunting companion are allowed on the property.

(3) Vehicles involved in hunting use of the park are required to have a valid Colorado State Parks Pass, unless the vehicle displays a Disabled Veteran license plate or Purple Heart license plate.

(4) Access is prohibited, except during the following hunting seasons:

a. One (1) properly licensed LE000O1R license holder will be provided access to hunt mountain lion during the regular mountain lion season until the hunter harvests a lion or until the combined harvest limit for Game Management Units 85, 140, and 851 is filled, whichever comes first.

b. Up to five (5) properly licensed TM000O1R unlimited over-the-counter turkey license holders for the spring turkey season will be provided access to hunt turkeys.

c. One (1) properly licensed September limited archery, muzzleloader, or rifle bear license holder will be provided access.
d. One (1) properly licensed limited deer archery or muzzleloader license holder will be provided access.
e. One (1) properly licensed archery or muzzleloader elk license holder will be provided access.
f. One (1) properly licensed 1st regular rifle elk season license holder will be provided access to hunt elk during the 1st rifle season.
    i. The successful Special Activity Permit holder may hunt bear during the 1st rifle season on Fishers Peak State Park if they hold a valid bear license.
g. One (1) properly licensed 2nd combined regular rifle season elk license holder will be provided access to hunt elk during the 2nd rifle season.
    i. The successful Special Activity Permit holder may hunt bear during the 2nd rifle season on Fishers Peak State Park if they hold a valid bear license.
h. One (1) properly licensed 3rd combined regular rifle season deer license holder will be provided access to hunt deer during the third rifle season.
    i. The successful Special Activity Permit holder may hunt bear during 3rd rifle season on Fishers Peak State Park if they hold a valid bear license.
i. One (1) properly licensed 4th combined regular rifle season elk license holder will be provided access to hunt elk during the fourth rifle season.
    i. The successful Special Activity Permit holder may hunt bear on Fishers Peak State Park during the 4th rifle season if they hold a valid bear license.

FILING - 09/21/2021
Basis and Purpose
Chapter P-1 - Parks and Outdoor Recreation Lands

Basis and Purpose:

At its September 1-2, 2021 meeting, the Colorado Parks and Wildlife Commission adopted emergency rules affecting Chapter P-7 (Passes, Permits and Registrations, 2 CCR 405-7). The emergency rules temporarily allow for purple heart recipients to enter state parks with a purple heart special license plate and/or to receive an Independence Parks Pass, in response to recently passed legislation and in the interest of public welfare.

The Commission adopted the foregoing rules on an emergency basis as authorized by the Colorado Administrative Procedures Act (APA), CRS § 24-4-103(6)(a). This section authorizes emergency rules where "the agency finds that immediate adoption of the rule is imperatively necessary … for the preservation of public health, safety, or welfare" where the APA's standard rulemaking requirements "would be contrary to the public interest." The Commission finds such standards are satisfied here.

"The commission shall: (a) Promulgate rules and orders relating to parks and outdoor recreation programs which are necessary to carry out the purposes of articles 10 to 15 and 32 of this title; (33-10-106 (1))"

The passage of House Bill 21-1116 made resident Purple Heart recipients eligible to access to state parks and recreation areas for free with a Purple Heart license plate and eligible to receive a free Independence Park Pass. These regulatory changes temporarily implement House Bill 21-1116.

Absent these emergency rules, the Division would not be able to implement the recently passed legislation by the prescribed effective date. Accordingly, the emergency rules are necessary for the use, benefit, and enjoyment of the people of this state.

Notice of the proposed emergency rule-making was posted on the CPW website, and at Regional Service Centers, and Area Service Centers (area offices) where possible, indicating the Commission would consider the emergency regulations at its meeting on September 1-2, 2021 and written comments would be accepted prior to that date.

The statements of basis and purpose for these regulations can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing dnr_cpw_planning@state.co.us or by visiting the Division of Parks and Wildlife headquarters at 6060 Broadway, Denver, CO, 80216.

The primary statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Parks Act, §§ 33-10-101 to 33-33-113, C.R.S., and specifically including, but not limited to: §§ 33-10-106, C.R.S.

EFFECTIVE DATE - THESE EMERGENCY REGULATIONS SHALL BECOME EFFECTIVE IMMEDIATLEY UPON ADOPTION AND SHALL REMAIN IN EFFECT FOR NO MORE THAN 120 DAYS OR UNTIL PERMANENT REGULATIONS TAKE EFFECT, WHICHEVER OCCURS FIRST, OR THE EMERGENCY REGULATIONS ARE OTHERWISE REPEALED, AMENDED OR SUPERSEDED.

APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 1ST DAY OF SEPTEMBER, 2021.

APPROVED:
Carrie Besnette Hauser

Chair

ATTEST:
Luke B. Schafer
Secretary

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00577

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (405 Series, Parks)

on 09/01/2021

2 CCR 405-1

CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 17, 2021 09:22:46

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (405 Series, Parks)

CCR number

2 CCR 405-7

Rule title

2 CCR 405-7 CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS 1 - eff 09/01/2021

Effective date

09/01/2021

Expiration date

12/30/2021

FILING - 09/21/2021

EMERGENCY REGULATIONS - CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS

ARTICLE I - GENERAL PROVISIONS AND FEES RELATING TO PASSES, PERMITS AND REGISTRATIONS

VEHICLE PASSES

 # 700 - VEHICLE PASS

1. Except as otherwise provided in these regulations or by Colorado Revised Statutes, no motor vehicle shall be brought onto any state recreation area or state park unless a valid parks pass issued by the Division is properly attached or displayed in the vehicle. Passes that are designed to be affixed to the windshield shall be attached to the extreme lower right-hand corner of the vehicle's windshield in a position so that the pass may be observed and identified. For an annual affixed vehicle pass, including an aspen leaf annual pass to be properly attached to a windshield it must be permanently affixed. A state parks annual transferable pass must be hung from the rear-view mirror so that the pass may be observed and identified. Any vehicle whereby a pass cannot be secured inside the passenger compartment or hung from a rear-view mirror shall be treated as a special case, but evidence of a pass shall be required on the person or in the vehicle.

   (A) As referenced in this chapter, "veteran" means a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable.

2. No vehicle pass shall be required for:

   a. Any snowmobile as defined in section 33-14-101, C.R.S.;

   b. Any off-highway vehicle as defined in section 33-14.5-101(3), C.R.S.;

   c. Any government-owned vehicle, emergency vehicle, or law enforcement vehicle on official business;

   d. Any commercial delivery vehicle delivering goods to the park or a park concessionaire when the goods are directly related to the operation of the park or concession;

   e. Any resident's vehicle displaying a Colorado disabled veteran's license plate pursuant to section 42-3-213(5)(a), C.R.S. or a purple heart special license plate pursuant to section 42-3-213(2), and as provided for in section 33-12-106(1), C.R.S.;

   f. Any vehicle bringing a holder of a Columbine, Centennial, Blue Spruce, Independence, Volunteer or Military Pass issued pursuant to # 701 into a state recreation area or state park;

   g. Any vehicle that is not required to have a vehicle pass pursuant to the special activity regulation # 703;

   h. Any vehicle entering a state recreation area or state park pursuant to # 712-4;

   i. Any vehicle that is exclusively towed;

j. Any vehicle occupied by a veteran or current or reserve member of any branch of the armed forces of the United States, on the State observance of Veteran's Day. At least one form of past or present military identification shall be presented at the Park entrance. Acceptable forms of military identification include:

(1) DD214;

(2) DD Form 2;

(3) DD Form 2765;

(4) Active, retired or veteran military identification cards;

(5) A current Colorado Driver's License or state issued identification card with the word 'Veteran' printed on it as specified in 42-2-303 (5)(a), C.R.S.;

(6) VA medical card;

(7) The display of military license plates.

k. Any Division employee, volunteer or hired contractor vehicle when such vehicle is used for the purposes of accomplishing work duties;

l. Any vehicle owned by a concession owner or employee or any contractor working for a concession when such vehicle is used for the purposes of accomplishing work duties;

m. Any vehicle entering the Cameo Shooting and Education Complex.

3. The types of annual vehicle passes available from the Division are as follows:

a. An Aspen Leaf annual vehicle pass as provided for in section 33-12-103, C.R.S.; and

b. An annual affixed vehicle pass, which is available for any vehicle except passenger vans and buses operated by a commercial business, and

c. A state parks annual transferable pass, which can be used for any vehicle except passenger vans and buses operated by a commercial business. State parks annual transferable passes are issued to individuals, not vehicles. Only one vehicle at a time can use an annual transferable pass.

(1) Commercial passenger vans and buses are eligible to purchase daily, but not annual, vehicle passes.

(2) School buses on official school outings, passenger vans and buses operated by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses operated by any government agency are eligible for either daily or annual affixed vehicle passes.

(3) An annual transferable pass may be shared with the original pass holder's household. For the purpose of this regulation, "household" is defined as persons living at the same address.

4. Daily vehicle passes are as follows:

a. A fee of $9.00 per vehicle for any vehicle except for:

(1) Passenger vans and buses operated by a commercial business;

(2) A $1.00 per vehicle high-use fee will be added to the cost of daily vehicle passes at Cherry Creek, Chatfield, and Boyd Lake State Recreation Areas, and Castlewood Canyon, Eldorado Canyon, Golden Gate Canyon, Highline Lake, Lake Pueblo, Roxborough and Staunton State Parks.

b. School buses on official school outings, passenger vans and buses operated by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses operated by any government agency are eligible to purchase a daily vehicle pass.

c. For passenger vans and buses operated by a commercial business, the daily vehicle pass fee will be based upon the number of passengers on-board. The fee shall be $10.00 for up to fifteen passengers on-board, $40.00 for sixteen to thirty passengers on-board, and $50.00 for more than thirty passengers on-board.

5. An annual affixed vehicle pass or state parks annual transferable pass shall be issued and, by appropriate language, authorize entrance by motor vehicle to all state recreation areas and state parks during the period beginning on the date of purchase through the last day of the same month in the following year. Such authorization shall apply to the user and all passengers in the motor vehicle to which the pass is affixed or displayed. One pass shall cover all state recreation areas and state parks.

6. Additional affixed annual vehicle passes may be issued to an owner or to the owner's household. Additional annual affixed vehicle passes authorize entrance by motor vehicle to all state recreation areas and state parks during the period beginning on the date of purchase of the additional pass through the expiration date of the associated original full-priced annual affixed pass or state parks annual transferable pass. Owners of school buses, passenger vans and buses owned by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses owned by any government agency are limited to purchasing no more than two additional annual affixed vehicle passes at a reduced fee per each annual affixed vehicle pass purchased at the full fee. For the purpose of this regulation, "household" is defined as persons living at the same address. "Owner" is defined as the person whose name appears on the registration of both the original vehicle for which an annual affixed pass was purchased and the additional vehicle, or a person who can provide proof of ownership of the original and the additional vehicle at a designated Division office.

7. If the motor vehicle for which an annual affixed vehicle pass or additional affixed vehicle pass was issued is sold or traded, or if the pass is lost or destroyed during the period in which it is valid, the person to whom the pass was issued may obtain a duplicate thereof, upon signing an affidavit reciting where and by whom it was issued and the circumstances under which it was lost or traded. Upon payment of a fee of $5.00, a new affixed pass effective for the remainder of the period that the lost or destroyed pass would have been valid may be issued only by the Division to the original owner of such pass.

8. If a state parks annual transferable pass is lost or destroyed during the period for which it is valid, the person whom the pass was issued may obtain a duplicate thereof, upon signing an affidavit where and by whom it was issued and the circumstances under which it was lost or destroyed. Upon payment of a fee of $60.00, a new pass effective for the remainder of the period the lost or destroyed pass would have been valid may be issued only by the Division to the original owner of such pass. Only one duplicate state parks annual transferable pass will be issued per period for which the original pass was valid.

9. A daily park pass, valid for one day only, shall authorize entrance by motor vehicle to the state recreation areas and state parks by the user and all passengers in the motor vehicle to which the pass is affixed during the day used and until 12:00 P.M. (noon) the following day.

10. A no fee pass shall be issued to any vehicle towed or carried in by a motor home if a camping permit or proof of a campsite reservation is presented at an attended visitor center, office or entrance station. The no fee pass, valid for the same time period as the camping permit or camping reservation, shall authorize entrance by motor vehicle to the state recreation areas and state parks by the user and all passengers in the motor vehicle to which the pass is affixed. For the purpose of this regulation, motor home means a vehicle designed to provide temporary living quarters and which is built into, as an integral part of or a permanent attachment to, a motor vehicle chassis or van.

INDIVIDUAL PASSES

 # 701 - INDIVIDUAL PASSES

1. Individuals entering state recreation areas and state parks by means other than a motor vehicle, such as on foot, bicycle, horseback, etc., may enter without purchasing a parks pass, except as otherwise required by these regulations. No individual pass shall be required under the circumstances identified in regulation # 700-2.a. through # 700-2.e. and # 700-2.g. through # 700-2.l.

2. A Columbine, Centennial, Blue Spruce, Independence, Volunteer or Military Pass is issued to an individual person and not a specific vehicle. These shall authorize entrance by motor vehicle, when and where motor vehicle access is permitted, to all state recreation areas and state parks or for other forms of individual access, when in possession of the pass holder. Such authorization shall apply to the holder of the pass and all the passengers in, and the driver of, the motor vehicle carrying the holder of such pass. The pass must be continuously displayed in the manner described on the pass. A Columbine, Centennial, Blue Spruce, Independence, Volunteer or Military Pass is transferable from motor vehicle to motor vehicle as long as the pass holder is present in the vehicle.

3. Any resident of the state who is a first responder with a permanent occupational disability as defined in state statute 33-4-104.5 (2) may obtain, free of charge, a Blue Spruce annual pass, also known as a Columbine annual pass for first responders pursuant to 33-12-103.5 (2.5), C.R.S. The pass will only remain valid as long as the individual maintains their Colorado residency as defined in 33-1-102 (38) (a), C.R.S.

    a. In order to qualify for a Blue Spruce annual parks pass, a resident must provide the following written proof to the Division:

        (1) The “Initial Disability Administration Decision” form from the Fire and Police Pension Association that specifies a permanent occupational disability; or

        (2) For residents that are not members of the Fire and Police Pension Association, a fully completed Division “First Responder Affidavit” signed by the applicant attesting to the fact that their permanent disability or disease was obtained while on active-duty.

4. A resident who is a disabled veteran or a resident who is a purple heart recipient may obtain an Independence annual parks pass pursuant to 33-12-106 (1) (b), C.R.S and 33-12-106 (1) (c), C.R.S. An Independence annual parks pass shall be issued following the Division’s receipt of a

completed application from a qualified resident of the state. The pass will only remain valid as long as the individual maintains their Colorado residency as defined in 33-10-102 (21), C.R.S.

a. In order to qualify for an Independence annual parks pass, a resident must provide the following written proof to the Division:

(1) DD 214 Form or other documentation indicating the veteran received an Honorable Discharge from a branch of the Armed Services of the United States, **AND**

(2) A qualification letter, on official stationary/letterhead, from the Veteran's Administration, Department of Veteran's Affairs, or the branch of service from which the veteran is receiving compensation, that states one of the following:

a. 50% or greater, service-connected permanent disability;

b. Loss of use of one or both feet;

c. Loss of use of one or both hands; or a

d. Loss of vision in both eyes, **OR**

(3) A DD 214 Form indicating the applicant has been awarded a purple heart, or a letter of verification from the appropriate branch of the armed forces of the United States that the applicant has been awarded a purple heart.

5. A disabled resident may obtain a Columbine annual pass pursuant to 33-12-103.5, C.R.S. A resident who qualifies for a Centennial annual pass may obtain such pass as provided for in this regulation. A Columbine or a Centennial annual parks pass shall be issued following the Division's receipt of a completed application from a qualified resident of the state and the payment of the necessary fee. The pass will only remain valid as long as the individual maintains their Colorado residency as defined in 33-10-102 (21), C.R.S.

a. In order to qualify for a Columbine annual parks pass, a resident must provide the following written proof to the Division:

(1) A "Final Admission of Liability" form from the Division of Workers Compensation that indicates a total and permanent disability; or

(2) A fully completed Division "Physician's Affidavit" signed by a licensed physician attesting that the resident meets the definition of a total and permanent disability. A **"total and permanent disability"** shall mean any physical or mental impairment which prevents substantial gainful employment, but only if it is reasonably certain that such a disability will continue throughout the lifetime of the disabled person.

b. In order to qualify for a Centennial annual parks pass, a resident must show a photo identification card and provide written proof, in the form of a federal or state income tax return from the immediately preceding calendar year, that the federal taxable income of such individual is at or below the threshold amount, based on the number of dependents, for a state parks Centennial annual pass. The pass will only remain valid as long as the individual maintains their Colorado residency as defined in 33-10-102 (21), C.R.S.

The federal taxable income amounts, based on the number of dependents, cannot be greater than those listed in the poverty guidelines set forth in the Annual Update of the HHS Poverty Guidelines, 86 Fed. Reg. 7732-01 (February 1, 2021) issued by the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Room 422F.5, Humphrey Building, Department of Health and Human Services, Washington, DC 20201. This federal guideline, but not later amendments to or editions thereof, has been incorporated by reference. Information regarding how and where the incorporated materials may be examined, or copies obtained, is available from:

Regulations Manager
Policy and Planning Unit
Colorado Division of Parks and Wildlife
6060 Broadway
Denver, Colorado 80216

If the individual's income is at a level where he or she was not required to file a federal income tax return for the immediately preceding calendar year, such individual shall sign a statement under penalty of perjury in the second degree to such effect. No such affidavit shall be required to be notarized.

c. The Columbine, Centennial, Independence, and Blue Spruce annual parks pass application shall be on a form provided by the Division. Blank applications shall be available, during regular business hours, at the Divisions' regional offices, Denver offices, and service centers.

d. Individuals applying to the Division for a Columbine, Centennial, Independence, or Blue Spruce annual parks pass must provide the following information:

(1) Full name and address, including city, county, state and zip code; and

(2) Phone number, unless the phone number is unlisted or non-published; and

(3) Date of birth and age; and

(4) Physical description, including sex, height, weight, hair and eye color; and

(5) Applicant's signature and date of application; and

(6) If applying for a Columbine annual parks, information concerning the nature of the applicant's disability, together with supporting evidence of the same.

(7) If applying for a Centennial annual parks pass, information concerning the applicant's total annual income and number of dependents, together with supporting evidence of the same.

(8) If applying for a Blue Spruce annual parks pass, information concerning the applicant's first responder service and disability, together with supporting evidence of the same.

(9) If applying for an Independence annual parks pass, required documentation supporting veteran's status and disability qualifications or verification that the applicant has been awarded a purple heart.

e. The Columbine, Centennial, Independence, and Blue Spruce annual parks pass application form shall contain language explaining that the completed and signed application, once submitted to the Division, will be treated in all respects as a sworn statement. The form shall also contain an oath that includes an affirmation attesting to the truth of that which is stated, the applicant is aware that statements made are intended to be represented as true and correct statements, and that false statements are punishable by law.

f. At the time that an application for a Columbine or a Centennial annual parks pass is submitted to the Division, the appropriate fee shall also be paid.

g. Pending the issuance of a Columbine, Centennial, Independence, or Blue Spruce annual parks pass, possession on the applicant of a bona fide copy of the application permits the applicant and others in the motor vehicle carrying the applicant entrance by motor vehicle to all state parks and state recreation areas, when and where motor vehicle access is permitted, for a period of thirty days following the date of filing the application with the Division or until receipt of notice from the Division either granting or denying the application request, whichever period of time is shorter.

h. Within 15 days of the Division's receipt of a completed Columbine or Centennial annual parks pass application and the appropriate fee payment, or Blue Spruce or Independence annual parks pass application, the Division shall review and approve or deny the application.

(1) Completed applications shall be approved if the minimum qualifications set forth in this regulation are met.

(2) Conversely, if the minimum qualifications are not met, then the application shall be denied. The applicant shall be notified in writing within five working days upon denial of a request. Such written notification shall include an explanation of the basis for denial and a refund of any fee paid.

(3) The applicant may appeal this decision to the Division Director by notifying the Director in writing within sixty days of the Division's mailing of the denial notice. A faster appeal will be necessary when the calendar year will end prior to the expiration of the sixty-day appeal period.

(4) The address utilized by the Division for all mailings associated with the processing of a Columbine, Centennial, Independence, or Blue Spruce annual parks pass application shall be the address indicated on the application.

i. If a Columbine, Centennial, Independence, or Blue Spruce annual pass is lost or destroyed during the period of time that it would otherwise would have been valid, the person to whom the pass was issued may obtain a duplicate thereof, upon signing an affidavit reciting where and by whom it was issued and circumstances under which it was lost.

(1) Upon payment of a fee of $5.00, a new pass may be issued only by the Division to the original owner of such Columbine or Centennial annual pass.

6. The receipt for the annual affixed vehicle pass or state parks annual transferable pass shall be used as an individual annual pass for visitors entering the Arkansas Headwaters Recreation Area, Barr Lake, Castlewood Canyon, Crawford, Colorado State Forest, Eldorado Canyon, Eleven Mile, Elkhead Reservoir, Fishers Peak, Golden Gate Canyon, Harvey Gap, Highline Lake, Jackson

Lake, James M. Robb - Colorado River, John Martin Reservoir, Lathrop, Lory, Mancos, Mueller, Navajo, North Sterling, Paonia, Pearl Lake, Ridgway, Rifle Gap, Rifle Falls, Roxborough, Spinney Mountain, St. Vrain, Stagecoach, Staunton, Steamboat Lake, Sweitzer Lake, Sylvan Lake, Trinidad Lake, Vega and Yampa River State Parks.

7. Individual daily pass fees are as follows:

   a. A fee of $4.00 per person for any person of the age of sixteen or more years shall be charged for a daily pass for all visitors entering Barr Lake, Castlewood Canyon, Crawford, Colorado State Forest, Eldorado Canyon, Eleven Mile, Elkhead Reservoir, Fishers Peak, Golden Gate Canyon, Harvey Gap, Highline Lake, Jackson Lake, James M. Robb - Colorado River, John Martin Reservoir, Lathrop, Lory, Mancos, Mueller, Navajo, North Sterling, Paonia, Pearl Lake, Ridgway, Rifle Gap, Rifle Falls, Roxborough, Spinney Mountain, St. Vrain, Stagecoach, Staunton, Steamboat Lake, Sweitzer Lake, Sylvan Lake, Trinidad Lake, Vega and Yampa River State Parks, except those entering the park in a motor vehicle with a valid and applicable parks pass or those entering the park with a valid and applicable annual parks pass receipt.

   b. A fee of $4.00 per person for any person of the age of sixteen or more years shall be charged for a daily pass for all visitors entering the developed and posted fee sites of Arkansas Headwaters Recreation Area, except those entering the park in a motor vehicle with a valid and applicable parks pass or those entering the park with a valid and applicable annual parks pass receipt.

8. Volunteers for Colorado Parks and Wildlife are eligible for a volunteer park pass while serving in accordance with a signed individual volunteer agreement and after donating a minimum of 48 hours of approved volunteer service within a previous consecutive 12-month period.

   a. The volunteer park pass is valid for one year from the date of issue.

9. Volunteers for Colorado Parks and Wildlife who are 64 years of age or older, regardless of their state of residence, are eligible for the senior volunteer park pass while serving in accordance with a signed individual volunteer agreement and after donating a minimum of 48 hours of approved volunteer service within a previous consecutive 12-month period.

   a. The senior volunteer park pass is valid for one year from the date of issue.

10. A veteran is eligible for a no fee individual military pass during the month of August.

    a. In order to qualify for the no fee individual military pass, a veteran, reserve, or active duty member of any branch of the armed forces of the United States, must provide at least one form of past or present military identification to the Division in order to receive the free Military pass. Acceptable forms of military identification include:

       (1) DD214;

       (2) DD Form 2;

       (3) DD Form 2765;

       (4) Active, retired or veteran military identification cards;

       (5) A current Colorado Driver’s License or state issued identification card with the

word ‘Veteran’ printed on it as specified in 42-2-303 (5)(a), C.R.S.;

(6) VA medical card.

11. A no-fee individual “Check Out State Parks” Library Program Pass is available for check out from Colorado libraries.

 # 702 - COMMISSION AUTHORITY

1. The Commission may waive the requirement for a park pass, or it may close any state park or state recreation area, or portions thereof, whenever it finds the action necessary to protect and promote the health, safety and general welfare of the people of this state.

2. “Pass” as used in these regulations means a physical or electronic document or product provided for by statute, Commission rule or regulation and issued or required by the Division authorizing entrance to any state park or state recreation area.

SPECIAL ACTIVITIES

 # 703 - SPECIAL ACTIVITIES REQUIRING PERMITS

1. “Special activities” means events or activities which have the potential for an adverse impact on park values or health, safety or welfare of park visitors or which may otherwise require special planning/scheduling for proper management. Special activities shall require prior approval in the form of a special-activities permit. Applications thereof generally shall be made to the Park Manager or Operational Manager at least ninety (90) days prior to the event or activity. Such application must be accompanied by the appropriate application filing fee. This requirement for an application to be filed ninety days prior to an event will be waived in rare circumstances where arrangements can be made in a shorter time without putting undue administrative burden on the Park Manager or Operational Manager, or when no special arrangements are necessary. The Park Manager may impose additional items, conditions and charges in connection with the permit as reasonably necessary to offset the administrative burden, costs or risks associated with the proposed activities. The Park Manager may retain third party consultants to evaluate the potential adverse impacts of the proposed activity and develop appropriate strategies to offset or mitigate such risks. The applicant shall be notified if the Park Manager decides to retain a consultant, shall be given the opportunity to provide input concerning consultant selection and scope of work. The applicant shall be responsible for the actual costs associated with this consultant review.

2. The decision of whether to approve special activity permits will be made by the Park Manager or Operational Manager when it is determined that the special activities will not involve the use of a park or recreation area by a group of persons totaling more than the park or recreation area's established carrying capacity. Otherwise, the Regional Manager shall make the decision of whether to approve the permits. The decision of whether to approve special activities permits will be based on the impact on park values and/or the health, safety and welfare of park visitors and other affected persons, and also will be based on:

   a. The nature of the park or recreation area and the types of recreational opportunities/resources it is intended to provide the public

   b. The carrying capacity of the facility or facilities to be utilized during the special activity compared to:

(1) The total number of park visitors (including participants and spectators in the special activity) expected to utilize such facilities; and

(2) The total number of vehicles, vessels or persons expected to participate in or be attracted to such activities.

c. The extent to which the special activity will contribute to the variety of outdoor recreational opportunities available to the people of this state and its visitors.

d. The extent to which the activity places an administrative burden on the staff of the park area.

3. Whenever it is determined that any special activity will involve the use of a park or recreation area by a group of persons totaling more than the park's or recreation area's established carrying capacity a thirty day written public comment period and a public meeting shall be required prior to the granting of a permit. The Park Manager or Operational Manager shall publish notice of both the written comment period and the meeting at least once in a newspaper of general circulation in the county or counties wherein said park or recreation area is located. The meeting shall be conducted by the Division representative responsible for the permit issuance decision and shall be held either at the park or recreation area, or within a county in which the park or recreation area is located. Such public meeting is not intended to be an adjudicatory licensing hearing under the provisions of the Colorado Administrative Procedures Act, but only as an opportunity for public comment.

4. Every decision respecting the grant, denial, revocation, suspension, annulment, limitation or modification of a special activity permit is subject to § 24-4-104, C.R.S.

5. Upon written request, the Division shall waive the requirement for a parks pass for those vehicles when all the occupants are entering state recreation areas and state parks for the purpose of administering permitted special activities and not for the purpose of their own recreation.

6. For special activities where the Division representative responsible for the permit issuance decision determines it will be a greater administrative ease for the Division to administer the activity, an alternative fee of $4.00 per person per day may be charged for admission of persons attending or participating in the special activity. This permission shall apply only to groups of twenty or more persons.

7. Nothing in this regulation impairs the specific authority of the Commission pursuant to 33-10-107(1)(d) C.R.S. to enter into cooperative agreements for the development and promotion of Division programs, or the general authority of the Commission pursuant to 33-10-106 C.R.S. to manage all state recreation areas and state parks for both commercial and noncommercial purposes. The authority granted to park managers and regional managers is intended to allow them to address events of limited and local impact, and is specifically intended to coexist with, and not to exclude, the Commission’s statutory authorities.

CAMPGROUND USE PERMITS

 # 704 - CAMPGROUND USE PERMITS AND GROUP CAMPGROUND USE PERMITS

1 No person shall camp in designated campgrounds or use any campground facilities of any park or recreation area unless such use is by authority of a valid campground-use permit issued by the Colorado Parks and Wildlife.

2. In order to obtain a campground-use permit, a member of the camping party must be present with the camping unit, ready to make immediate occupancy of the campsite, or a reservation must be made through the approved campsite reservation system. Except as follows, no person may reserve or hold a campsite for another party by purchasing a campground-use permit for an additional site:

    a. A primary occupant must be identified for each campsite reserved. The primary occupant identified at the time of making the reservation is responsible for any fees, damages or law enforcement issues that arise from the occupants of the site.

    b. If an individual or organization wishes to reserve a campsite or group of campsites without identifying a primary occupant, the individual making the reservation is the responsible party for any damages or law enforcement issues that arise from the occupants of the site or sites.

3. Possession of a valid campground-use permit visibly displayed at a place provided at each campsite shall authorize a single camping unit (tent, camper, etc.) occupied by a single family unit, or a maximum of six (6) persons to camp in a campsite for a single night until 12:00 P.M. (noon) the following day, unless the camping permit was purchased before 5:00 A.M., in which case it expires at noon the day of purchase. No person shall remove a valid campground-use permit or reservation card from the place provided for display prior to the expiration of such permit or card and/or occupy any campsite displaying such a permit or card or otherwise posted as already occupied by another party in accordance with these regulations.

4. A valid vehicle or individual pass, as required by regulations # 700 and # 701 respectively, shall be required for each motor vehicle for each night of camping.

5. Definitions as used in these regulations, unless the context requires otherwise:

    a. “Full-Hookup Campground” means those with highly developed facilities. Individual campsites will be designated and include a high-use pad with table, grill and/or fire ring and individual pressurized water, sewer and/or electrical connections. Flush toilets, lavatory and shower facilities, and trash receptacles will be available. Grocery store, food-service facilities, sanitary dump station, laundry facilities, or other developed amenities may be available.

    b. “Electrical Campground” means those with fairly developed facilities. Individual campsites will be designated and include a high-use pad, picnic table, grill and/or fire ring and individual electrical connections.

    c. “Tent-Only Campground” means those allowing only tents as the camping equipment. Individual campsites may have amenities similar to “Electrical Campgrounds” or “Basic Campgrounds” depending on the facility.

    d. “Basic Campground” includes those campgrounds providing basic facilities and improvements. Individual campsites shall be designated and include a table, grill and/or fire ring.

    e. “Primitive Campground” includes those campgrounds where only limited facilities or improvements are provided. Individual campsites may not be designated and may not include individual tables, grills or fire rings. Centrally located vault toilets and trash receptacles may be provided; however, drinking water generally will not be available.

    f. “Camping/To Camp” means either:

(1) To occupy a campsite; or

(2) To erect or use a tent or shelter of natural or man-made material, the placing or use of a sleeping bag or other bedding material, the parking of a motor vehicle, motor home, travel trailer, or any combination for the apparent purpose of occupancy overnight or use outside regular park use hours (5:00 A.M. to 10:00 P.M.) or as posted.

g. "Camping Unit" is defined as one of the following:

(1) Two tents and a passenger vehicle; or

(2) One tent plus one motor home (Class A, B, C), motor vehicle, vehicle, trailer, slide-in truck camper, pop-up camper/trailer, boat, or other equipment of any description manufactured and/or used for the purposes of overnight occupancy.

(3) A camping unit may include additional tents only in a campsite with a tent pad; provided the tents are contained on the pad and other camping unit and camping group limits are observed.

(4) One passenger vehicle in addition to the above descriptions is authorized only if available parking space exists.

h. "Passenger Vehicle" means a motor vehicle not designed or used for overnight occupancy.

6. The cancellation fee for group camping reservations at all group camping sites in the system shall be equal to the amount of the first night's fee if the cancellation is made within fourteen days of the first reserved date.

 # 705 - ASPEN LEAF ANNUAL PASSHOLDERS

1. A resident of this state who is sixty-four years of age or older may obtain an Aspen Leaf annual pass. The fee for an Aspen Leaf annual pass is identified in regulation #708.

2. The Aspen Leaf annual pass holder must own in whole or in part any vehicle with a Colorado vehicle registration to which the Aspen Leaf annual pass is affixed and used to enter a state recreation area or state park area. Additional passes may be purchased pursuant to regulation #708(1)(d)(1).

3. Current Aspen Leaf Lifetime pass holders may obtain an annual Aspen Leaf Lifetime free pass for a single vehicle the holder owns in whole or in part for the lifetime of the pass holder and provided the pass holder is a resident of Colorado. The annual Aspen Leaf Lifetime Free Pass shall be affixed to such vehicle owned by the pass holder. Additional passes may be purchased pursuant to regulation #708(1)(d)(1).

 # 706 - GROUP PICNIC AREA PERMITS

1. No person shall use any facility of any group picnic area unless such use is by authority of a valid permit issued by the Division.

2. All permits and reservations must be received in advance. The group picnic area cancellation fee for all group picnic sites within the system shall be equal to 25% of the base fee if the cancellation

is made more than fourteen days prior to the reserved date. If the cancellation is made within fourteen days of the reserved date, then the cancellation fee shall be 100% of the base fee.

3. Definitions as used in these regulations, unless the context requires otherwise:

a. "Class A – Deluxe Group Picnic Area" means those with highly developed facilities. The picnic area will be designated and include a covered shelter, picnic tables, a grill, and electrical connections. Restroom facilities, trash receptacles, water and lighting will be available.

b. "Class B – Improved Group Picnic Area" means those with fairly developed facilities. The picnic area will be designated and include picnic tables and a grill. Trash receptacles and water will be available.

c. "Class C – Basic Group Picnic Area" means those providing basic facilities. The picnic area will be designated and include picnic tables and a grill. Sanitary facilities shall generally consist of vault-type toilets.

 # 707 - VACANT

 # 708 - PASS AND PERMIT FEE SCHEDULE

1. The fees for the types of vehicle passes issued by the Division are as follows.

a. Aspen leaf annual pass.....$70.00

b. Annual affixed vehicle pass.....$80.00

c. State parks annual transferable pass ……$120.00

d. Each additional annual affixed vehicle pass for noncommercial vehicles……...$40.00

(1) Each additional Aspen Leaf vehicle pass for noncommercial vehicles..…$35.00

e. Each replacement annual affixed vehicle pass…… $5.00

f. Each replacement state parks annual transferable vehicle pass ……..$60.00

g. Each daily vehicle pass (exceptions follow)…….$9.00

(1) At Cherry Creek, Chatfield, and Boyd Lake State Recreation Areas, and Castlewood Canyon, Eldorado Canyon, Golden Gate Canyon, Highline Lake, Lake Pueblo, Roxborough and Staunton State Parks.....$10.00

h. Each daily vehicle pass for a passenger van or bus operated by a commercial business:

(1) carrying up to fifteen passengers…….....$10.00

(2) carrying sixteen to thirty passengers……..…....$40.00

(3) carrying more than thirty passengers……..…....$50.00

2. The fees for the types of individual passes issued by the Division are as follows. Eligibility requirements are stated in regulation # 701.

   a. Columbine or Centennial annual pass……..$14.00

   b. Each replacement Columbine or Centennial annual pass…….$5.00

   c. Individual daily passes (applies to persons sixteen years of age or older) for Barr Lake, Castlewood Canyon, Crawford, Colorado State Forest, Eldorado Canyon, Eleven Mile, Elkhead Reservoir, Fishers Peak, Golden Gate Canyon, Harvey Gap, Highline Lake, Jackson Lake, James M. Robb - Colorado River, John Martin Reservoir, Lathrop, Lory, Mancos, Mueller, Navajo, North Sterling, Paonia, Pearl Lake, Rifle Gap, Rifle Falls, Roxborough, Spinney Mountain, St Vrain, Stagecoach, Staunton, Steamboat Lake, Sweitzer Lake, Sylvan Lake, Trinidad Lake, Vega and Yampa River State Parks and Arkansas Headwaters Recreation Area.....$4.00

3. The fees associated with special activities, as provided for in regulation # 703 are:

   a. Special activity alternate individual fee (applies to groups of twenty or more people in size).....$4.00

   b. Special activity application filing fee.....$30.00

   c. Arkansas Headwaters Recreation Area special activity application filing fees:

      1. Standard…….$30.00

      2. Commercial boating…….$400.00

      3. Other commercial activities, such as walk and wade fishing, shuttle services, imaging, vendor services, hiking, mountain biking and rock climbing……..$250.00

4. The fees for the type of campground-use permits issued by the Division are as follows. Campground classes are defined in regulation # 704. These fees do not include any applicable accommodations tax.

   a. Campground-use permit for "Full Hookup Campgrounds" ……$41.00/night

   b. Campground-use permit for "Electrical Campgrounds" ……$36.00/night

   c. Campground-use permit for “Tent-Only Campgrounds”……$36.00/night

   d. Campground-use permit for "Basic Campgrounds" ……$28.00/night

   e. Campground-use permit for "Primitive Campgrounds" ……..$18.00/night

5. The fees for reduced rate Aspen Leaf and senior Columbine, Centennial, Independence, Blue Spruce or Volunteer park pass campground-use permits issued by the Division are as follows. Eligibility requirements are stated in regulation # 701, # 705 and # 712. Reduced rates are offered all days of the year when the campground is open, except weekends and holidays. These fees do not include any applicable accommodations tax.

   a. Campground-use permit for "Full Hookup Campgrounds" ……$38.00/night

b. Campground-use permit for "Electrical Campgrounds" ……..……..$33.00/night

c. Campground-use permit for “Tent-Only Campgrounds”…….……$36.00/night

d. Campground-use permit for "Basic Campgrounds" ……...….$25.00/night

e. Campground-use permit for "Primitive Campgrounds" ……..…….$15.00/night

6. The fees for types of campground-use areas are as follows. Campground classes are defined in regulation # 704. These fees do not include any applicable accommodations tax.

a. In group camp areas of “Full Hookup Campgrounds,” the fee shall be $41.00 per night per campsite assigned to such group area.

b. In group camp areas of “Electrical Campgrounds,” the fee shall be $36.00 per night per campsite assigned to such group area.

c. In group camp areas of Tent-Only Campgrounds,” the fee shall be $36.00 per night per campsite assigned to such group area.

d. In group camp areas of “Basic Campgrounds,” the fee shall be $28.00 per night per campsite assigned to such group area.

e. In group camp areas of “Primitive Campgrounds,” the fee shall be $18.00 per night per campsite assigned to such group area.

7. The fees for types of tipis, cabins and yurts are as follows. These fees do not include any applicable accommodations tax:

a. For tipis.....$50.00/night

b. For small cabins and yurts that may accommodate a maximum of six people:

(1) Standard……..…….$90.00/night

(2) Premium……..……..……$120.00/night

c. For large cabins and yurts that may accommodate seven or more people:

(1) Standard……..…….....$120.00/night

(2) Premium two bedroom.....$150.00/night

(3) Premium three bedroom…….....$190.00/night

(4) Premium four bedroom…….……$250.00/night

(5) Each additional premium bedroom over four bedrooms……...$60.00/night

d. For Mueller State Park Cabins and Harmsen Ranch at Golden Gate Canyon State Park:

(1) Premium two bedroom……$150.00/night

(2) Premium three bedroom.……$210.00/night

(3) Premium four bedroom……..$270.00/night

e. The maximum occupancy shall be posted in each cabin and yurt.

f. There shall be an additional fee of $10.00/night for pets where pets are allowed. For barn and corral facilities, there shall be a boarding fee of $10.00/animal/night.

g. Premium facilities contain showers and flush toilets.

8. The fees associated with the reservation system for phone or internet sales are as follows:

a. Each reservation change or cancellation……..$6.00/each

(1) For cancellations made fourteen days or more prior to the beginning date of the reservation, the cancellation fee will be charged.

(2) For cancellations made less than fourteen days prior to the beginning date of the reservation, the cancellation fee will be charged as well as the first night's camping fee.

b. On-park facility reservation fee……...$10.00/facility

(1) For group camping areas, group picnic areas, and event facilities, the cancellation fees shall be as described in regulations # 704, # 706, and # 708, respectively.

9. The group picnic area permit fees for the permits issued by the Division are as follows. Group picnic area classes are defined in regulation # 706.

a. Permit for "Class A - Deluxe Group Picnic Area" ……$150.00

b. Permit for "Class B - Improved Group Picnic Area" ……$100.00

c. Permit for "Class C - Basic Group Picnic Area" ……...$50.00

10. Event facility permit fees are as follows.

a. For Bridge Canyon Overlook and Pikes Peak Amphitheater at Castlewood Canyon State Park, Prairie Falcon Amphitheater at Cheyenne Mountain State Park, Panorama Point at Golden Gate Canyon State Park, Soldier Canyon Shelter at Lory State Park, and Lyons Overlook at Roxborough State Park:

(1) Monday through Friday……$150.00/2 HOURS

(2) Saturday and Sunday……$300.00/2 HOURS

b. For event facilities numbers 1 and 3 at Castlewood Canyon State Park and Timber Event Facility at Lory State Park:

(1) Monday through Friday……..$100.00

(2) Saturday and Sunday……$150.00

c. For event facility number 2 at Castlewood Canyon State Park, Fountain Valley Overlook at Roxborough State Park and South Eltuck Event Facility at Lory State Park:

(1) Monday through Friday……..$75.00

(2) Saturday and Sunday……...$125.00

d. For the Red Barn at Golden Gate Canyon State Park:

(1) Monday through Friday……$150.00

(2) Saturday and Sunday……..$200.00

e. For Mariner Point at Boyd Lake State Park:

(1) Monday through Friday……..$90.00

(2) Saturday, Sunday, and holidays……$180.00

f. For Prairie Skipper event facility at Cheyenne Mountain State Park:

(1) Monday through Friday ……$150.00/DAY

(2) Saturday and Sunday……..…….$200.00/DAY

g. For PA-CO-CHU-PUK event facilities at Ridgway State Park:

(1) Single event shelter A or B:

(a) Monday through Thursday……$125.00 plus $10 non-refundable reservation fee/DAY

(b) Friday through Sunday and holidays ….$190.00 plus $10 non-refundable reservation fee/DAY

h. For Overlook event facility at Ridgway State Park:

(1) Monday through Thursday…….$190 plus $10 non-refundable reservation fee/ 4 HOURS

(2) Friday through Sunday and holidays….$240 plus $10 non-refundable reservation fee/ 4 HOURS

i. Conference and/or meeting rooms……...……...$100.00/DAY

j. Cancellation fees for event facility reservations are equal to 25% of the base fee if the cancellation is made more than fourteen days prior to the reserved date. If a cancellation is made within fourteen days prior to the event, the cancellation fee shall be 100% of the total event permit fee.

k. The maximum occupancy and hours of operation shall be posted at each event facility.

11. The fees associated with dog off leash areas at Chatfield State Park and Cherry Creek State Park, as provided for in regulation # 100 are:

a. Dog off-leash annual pass……..$25.00

b. Dog off-leash daily pass……..$3.00

12. The fee associated with the mandatory youth education course for motorboat operators…$15.00

13. The fees associated with the Cheyenne Mountain State Park Field/3D Archery Range are as follows:

a. Daily individual archery range permit…….$3.00

b. Annual individual archery range permit…….$30.00

14. The fees associated with the Cameo Shooting and Education Complex are as follows:

a. Individual passes:

(1) Individual day use pass (single day) ……$12.00

(2) Individual day use pass (5 consecutive days) …..……..$48.00

(3) Individual day use pass (10 consecutive days) ..……..$84.00

(4) Individual annual pass ……$150.00

(5) Individual three-year pass ……$400.00

b. Youth (ages 7-17) individual passes:

(1) Youth individual day use pass (single day) ……..$3.00

(2) Youth individual day use pass (5 consecutive days) …….. $12.00

(3) Youth individual day use pass (10 consecutive days)..……$21.00

(4) Youth individual annual pass …….. $50.00

c. Two adult (Buddy) passes:

(1) Two adult day use passes (single day) ……..$20.00

(2) Two adult day use passes (5 consecutive days) ……..……$80.00

(3) Two adult day use passes (10 consecutive days) ……..$140.00

(4) Both adult passes must be used on the same day(s).

d. Family passes (Two adults and all children (ages 7-17) that live at the same address):

(1) Family annual pass ……$300.00

(2) Family three-year pass ……..$600.00

e. Group day use passes:

(1) Day use passes for 10 to 19 individuals …….$9.00/person

(2) Day use passes for 20 to 29 individuals …….$7.00/person

(3) Day use passes for 30 or more individuals ……..$3.00/person

f. Corporate passes:

(1) Annual corporate pass (10 unassigned passes per day) ...$3,000.00

g. All annual passes for the Cameo Shooting and Education Complex are valid 365 days from the date of purchase.

15. It is unlawful for any person to transfer, sell, or assign any pass or permit issued by the Division, including special activity permits, campground use permits, and group picnic area permits, unless otherwise permitted by these regulations.

 # 709 - REGISTRATION FEE SCHEDULE

1. The fees for types of vessel registrations issued by the Division are as follows:

a. Vessel registration (including annual resident registration and each rental vessel registration):

(1) For vessels less than twenty feet in length……..$35.00

(2) For vessels twenty feet to less than thirty feet in length…….$45.00

(3) For vessels thirty feet or more in length…….$75.00

(a) Dealer registration for all vessels owned by a dealer which are operated for research, testing, experimentation, or demonstration purposes only:

(i) When the dealer sells twenty-five or fewer vessels within the preceding year…….$45.00

(ii) When the dealer sells more than twenty-five vessels within the preceding year…….$75.00

(b) Manufacturer registration for all vessels owned by a manufacturer which are operated for demonstration or testing purposes only.....$25.00

(c) Nonresident annual vessel registration for a person from a state or country where registration is not permitted.....$50.00

2. The fees for the types of snowmobile registrations issued by the Division are as follows:

a. Snowmobile registration (including annual resident registration and each rental snowmobile).....$30.00

b. Dealer registration for all snowmobiles owned by a snowmobile dealer which are operated for demonstration or testing purposes only:

(1) When the dealer sells twenty-five or fewer snowmobiles within the preceding year.....$35.00

(2) When the dealer sells more than twenty-five snowmobiles within the preceding year.....$60.00

c. Manufacturer registration for all snowmobiles owned by a manufacturer which are operated for research, testing, experimentation or demonstration purposes only.....$35.00

d. Nonresident annual snowmobile permit…….$30.00

3. The fees for the types of off-highway vehicle registrations issued by the Division are as follows:

a. Off-highway vehicle registration and nonresident off-highway vehicle permit.....$25.00

b. Dealer registration for all off-highway vehicles owned by an off-highway vehicle dealer and operated for demonstration or testing purposes only:

(1) When the dealer sells twenty-five or less off-highway vehicles within the preceding year.....$35.00

(2) When the dealer sells more than twenty-five off- highway vehicles within the preceding year.....$60.00

c. Manufacturer registration for off-highway vehicles owned by a manufacturer which are operated solely for research, testing, experimentation, or demonstration purposes..... $35.00

d. Registration for off-highway vehicles owned by a lessor for rental purposes only:

(1) When the lessor owns ten or less off-highway vehicles within the preceding year.....$35.00

(2) When the lessor owns more than ten off-highway vehicles within the preceding year.....$60.00

4. A duplicate vessel, snowmobile, or off-highway vehicle registration.....$5.00

 # 710 - Lone Mesa State Park Hunting Special Use Permit

1. Purpose: This hunting management plan is designed to establish administration of hunting activities on Lone Mesa State Park.

2. Special Use Permit Procedure

a. Permit Numbers

(1) Colorado Parks and Wildlife (CPW) deems hunting activities on Lone Mesa State Park as those which currently require “special planning and/or scheduling for proper management.” Therefore, CPW issues special use permits to visitors wishing to engage in hunting use of the park.

(2) The maximum number of approved Hunting Special Use Permits (HUPs) on Lone Mesa State Park at any one time during the following big game seasons is:

Archery: twenty (20)

Muzzle-loading: twelve (12)

1 st separate elk rifle: fifteen (15)

2 nd combined deer/elk rifle: twenty-five (25)

3 rd combined deer/elk rifle: thirty-five (35)

4 th combined deer/elk rifle: thirty-five (35)

(3) Each year, the Division, by action of the Park Manager, will allocate HUPs up to the maximums after evaluating harvest and other data in the interest of creating a high quality hunter opportunity consistent with wildlife objectives.

b. Permit Fees

(1) Successful permit applicants shall pay the fee associated with their HUP (see fee schedule section b.5) at least thirty (30) days prior to any access to Lone Mesa State Park.

(2) Upon payment of the fee and attendance of the mandatory orientation session, an HUP shall be issued to the applicant.

(3) If an applicant who is successful in the drawing (see section c.7.) fails to pay the HUP fee, a permit will not be issued to them. The next qualified applicant on the drawing log (see section c. 8.), or the next first-come, first-served applicant will be offered an HUP.

(4) If, at a later date, an applicant's payment of the HUP fee is found to be insufficient due to payment stops, insufficient funds or any other reason, an HUP will not be issued to them. And, if an HUP had been issued prior to CPW discovering the insufficient payment, that permit will be voided.

(5) The schedule of fees associated with the HUP is as follows:

(a) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt during archery season, $100.

(b) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt during archery season, $200.

(c) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt antlerless elk and/or antlerless deer during muzzleloading season, $100.

(d) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt antlered elk and/or antlered deer during muzzleloading season, $200.

(e) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt antlerless elk and/or antlerless deer during muzzleloading season, $200.

(f) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt antlered elk and/or antlered deer during muzzleloading season, $300.

(g) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt elk during the first elk-only rifle season, $150.

(h) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt elk during the first elk-only rifle season, $250.

(i) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt antlerless elk and/or antlerless deer during the second, third, or fourth combined elk/deer rifle season, $100.

(j) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt antlerless elk and/or antlerless deer during the second, third, or fourth combined elk/deer rifle season, $200.

(k) The fee for the HUP allowing Colorado residents access to Lone Mesa State Park to hunt antlered elk and/or antlered deer during the second, third, or fourth combined elk/deer rifle season, $200.

(l) The fee for the HUP allowing Colorado nonresidents access to Lone Mesa State Park to hunt antlered elk and/or antlered deer during the second, third, or fourth combined elk/deer rifle season, $300.

(6) Only one access permit is required per hunter, per season. A hunter possessing valid licenses for multiple species among deer, elk and bear will pay the highest applicable permit fee and can hunt with all valid licenses. The HUP continues to be valid until termination of the permitted season or harvest of all valid deer, elk, and bear licenses in the hunter's possession, whichever comes first.

c. Allocation of Permits

(1) Advertising: it shall be the responsibility of the park manager or his/her designee to advertise the availability of HUPs for Lone Mesa through normal media and internet formats.

(2) Application requests: requests for the application for the HUP on Lone Mesa State Park can be made by contacting the Lone Mesa State Park office: 1321 Railroad Ave, PO Box 1047, Dolores, Colorado 81323, Phone: 970-533-7065, Fax: 970-882-4640, e-mail: **lone.mesa.park@state.co.us**. Applications may also be accessed via the internet at **www.cpw.state.co.us**

(3) Requests for permit applications shall be acted upon promptly, and an application for permit shall be mailed, faxed or e-mailed to the prospective permittee within five days of receiving the request.

(4) Permit applications must be mailed, e-mailed, or faxed to the Lone Mesa State Park office at the above address prior to the application deadline. It is the applicant's responsibility to confirm receipt.

(5) Permit applications will be secured by the park manager or his/her designee until the scheduled public drawing to be held at the Lone Mesa State Park office at least 60 days prior to the opening of the archery season. The public opening of applications will be advertised locally and to the applicants.

(6) Once opened, the HUP applications will be checked for completeness, logged by applicant name, season desired, and application number, and a drawing "chip" - reflecting the application number- will be created for each complete and legible qualifying application.

(7) Drawing: after applications are opened and logged in the application log, the drawing for successful applicants will take place. There will be drawings for each of the six big game seasons for which hunting will be permitted on Lone Mesa: archery, muzzleloading, 1 st separate limited elk, 2 nd combined deer and elk, 3 rd combined deer and elk, and 4 th combined deer and elk. Permits will be issued up to the numbers outlined in this regulation, #601.2.a.

(8) The drawing will continue until all "chips" are drawn, and a drawing log will be completed which will list the applicants in the order drawn. The drawing log will be used to facilitate fair re-allocation of permits per the re-allocation of unused permits protocol (see section 3.c.).

(9) Successful applicants will be notified of their success by mail via a letter of successful application, which shall include a summary of rules associated with the HUP (a complete list shall be provided with the permit during the required orientation and information for remittance of the HUP fee).

d. Reporting and Filing

(1) All files pertaining to the HUP for Lone Mesa State Park will be stored at the Lone Mesa State Park office.

(2) The park manager or designee will include a summary of hunting activity under permit on the park manager monthly report.

(3) Revenues derived from the HUP fee will be deposited in the parks cash fund and reflected on the consignment usage/revenue report for the month such fees are deposited.

3. Field Enforcement Procedure

a. Possession of Permit

(1) Copies of the permitted hunter list will be made available to commissioned CPW officers and the officers of other cooperating agencies in the interest of maintaining compliance with this plan.

(2) It shall be the permittee's responsibility to adequately identify themselves as a permit holder when contacted while hunting in Lone Mesa State Park.

b. Statute and Regulation Compliance

(1) Permit holders will be supplied a list of rules associated with the HUP upon issuance of the permit. Failure to comply with the rules of the permit may result in permit revocation.

(2) Nothing in this plan or in the rules of the HUP shall imply or be construed to imply that HUP holders are exempt from any statute or regulation governing hunting, motor vehicle operation, conduct on a state park, or other activity in which the permit holder may engage while performing the activities allowed under the permit. These statutes and regulations include, but are not limited to:

(a) Permit holders must possess a valid license issued by CPW for the Game Management Unit, species, and season hunted.

(b) Vehicles involved in hunting-use of the park are required to display a valid Colorado State Parks pass, unless the vehicle displays a Disabled Veteran license plate or a Purple Heart license plate.

c. Reallocation of Permits

(1) Permit re-allocations may take place in the event a permittee is unable to engage in the activities of the permit for any reason, including sickness, death, hunting license revocation, permit revocation, park eviction, or simple changes in plans.

(2) Re-allocations of HUPs will be conducted following this procedure:

(a) The park manager or designee will attempt to contact the next individual on the drawing log by phone.

(b) If the next individual is unable to be contacted upon the first call, the park manager or designee will continue down the drawing log until an individual can be contacted and notified of the availability of an HUP for Lone Mesa.

(c) If no hunter on the drawing log can be contacted, no applicant is qualified, or none is available to hunt the remainder of the season, the availability of the HUP will be advertised by the park manager or designee and the permit may be allocated on a first-come, first-served basis.

(d) Hunters who are contacted via the drawing log and who obtain or decline an HUP for Lone Mesa will have their name removed from the drawing log.

(3) Re-allocated permits shall not be valid until payment of the HUP fee and attendance of the hunter orientation by the new permittee.

 # 711 - GOLDEN GATE CANYON STATE PARK HUNTING SPECIAL USE PERMIT

1. Purpose: this hunting management plan is designed to establish administration of hunting activities on the Green Ranch portion of Golden Gate Canyon State Park.

2. Special use permit procedure

A. Permit numbers

(1) Colorado Parks and Wildlife deems hunting activities on the Green Ranch portion of Golden Gate Canyon State Park as those which currently require “special planning and/or scheduling for proper management.” Therefore, the Division issues special use permits to visitors wishing to engage in hunting on the Green Ranch portion of the park.

(2) The maximum number of approved hunting special use permits (HUPs) for the Green Ranch on Golden Gate Canyon State Park at any one time during the 2003 big game season is as follows:

Archery (pre-muzzleloading and post-muzzleloading): twenty (20)

Muzzle-loading: ten (10)

1st separate elk rifle: ten (10)

2nd combined deer/elk: ten (10)

3rd combined deer/elk: ten (10)

4th combined deer/elk: ten (10)

(3) The number of HUPs allocated in each of the subsequent years will be determined by CPW after evaluating harvest and other data at the close of each year's hunting.

B. Application and permit fees

(1) Each applicant must submit a $10.00 application fee for each application submitted.

(2) Successful permit application holders shall pay a special use permit fee of $100, which must be received by Golden Gate Canyon State Park (address below) prior to any access to the Green Ranch.

(3) Upon payment of the fee, a HUP for the Green Ranch shall be issued to the applicant.

(4) If an applicant who is successful in the drawing (see section c.7) fails to pay the special use permit fee within 10 days prior to the start of the applicant’s season, a permit will not be issued to them. The next qualified applicant on the alternate list (see section c.8) will be offered an HUP.

(5) If, at a later date, an applicant's payment of the HUP fee is found to be insufficient due to payment stops, insufficient funds or any other reason, an HUP will not be issued to them. If an HUP had been issued prior to CPW discovering the insufficient payment, that permit will be voided.

C. Allocation of permits

(1) Advertising: it shall be the responsibility of the park manager or his/her designee to advertise the availability of the HUPs for the Green Ranch through normal media and internet formats.

(2) Application requests: requests for the application for the HUP for the Green Ranch can be made by sending a self-addressed stamped envelope (SASE) to Golden Gate Canyon State Park, Attn: Green Ranch Hunt: 92 Crawford Gulch Road, Golden, Colorado 80403, phone: 303 582-3707. Applications may also be accessed via the internet at www.cpw.state.co.us

(3) Requests for permit applications shall be acted upon promptly, and an application for permit shall be mailed to the prospective applicant within five days of receiving the SASE.

(4) Permit applications must be mailed to Golden Gate Canyon State Park at the above address and clearly marked “Green Ranch Hunt” on the envelope. All applications must be received by July 31st for the upcoming big game season.

(5) Permit applications will be checked for completeness and require a copy of the hunting license, if applicable (for limited licenses). All complete and correct permit applications will be recorded for future use.

(6) If additional information is needed to process the permit application, the park manager or his/her designee will make reasonable attempts to contact the applicant to rectify the application.

(7) Drawing: the drawing will be held no later than the first Sunday in August. There will be one random drawing for each of the six seasons on the Green Ranch: pre-muzzleloading archery, muzzleloading, post-muzzleloading archery, 1st separate limited elk, 2nd combined deer and elk, 3rd combined deer and elk, and 4th combined deer and elk. Permits will be issued up to the numbers outlined in this regulation, #711.2.a.

(8) Up to fourteen names will be drawn for each of the hunting seasons; a maximum of ten for the “hunter list” and four “alternates” for each season. If one of the hunters drawn does not wish to accept the HUP, an alternate will be contacted in the consecutive order that they were drawn.

(9) Successful applicants will be notified of their success by mail via a letter of successful application, which shall include a summary of rules associated with the HUP (a complete list to be provided with the permit during the required orientation) and information for remittance of the special use permit fee.

D. Reporting and filing

(1) All files pertaining to the HUP for the Golden Gate Canyon State Park Green Ranch will be stored at the Golden Gate Canyon State Park office.

(2) The park manager or his/her designee will include a summary of hunting activity under permit on the park manager monthly report.

(3) Revenues derived from the HUP and application fee will be deposited in the parks cash fund and reflected on the consignment usage/revenue report for the month such fees are deposited.

3. Field enforcement procedure

A. Possession of permit

(1) Copies of the “hunter list” will be made available to commissioned CPW officers and the officers of other cooperating agencies in the interest of maintaining compliance with this plan.

(2) It shall be the permittee's responsibility to carry the access permit with them while hunting the Green Ranch portion of Golden Gate Canyon State Park.

B. Statute and regulation compliance

(1) Permit holders will be supplied a list of rules associated with the HUP upon issuance of the permit. Failure to comply with rules of the permit may result in permit revocation.

(2) Nothing in this hunting management plan or in the rules of the special use permit shall imply or be construed to imply that HUP holders are exempt from any statute or regulation governing hunting, motor vehicle operation, conduct on a state park, or other activity in which the permit holder may engage while performing the activities allowed under the permit. These statutes and regulations include, but are not limited to:

(a) Permit holders must possess a valid hunting license issued by CPW for the game management unit, species and season hunted.

(b) Vehicle involved in hunting-use on the Green Ranch are required to display a valid Colorado State Parks pass, unless the vehicle displays a disabled veteran license plate or a Purple Heart license plate.

C. “Alternate” system

(1) Alternate hunters may be contacted in the event a permittee is unable to engage in the activities of the permit for any reason, including sickness, death, hunting license revocation, permit revocation, park eviction or simple changes in plans.

(2) Alternates will be contacted in the following manner:

(a) The park manager or his/her designee will attempt to contact the next individual on the alternate list by phone.

(b) If the next individual is unable to be contacted upon the first call, the park manager or his/her designee will continue down the alternate list until an individual can be contacted and notified of the availability of an HUP for the Green Ranch.

(c) If no hunter on the alternate list can be contacted, the park manager or his/her designee will return to the applicant pool of the individual season and randomly draw up to four more alternates. This process will be continued until the hunting slot is filled by a qualified applicant.

(d) If no hunter can be contacted, no applicant is qualified, or none is available to hunt the remainder of the season, the availability of the HUP

will be advertised by the park manager or his/her designee and the permit may be issued on a first-come, first-served basis.

(e) Hunters who are contacted via the hunting list or alternate list and who obtain or decline a HUP for the Green Ranch will have their name removed from the applicant pool.

(2) Alternate permits shall not be valid until payment of the HUP and application fee are made by the new permittee.

D. Refund policy

(1) Refunds will only be provided according to the current pass refund policy of the Division and by relinquishing the HUP for the Green Ranch before the opening day of the season for which the permit is valid.

 # 712 – FEE WAIVERS, SPONSORSHIPS, MARKETING DISCOUNTS AND REDUCED RATE CAMPING

1. As referenced in this chapter, “Park Product” means any entry pass, permit, facility, event or other user fee as defined in regulation # 700 through # 701, # 703 through # 708 and #710 through #711.

2. Park product fees may be waived for errors committed by the Division.

3. Park product fees may be waived by the Division for Division sponsored education, outreach, volunteer or safety activities (events); for supporting partner activities (events) and research activities that directly support the Division; for official business by other governmental agencies conducted on a state recreation area or state park or for Division administrative purposes.

4. The Division may waive entry fees as described in regulation # 700 through # 701 up to four days annually to market and increase awareness of state recreation areas and state parks.

5. Park Managers may provide any combination of park product(s) up to $500 in value per fiscal year, per park, to be used as a sponsorship as a part of a fundraiser, promotion or marketing effort for local community supporting partners.

6. Region Offices and the Creative Services and Marketing Office may provide up to twenty annual affixed vehicle passes and twenty state parks annual transferable passes as defined in regulation # 700-3.b and #700-3.c. per fiscal year, per office, to be used as part of a regional or statewide fundraiser, promotion or marketing effort. In addition, Region Offices and the Creative Services and Marketing Office may provide daily vehicle passes as defined in regulation # No. 700-4 up to $500 in value per fiscal year, per office, to be used as part of a regional or statewide fundraiser, promotion or marketing effort.

7. The Division may offer discounts up to 50 percent off established fees for annual affixed vehicle and daily vehicle passes as defined in regulation # 700-3 through # 700-4 as part of a consistent statewide effort to market state recreation areas and state parks.

8. Annual affixed vehicle passes or state parks annual transferable passes purchased in large quantities during a single sale, transaction will be discounted as follows.

(a) Twenty or more passes, but less than fifty……..…...20% discount

(b) Fifty or more passes, but less than one hundred…….....25% discount

(c) One hundred passes or more.....30% discount

9. Notwithstanding the established campground fees, the Region Manager may lower a campground's classification by one class, and consequently lower the campground fee, when the Region Manager determines that it is necessary to do so based upon one or more of the following criteria:

(a) A significant increase in the vacancy rate for the campground exists.

(b) A significant need to rehabilitate the campground facilities exists.

(c) A temporary closure of campground facilities is necessary in order to implement repairs.

Upon a determination by the Region Manager that the cause for lowering the campground classification has been abated, the original campground classification will be reinstated.

10. Notwithstanding the established campground, cabin and yurt fees, the Regional Manager may reduce the fees for use of all campsites, cabins and yurts when determined necessary to encourage occupancy and otherwise increase use, up to 50 percent.

11. Notwithstanding the established event facility permit fees, the Regional Manager may offer half-day facility rentals and reduce the fees for use of event facilities when determined necessary to encourage occupancy and otherwise increase use, up to 50 percent.

12. Individuals possessing a valid Aspen Leaf annual pass per regulation # 705 or a Columbine, Centennial, Blue Spruce, Independence, or Volunteer individual pass holder per regulation # 701 who is 64 years of age or older, shall receive campground use permits at a reduced rate equal to the current Aspen Leaf pass holder camping permit rate. This reduced rate applies to all nights of the year when such areas are open, except weekend nights and the night before a legal holiday. For the purpose of determining reduced rate campground permit eligibility, "weekend" night means the time period beginning at 12 noon on Friday through 12 noon on Sunday, and the night before a legal "Holiday" shall mean the time period beginning at 12 noon on the day prior to the legal holiday through 12 noon of the legal holiday. The discount is only valid for a single campsite per day, per pass holder. The pass holder must hold a pass that qualifies them for the reduced rate at both the time of reservation and at the time of occupancy. The pass holder must also be the one to make the reservation and be an occupant of the campsite for the entirety of the reservation.

The camping permit reduced fees associated with the Aspen Leaf annual pass are identified in regulation # 708.

FILING - 09/21/2021
Basis and Purpose
Chapter P-7 - Passes, Permits and Registrations

Basis and Purpose:

At its September 1-2, 2021 meeting, the Colorado Parks and Wildlife Commission adopted emergency rules affecting Chapter P-7 (Passes, Permits and Registrations, 2 CCR 405-7). The emergency rules temporarily allow for purple heart recipients to enter state parks with a purple heart special license plate and/or to receive an Independence Parks Pass, in response to recently passed legislation and in the interest of public welfare.

The Commission adopted the foregoing rules on an emergency basis as authorized by the Colorado Administrative Procedures Act (APA), CRS § 24-4-103(6)(a). This section authorizes emergency rules where "the agency finds that immediate adoption of the rule is imperatively necessary … for the preservation of public health, safety, or welfare" where the APA's standard rulemaking requirements "would be contrary to the public interest." The Commission finds such standards are satisfied here.

"The commission shall: (a) Promulgate rules and orders relating to parks and outdoor recreation programs which are necessary to carry out the purposes of articles 10 to 15 and 32 of this title; (33-10-106 (1))"

The passage of House Bill 21-1116 made resident Purple Heart recipients eligible to access to state parks and recreation areas for free with a Purple Heart license plate and eligible to receive a free Independence Park Pass. These regulatory changes temporarily implement House Bill 21-1116.

Absent these emergency rules, the Division would not be able to implement the recently passed legislation by the prescribed effective date. Accordingly, the emergency rules are necessary for the use, benefit, and enjoyment of the people of this state.

Notice of the proposed emergency rule-making was posted on the CPW website, and at Regional Service Centers, and Area Service Centers (area offices) where possible, indicating the Commission would consider the emergency regulations at its meeting on September 1-2, 2021 and written comments would be accepted prior to that date.

The statements of basis and purpose for these regulations can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing dnr_cpw_planning@state.co.us or by visiting the Division of Parks and Wildlife headquarters at 6060 Broadway, Denver, CO, 80216.

The primary statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Parks Act, §§ 33-10-101 to 33-33-113, C.R.S., and specifically including, but not limited to: §§ 33-10-106 and 33-10-107, C.R.S.

EFFECTIVE DATE - THESE EMERGENCY REGULATIONS SHALL BECOME EFFECTIVE IMMEDIATLEY UPON ADOPTION AND SHALL REMAIN IN EFFECT FOR NO MORE THAN 120 DAYS OR UNTIL PERMANENT REGULATIONS TAKE EFFECT, WHICHEVER OCCURS FIRST, OR THE EMERGENCY REGULATIONS ARE OTHERWISE REPEALED, AMENDED OR SUPERSEDED.

APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 1ST DAY OF SEPTEMBER, 2021.

APPROVED:
Carrie Besnette Hauser

Chair

ATTEST:
Luke B. Schafer
Secretary

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00578

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (405 Series, Parks)

on 09/01/2021

2 CCR 405-7

CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 17, 2021 09:24:48

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Natural Resources

Agency

Colorado Parks and Wildlife (406 Series, Wildlife)

CCR number

2 CCR 406-3

Rule title

2 CCR 406-3 CHAPTER W-3 - FURBEARERS AND SMALL GAME, EXCEPT MIGRATORY BIRDS 1 - eff 09/01/2021

Effective date

09/01/2021

Expiration date

12/30/2021

FILING - 09/21/2021

EMERGENCY REGULATIONS - CHAPTER W-3 - FURBEARERS and SMALL GAME, EXCEPT MIGRATORY BIRDS

ARTICLE II - SMALL GAME SEASON DATES, UNITS (AS DESCRIBED IN CHAPTER 0 OF THESE REGULATIONS), BAG AND POSSESSION LIMITS, LIMITED LICENSES AND PERMITS

#315 - Greater Sage-grouse

A. Season Dates, Units and Limits, Except North Park

1. Units 2, 3, 11, 13, 18 except that portion of unit 18 east of Colo 125 in Grand County, 27, 28 except that portion of GMU 28 north and east of Grand Co Rd 50 (Church Park Rd) and US 40, 37, 181, 201, 211, 301 and 441.
    a. September 11 - September 17, 2021.
    b. Extended Falconry Season: September 1 - January 31 annually.
2. Daily Bag and Possession Limits
    a. Daily Bag Limit - Two (2) birds.
    b. Possession Limit - Four (4) birds.

B. Season Dates, Units and Limits, North Park

1. Units 6, 16, 17, 161, and 171.
    a. September 11 - September 12, 2021.
    b. Extended Falconry Season: September 1 - January 31 annually.
2. Daily Bag and Possession Limits
    a. Daily Bag Limit - Two (2) birds.
    b. Possession Limit - Two (2) birds.

FILING - 09/21/2021
Basis and Purpose
Chapter W-3 - Small Game - Furbearers

Basis and Purpose:

At its September 1-2, 2021 meeting, the Colorado Parks and Wildlife Commission adopted emergency rules affecting Chapter W-3 (Furbearers and Small Game, Except Migratory Birds, 2 CCR 406-3). The emergency rules temporarily allow for the closure of Game Management Unit (GMU) 10 to greater sage-grouse hunting to assure maintenance of adequate populations of wildlife and to protect public welfare.

The Commission adopted the foregoing rules on an emergency basis as authorized by the Colorado Administrative Procedures Act (APA), CRS § 24-4-103(6)(a). This section authorizes emergency rules where "the agency finds that immediate adoption of the rule is imperatively necessary … for the preservation of public health, safety, or welfare" where the APA's standard rulemaking requirements "would be contrary to the public interest." The Commission finds such standards are satisfied here.

"The commission is responsible for all wildlife management, for licensing requirements, and for the promulgation of rules, regulations, and orders concerning wildlife programs" (CRS, § 33-1-104(1). Furthermore, "…to provide an adequate, flexible, and coordinated statewide system of wildlife management and to maintain adequate and proper populations of wildlife species, the commission shall have authority in this state, by appropriate rules and regulations, to: (a) Determine under what circumstances, when, in which localities, by what means, what sex of, and in what amounts and numbers the wildlife of this state may be taken and, further, to shorten, extend, or close seasons on any species of wildlife in any specific locality or the entire state when it finds after investigation that such action is necessary to assure maintenance of adequate populations of wildlife or to preserve the proper ecological balance of the environment." (CRS, § 33-1-106 (1)).

The Northwest Colorado Greater Sage-grouse Conservation Plan (NWCO GRSG Conservation Plan) recommends a 100-male minimum threshold based on a 3-year running average of the number of male grouse counted on leks for the management of sage-grouse hunting. The 3-year running average of male sage-grouse counted at leks in Northwest Colorado Management Zone 6 is 79 males, below the threshold of 100. In addition, this year's count of 95 males in this management zone represents a decline by 87% over the past five years. Game Management Unit 10 aligns with Management Zone 6 in the NWCO GRSG Conservation Plan. As a result, regulation #315.A.1 was modified to remove GMU 10 from the 2021 hunting season for greater sage-grouse. GMU 10 will remain temporarily closed until lek counts result in a 3-year average of male lek attendance that exceeds 100.

Absent these emergency rules, the Division would be unable to close GMU 10 to sage-grouse hunting prior to the start of the 2021 hunting season. Accordingly, the emergency rules are necessary to maintain adequate and proper populations of greater sage grouse.

Notice of the proposed emergency rule-making was posted on the CPW website, and at Regional Service Centers, and Area Service Centers (area offices) where possible, indicating the Commission would consider the emergency regulations at its meeting on September 1-2, 2021 and written comments would be accepted prior to that date.

The statements of basis and purpose for these regulations can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing dnr_cpw_planning@state.co.us or by visiting the Division of Parks and Wildlife headquarters at 6060 Broadway, Denver, CO, 80216.

The primary statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Wildlife Act, §§ 33-1-101 to 33-6-209, C.R.S., specifically including, but not limited to: §§ 33-1-106, C.R.S.

EFFECTIVE DATE - THESE EMERGENCY REGULATIONS SHALL BECOME EFFECTIVE IMMEDIATLEY UPON ADOPTION AND SHALL REMAIN IN EFFECT FOR NO MORE THAN 120 DAYS OR UNTIL PERMANENT REGULATIONS TAKE EFFECT, WHICHEVER OCCURS FIRST, OR THE EMERGENCY REGULATIONS ARE OTHERWISE REPEALED, AMENDED OR SUPERSEDED.

APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 1ST DAY OF SEPTEMBER, 2021.

APPROVED:
Carrie Besnette Hauser
Chair

ATTEST:
Luke B. Schafer
Secretary

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00574

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Parks and Wildlife (406 Series, Wildlife)

on 09/01/2021

2 CCR 406-3

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

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 17, 2021 09:21:06

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Funeral Home and Crematory Registration

CCR number

4 CCR 742-1

Rule title

4 CCR 742-1 OFFICE OF FUNERAL HOME AND CREMATORY REGISTRATION 1 - eff 09/08/2021

Effective date

09/08/2021

Expiration date

01/06/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Funeral Home and Crematory Registration

FUNERAL HOME AND CREMATORY REGISTRATION RULES

4 CCR 742-1

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

…

1.7 Custody and Responsibility

…

D. **…**

…

2. **Identification of Decedent Remains.** Remains shall have an identification tag attached to the urn or container holding the remains and a matching identification tag shall also be placed inside the urn or container. If remains are separated, additional tags shall be placed similarly with all containers holding remains.

E. **…**

2. Custody shall terminate for a funeral home and/or crematory at the date and time of release of the remains expressly agreed upon, in writing, by the funeral home and/or crematory and the person, or representative thereof, with right of final disposition, or the release of the remains to the person, or representative thereof, with right of final disposition, whichever occurs first in time.

   a. Termination of custody shall not relieve the funeral home and/or crematory of the requirements of sections 12-135-109(5) and 12-135-302(2), C.R.S.

3. **…**

   b. The chain of custody record shall be completed for each transfer of the human remains prior to final disposition for funeral establishment and prior to release of remains to the person, or representative thereof, with right of final disposition.

…

Editor's Notes

History

Entire rule eff. 01/01/2010.

Rules 5, 8 eff. 12/30/2016.

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for an EMERGENCY RULE

Office of Funeral Home and Crematory Registration

On May 10, 2021, Governor Jared Polis signed Colorado Senate Bill 21-006 (*Allowing the conversion of human remains to basic elements within a container using an accelerated process*). This bill takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly, which is September 7, 2021.

BASIS
The basis for this rule is to carry out the provisions of Colorado Senate Bill 21-006, and the Mortuary Science Code at section 12-135-101, *et seq.*, C.R.S.

PURPOSE
The attached emergency rule is promulgated to implement Colorado Senate Bill 21-006 in compliance with the bill's effective date.

JUSTIFICATION
Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The specific statutory authorities that authorize this emergency rulemaking is pursuant to sections 12-135-401(6)(a) and 24-4-103(6)(a), C.R.S. The adoption of this rule on an emergency basis is imperatively necessary to comply with the requirements and effective date of state law. Therefore, I hereby adopt this rule as printed and amended, and incorporate by reference the statements of basis, purpose, and statutory authority, pursuant to section 24-4-103(4)(c), C.R.S. These temporary/emergency rules take effect September 8, 2021, and remain in effect for no more than 120 days after adoption of these temporary/emergency rules.

Dated this 8th day of September 2021.

Ronne Hines, Director of the Division of Professions and Occupations

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00572

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Funeral Home and Crematory Registration

on 09/08/2021

4 CCR 742-1

OFFICE OF FUNERAL HOME AND CREMATORY REGISTRATION

The above-referenced rules were submitted to this office on 09/08/2021 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.

September 27, 2021 13:23:05

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Public Health and Environment

Agency

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

CCR number

6 CCR 1011-1 Chapter 02

Rule title

6 CCR 1011-1 Chapter 02 CHAPTER 2 - GENERAL LICENSURE STANDARDS 1 - eff 08/30/2021

Effective date

08/30/2021

Expiration date

12/28/2021

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

STANDARDS FOR HOSPITALS AND HEALTH FACILITIES CHAPTER 2 – GENERAL LICENSURE STANDARDS

6 CCR 1011-1 Chapter 2

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

Emergency rules adopted by the Board of Health on August 30, 2021. Effective August 30, 2021

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

Division Director
Colorado Department of Public Health and Environment
Health Facilities and Emergency Medical Services Division
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Main switchboard: (303) 692-2800

Pursuant to section 24-4-103(12.5), C.R.S., the Health Facilities and Emergency Medical Services Division of the Colorado Department of Public Health and Environment maintains copies of the incorporated materials for public inspection during regular business hours. The requirements in Part 3.2.3 do not include any amendments, editions, or changes published after November 1, 2019. Interested persons may obtain certified copies of any non-copyrighted material from the Department at cost upon request. Information regarding how incorporated material may be obtained or examined is available by contacting:

Division Director
Colorado Department of Public Health and Environment
Health Facilities and Emergency Medical Services Division
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Main switchboard: (303) 692-2800

Additionally, materials incorporated by reference have been submitted to the state publications depository and distribution center, and are available for interlibrary loans and through the state librarian.

[Publication Instructions: Replace existing INDEX section and replace with the language below]

INDEX

Part 12—COVID-19 Immunization of Employees, Direct Contractors, and Support Staff

PART 11. Influenza Immunization of Employees and Direct Contractors

****

[Publication instructions: Replace existing 11.2.3(C)(1) with the language below]

11.2.3 Facilities and agencies shall ensure that ninety percent (90%) of employees and direct contractors have received the influenza vaccine during a given influenza season. In order to demonstrate that the ninety percent (90%) rate has been meet, facilities and agencies shall:

(A) By May 15th of every year, report to the Department, in the form and manner specified by the Department, the vaccination rate for employees and direct contracts for the most recent influenza season.

(B) Have defined procedures to prevent the spread of influenza from unvaccinated healthcare workers.

(C) Maintain for three (3) years the following documentation that may be examined by the Department in a random audit process:

(1) Proof of immunization, as defined at Part 1.51 of this Chapter, or

****

[Publication instructions: Insert new Part 12 with the language below]

Part 12. COVID-19 IMMUNIZATION OF EMPLOYEES, DIRECT CONTRACTORS, AND SUPPORT STAFF

12.1 Statutory Authority and Applicability

12.1.1 The statutory authority for the promulgation of these rules is set forth in Section 25-1.5-102, 25-1.5-103, and 25-3-103, C.R.S.

12.1.2 The requirements of this Part 12 shall be overseen and enforced by the Department in a manner consistent with Parts 2.10 and 2.11 of this Chapter 2 (for all facility and agency types), 6 CCR 1011-1, Chapter 3, Part 2.1.7 (for behavioral health entities), 6 CCR 1011-1, Chapter 7, Part 3.14 (for assisted living residences), and 6 CCR 1011-1, Chapter 26, Part 5.7 (for home care agencies).

12.2 General Provisions

12.2.1 Each facility shall develop and implement a policy and procedure to ensure 100% of employees, direct contractors, and support staff have obtained full COVID-19 vaccination status in accordance with the schedule below.

(A) All employees, direct contractors, and support staff must have received their first dose of the COVID-19 vaccination no later than September 30, 2021.

(B) All employees, direct contractors, and support staff must have received their second dose of the COVID-19 vaccination (if applicable) no later than October 31, 2021.

(C) All employees, direct contractors, and support staff must obtain a subsequent, or booster, dose of the COVID-19 vaccination should one be recommended by the Advisory

Committee on Immunization Practices (ACIP), in accordance with the recommended timelines.

(D) An employee, direct contractor, and support staff member who was diagnosed with COVID-19, who received monoclonal antibody treatment, or convalescent plasma treatment shall obtain their vaccination in a timeframe that is in accordance with the recommendations of the Centers for Disease Control (CDC), ACIP, and the individual's licensed independent practitioner.

(E) On or after October 31, 2021, each facility shall ensure all newly hired employees, direct contractors, or support staff members have obtained full COVID-19 vaccination status, in accordance with this Part 12.

12.2.2 For purposes of this Part 12, an employee, direct contractor, and support staff subject to this Part 12 is defined as an individual who has the potential for exposure to clients of the facility or agency and/or to infectious materials, including bodily substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air.

(A) These individuals may include, but are not limited to: licensed independent practitioners; students and trainees; Individuals who directly contract with the facility or agency to provide services, whether on a permanent or temporary basis; visiting nursing staff; individuals who are affiliated with the facility or agency, but do not receive wages or other remuneration from the facility or agency; and persons not directly involved in client care but are potentially exposed to infectious agents that can be transmitted to and from the individual providing services and clients of the facility or agency.

12.2.3 The policy and procedure shall address, at a minimum, the following topics:

(A) A list of the categories or position descriptions of employees, direct contractors, and support staff exempt from the requirement at Part 12.2.1, including justification for that decision.

(B) The facility's criteria for accepting or rejecting medical or religious exemptions.

(C) Measures taken by the facility to protect clients and members of the public from exposure by unvaccinated individuals, which shall be based on state and national standards and guidelines. The policy shall include, at a minimum, how the facility will implement testing and masking for unvaccinated individuals.

12.2.4 Each facility shall maintain the following documentation that may be examined by the Department, at any time, for purposes of verifying compliance with this Part 12.

(A) Proof of immunization, as defined at 6 CCR 1011-1, Chapter 2, Part 1.51, or

(B) A medical exemption signed by a physician, physician assistant, advanced practice nurse, or certified nurse midwife licensed in the State of Colorado stating that the COVID-19 vaccination for the employee, direct contractor, or support staff is medically contraindicated as described in the product labeling approved or authorized by the FDA, or

(C) Documentation of a religious exemption, as defined by facility policy.

12.3 Waiver Requests

(A) A facility may seek a waiver of the 100% vaccination requirement at Part 12.2.1 on the basis that one or more individuals have claimed a religious exemption, pursuant to facility policy.

(B) All waiver applications shall be submitted in accordance with the process outlined at 6 CCR 1011-1, Chapter 2, Part 5 – Waiver of Regulations for Facilities and Agencies.

12.4 Reporting Requirements

12.4.1 Beginning October 1, 2021, each facility shall report its COVID-19 vaccination rate to the department on the 1st and the 15th day of the month.

12.4.2 This information shall be reported in the form and manner specified by the Department.

12.4.3 Each facility shall report the following information to the department:

(A) The total number of employees, direct contractors, and support staff, whether or not the individual is subject to the requirements of this part 12.

(B) Total number of vaccinated employees, direct contractors, and support staff and the total number of employees, direct contractors, and support staff.

(C) Number of medical exemptions claimed by employees, direct contractors, and support staff.

(D) Number of religious exemptions claimed by employees, direct contractors, and support staff.

(E) Number of employees, direct contractors, and support staff identified by the facility as exempt from the requirements of this part 12.

(F) Number of employees, direct contractors, and support staff who have left employment with the facility or agency due to the requirements of this part 12, since the last reporting date.

12.4.4 Information reported to the Department under this Part 12 shall be made publicly available on the Department’s website.

6 CCR 1011-1, Standards for Hospitals and Health Facilities
Chapter 2 – General Licensure Standards

Emergency rules adopted by the Board of Health on August 31, 2021.
Effective August 31, 2021.

Emergency Justification

Findings Pursuant to Section 24-4-103(6), C.R.S.

In response to COVID-19, Governor Polis verbally declared a disaster emergency on March 10, 2020, and issued the corresponding Executive Order D 2020 003 on March 11, 2020. Since that time there have been 7,327 deaths due to COVID-19 in Colorado, 2,625 of which occurred in licensed healthcare facilities. Although the COVID-19 vaccine is now widely available, approximately 30% of the healthcare workforce in these facilities and agencies remain unvaccinated. With the rise in the Delta variant, ensuring that all workers in licensed healthcare facilities are vaccinated is one of the most effective means the state can take to protect the public health, safety, and welfare of all Coloradans and end this ongoing pandemic. Studies show that the rate of hospitalization due to COVID-19 infection is greatest in the unvaccinated. As Colorado approaches the back-to-school and influenza seasons, it is imperative the Department takes all available measures to increase vaccination rates to keep as many Coloradans as healthy as possible in order to reduce the burden on the already overstretched healthcare system and workforce. Therefore, the Board finds that immediate adoption of these revisions is imperative to preserve the public health, safety and welfare, and that compliance with the normal rulemaking requirements of Section 24-4-103, C.R.S. would be contrary to the public interest.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00540

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Board of Health

on 08/30/2021

6 CCR 1011-1 Chapter 02

CHAPTER 2 - GENERAL LICENSURE STANDARDS

The above-referenced rules were submitted to this office on 09/02/2021 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.

September 17, 2021 08:55:18

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Workers' Compensation

CCR number

7 CCR 1101-3

Rule title

7 CCR 1101-3 WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES 1 - eff 09/07/2021

Effective date

09/07/2021

Expiration date

01/01/2022

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation
7 CCR 1101-3
WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 18-7 MEDICAL FEE SCHEDULE

(I) GUARDIAN AD LITEM AND CONSERVATOR SERVICES

When reasonably necessary for employees who are legally incapacitated as a result of a work-related injury or occupational disease, the following services are allowed reasonable fees and costs as agreed upon by the parties:

Guardian ad litem
Conservator
Attorney/Paralegal

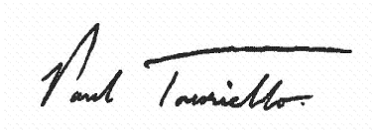
The parties may submit an invoice or other agreed upon form for these services. If the parties are unable to agree on a reasonable fee, the parties may bring the matter before the Director for resolution.

STATEMENT OF EMERGENCY BASIS AND PURPOSE FOR AMENDMENT TO THE WORKERS' COMPENSATION RULES OF PROCEDURE 7 CCR 1101-3

House Bill 21-1050 makes guardian and conservator services a payable benefit in the workers' compensation system and mandates adoption of a fee schedule for these services. .

HB21-1050 was signed on June 30, 2021, leaving insufficient time to comply with §24-4-103.

Accordingly, I find that immediate adoption of this rule amendment is imperatively necessary to comply with state law, and compliance with §24-4-103 would be contrary to the public interest. This emergency rule will become effective on September 7, 2021 and be in effect for 120 days unless suspended or superseded.



Paul Tauriello
Director

September 3, 2021
Date

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00565

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Workers' Compensation

on 09/03/2021

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES

The above-referenced rules were submitted to this office on 09/03/2021 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.

September 23, 2021 15:19:41

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Workers' Compensation

CCR number

7 CCR 1101-3

Rule title

7 CCR 1101-3 WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES 1 - eff 09/07/2021

Effective date

09/07/2021

Expiration date

01/01/2022

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation
7 CCR 1101-3
WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 5 Claims Adjusting Requirements

5-6 TIMELY PAYMENT OF COMPENSATION BENEFITS

(A) Benefits and penalties awarded by order are due three (3) business days after the order becomes final. Any ongoing benefits shall be paid consistent with statute and rule.

(B) Initial payment of temporary disability benefits awarded by admission shall be paid no later than the date the admission awarding benefits is filed and are considered due three (3) business days after the date of the admission. Temporary disability benefits are due at least once every two weeks thereafter from the date of the admission. Payment mailed via the United States Postal Service will be considered timely if postmarked at least three (3) business days prior to the due date. In some instances, an Employer's First Report of Injury and admission can be timely filed, but the first installment of compensation benefits will be paid more than 20 days after the insurer has notice or knowledge of the injury. Provided the filings are timely and that benefits are timely paid for the entire period owed as of the date of the admission, the insurer will be considered in compliance. When benefits are continuing, the payment shall include all benefits which are due.

(C) Permanent impairment benefits awarded by admission are retroactive to the date of maximum medical improvement and shall be paid so that the claimant receives the benefits not later than three (3) business days after the date of the admission. Subsequent permanent disability benefits are due at least once every two weeks from the date of the admission. When benefits are continuing, the payment shall include all benefits which are due. Payment mailed via the United States Postal Service will be considered timely if postmarked at least three (3) business days prior to the due date.

(D) An insurer shall receive credit against permanent disability benefits for any temporary disability benefits paid beyond the date of maximum medical improvement.

(E) Benefits shall be calculated based on a seven (7) day calendar week.

STATEMENT OF EMERGENCY BASIS AND PURPOSE FOR AMENDMENT TO THE WORKERS' COMPENSATION RULES OF PROCEDURE 7 CCR 1101-3

House Bill 21-1050 changed the mechanism for determining timeliness of benefit payments from date of mailing to date of receipt. Prior to HB21-1050, payments would be considered timely if they were mailed to an injured worker on the date they were due. Under the new law, benefits will only be considered timely if they are received by the injured worker on the due date. There is an exception for benefits paid via the United States Post Office. These benefits are considered timely paid if they are mailed three days prior to the date payment is due.

Under the current version of Rule 5-6, most initial payments of benefits are due at the same time the triggering event occurs. For example, when an insurer agrees the temporary indemnity benefits are appropriate, the first payment of benefits would be due the same day the admission of liability describing those benefits is filed. This system is in conflict with HB21-1050, as benefits cannot be paid prior to the triggering event which determines what benefits are due.

The emergency rules eliminate the conflict by changing the due date for payments. Under the emergency rules, payments are due three days after the triggering event. Benefits will be considered timely paid if they are mailed via USPS on the date of the triggering event.

HB21-1050 was signed on June 30, 2021, leaving insufficient time to comply with §24-4-103.

Accordingly, I find that immediate adoption of this rule amendment is imperatively necessary to comply with state law, and compliance with §24-4-103 would be contrary to the public interest. This emergency rule will become effective on September 7, 2021 and be in effect for 120 days unless suspended or superseded.

Paul Tauriello
Director

September 3, 2021
Date

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00564

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Workers' Compensation

on 09/03/2021

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES

The above-referenced rules were submitted to this office on 09/03/2021 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.

September 23, 2021 15:18:21

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Agriculture

Agency

Agriculture Commissioner's Office

CCR number

8 CCR 1207-4

Rule title

8 CCR 1207-4 RULES PERTAINING TO FARM-TO-MARKET INFRASTRUCTURE GRANTS 1 - eff 09/08/2021

Effective date

09/08/2021

Expiration date

01/06/2022

DEPARTMENT OF AGRICULTURE

Agriculture Commissioner's Office

RULES PERTAINING TO FARM-TO-MARKET INFRASTRUCTURE GRANTS

8 CCR 1207-4

Part 1. Definitions

1.1. "Agriculture" has the same meaning as set forth in 35-1-102(1) C.R.S., which is: "the science and art of production of plants and animals useful to man, including, to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise, and includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products and farm production."

1.2. "Agricultural Processing" means the transforming, packaging, sorting, storage, or grading of Colorado livestock, livestock products, agricultural commodities, plants, or plant products.

1.3. "Award Effective Date" means the date on which the Commissioner of Agriculture, or her designee, sends written communication, whether by e-mail or post, that an applicant's grant application has been approved for a Grant Award.

1.4. "Award Period" means the period of time during which the Department will receive grant applications to process for consideration of grant awards.

1.5. "Commissioner" means the Commissioner of Agriculture.

1.6. "Department" means the Department of Agriculture created in 35-1-103 C.R.S.

1.7. "Eligible Business" means a business that: (a) earns a majority of its revenue from agricultural processing; and (b) in the judgment of the Department has managers and employees who possess sufficient education, training, and experience to operate the business; and provides an economic benefit to Colorado farmers or ranchers.

1.8. "Eligible Expense" means an expense that an applicant identified in its grant application and that an awardee incurred within the contract period as part of completing its awarded project.

1.9. "Eligible Farmer or Rancher" means an individual who: (a) is at least eighteen years of age; (b) is a resident of Colorado; (c) is an owner or operator in fact of a farm or ranch; and (d) in the judgment of the Department: possesses sufficient education, training, and

experience to operate the farm or ranch; and possesses or has access to sufficient working capital, farm machinery, livestock, or land to operate the farm or ranch.

1.10. “Farm-to-Market Infrastructure Grant” means a grant of money from the fund, which money is used for the purpose of agricultural processing.

1.11. “Fund” means the Colorado Agricultural Future Loan Program Cash Fund created in 35-1.2-105 C.R.S.

1.12. “Grant Award” means an award of money from the Fund that the Department grants to an eligible business, eligible rancher, or eligible farmer for the exclusive purpose of agricultural processing.

Part 2. General Eligibility

2.1. Eligible businesses, eligible farmers, and eligible ranchers as defined in 1.7 and 1.9 above may apply to the Department for a Farm-to-Market Infrastructure Grant. The intent of the Department is to award grants totaling $2 million by June 30, 2022.

2.2. Eligible businesses, eligible farmers, and eligible ranchers applying for a Farm-to-Market Infrastructure Grant must have a physical operation(s) in the state of Colorado and the project for which the applicant requests such funds must also be located in Colorado.

2.3. Eligible businesses must be registered and in “good standing” with the Colorado Secretary of State.

2.4. Eligible farmers and eligible ranchers must be residents of Colorado and actively engaged in agriculture.

2.5. Grant Awards may be used only for projects that constitute Agricultural Processing, as that term is defined in 1.2 above.

2.6. The maximum Grant Award amount that the Department will award for any one project is $150,000.

2.7. Awardees shall have not more than two (2) years from the effective date of the Grant Award to fully complete the project.

Part 3. Application for a Grant

3.1. Eligible businesses, eligible farmers, and eligible ranchers interested in participating may apply to the Department at any time using the application processes and procedures on the Department’s web site at https://ag.colorado.gov/

3.2. While applications may be submitted at any time, the Department will adhere to the following schedule for review of applications:

3.2.1. Applications received prior to the close of business on November 30, 2021 (Award Period #1) will be reviewed and awardees selected no later than January 30, 2022. The intent of the Department will be to award $1 million in grants to applications received during this period.

3.2.2. Applications received prior to the close of business on February 28, 2022 (Award Period #2) will be reviewed and awardees selected no later than April 30, 2022. The intent of the Department will be to award $1 million in grants to applications received during this period.

3.2.3. Applications received after February 28, 2022 will be reviewed and awards made contingent upon the availability of grant funds.

3.3. Applicants not selected to receive a grant in an Award Period may resubmit their application or submit a new application for consideration in any subsequent Award Period.

3.4. At the time of application to the Department, an applicant must provide general eligibility information about the applicant, a description of the proposed project and business plan, project timeline, project budget, the grant amount being requested, identification of which expenses the grant funds would be used for, the applicant's contribution (financial or otherwise) to the project, the extent to which the proposed project will strengthen resiliency within Colorado's food and agricultural industry, and any projected changes to employment and sales/volume growth.

3.4.1. Applications from Eligible Businesses must also demonstrate that the Eligible Business earns greater than fifty (50) percent of its revenues from agricultural processing.

3.5. Applications will be reviewed by a panel inclusive of Department staff and the Colorado Value-Added Development Board. This panel will evaluate the merit of each application on the basis of criteria, including, but not limited to, the amount of funds requested, the applicant's contribution (financial or otherwise) to the project, the project's expected economic impact, potential for new job creation, and the extent to which the project will strengthen resiliency within Colorado's food and agricultural industry.

3.6. The review panel will make its recommendations to the Commissioner of projects proposed for selection and the Grant Award proposed to be awarded to fund such projects. To optimize the utilization of funds available, the review panel may recommend Grant Awards less than the amount of funds an applicant requests. The Commissioner of

Agriculture, or the Commissioner's designee, will review such recommendations and make any final awards and grant amounts as deemed appropriate.

3.7. The Department will inform each applicant of the Department's decision regarding an applicant's request for a Grant Award via e-mail within 30 days of the end of each Award Period.

Part 4. Award of Funds

4.1. Grant Awards will be made available to awardees as a Small Dollar Grant Award (purchase order grant).

4.2. Grant Awards are subject to the State of Colorado Small Dollar Grant Award Terms and Conditions (incorporated by reference herein, effective July 1, 2019). Material incorporated by reference does not include any later amendments or editions of the incorporated material. Copies of material incorporated by reference are available for public inspection during regular business hours and may be obtained at a reasonable charge or examined by contacting the Markets Division, Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield, CO 80021. Further, the incorporated material may be examined at no cost on the Internet at: https://osc.colorado.gov/spco/ccu/purchase-order-terms-conditions

4.3. The Department will provide a copy of this material to any eligible business, eligible rancher, or eligible farmer who receives a Grant Award along with the notification of award.

4.4. A Grant Award is not a guarantee of funds as all disbursement of funds is contingent on the awardee's agreeing to and complying with all requirements as determined by the Department.

4.5. Awardees may submit an initial invoice in an amount up to fifty (50) percent of the total grant award upon completing the first performance milestone of participating in a project "kick-off conference" with the Department. Awardees will later submit invoices for actual expenses with supporting documentation and proof of payment to the Department for reimbursement. If an initial payment is made to the awardee, the reimbursement of expenses shall be reduced initially by the amount of the initial payment. To the extent that documented expenses are eligible expenses, the funds will then be reimbursed.

4.6. Awardees may submit invoices at any time as expenses are incurred and paid; however, a final invoice must be submitted not later than one year following the effective date of the Small Dollar Grant Award.

4.7. As a condition of receiving a Grant Award, an awardee shall agree to cooperate with the Department in evaluating the economic impact of the project and any changes to employment in Colorado as a result of completing the project.

Part 5 through 9 Reserved

Part 10. Statement of Basis, Specific Statutory Authority and Purpose

10.1. Emergency Rule Adopted September 8, 2021 – Effective September 8, 2021

Statutory Authority

The Commissioner of Agriculture adopts these rules pursuant to § 35-1.2-103(7)(a) and (c), C.R.S., and § 24-4-103(6), C.R.S. .

Purpose

1. To create the Farm-to-Market Infrastructure Grant Program providing funds to businesses, farmers, and ranchers for the development and expansion of agricultural processing.

2. To establish general eligibility requirements for the Program.

3. To establish application processes and procedures for the Program.

4. To establish processes and procedures for the review of applications and award of grant funds.

5. To establish processes and procedures for reimbursement of expenses to participating businesses, farmers, and ranchers.

Factual and Policy Issues

This temporary emergency rule is necessary to enable the Commissioner of Agriculture to fulfill the requirements of SB 21-248, which created a new “Colorado Agricultural Future Loan Program.” SB 21-248 authorized the Commissioner to commence distributing between five and ten million dollars on or before January 1, 2022, in part, to fund farm-to-market grants. SB 21-248, codified at § 35-1.2-101, et seq., C.R.S., limits the period of time during which the Commissioner may issue such farm-to-market grants, which time period ends June 30, 2022. Further, before the Commissioner may receive an application for a grant or issue a grant, the Commissioner must adopt rules to govern the grant process.

Engaging in the normal rule-making process would not permit these rules to be effective until the start of the new year. Such a delay would result in the Commissioner’s inability to begin receiving and processing grant applications until after the new year. Such a delay would impair the

Commissioner’s ability to issue sufficient grants to comply with the statutory minimums before the statutory deadline of June 30, 2022.

Immediate adoption is therefore imperatively necessary to comply with state law and to enable the Commissioner to fulfill the General Assembly’s desire to fund such farm-to-market infrastructure grants.

In developing these Rules, the Department reviewed policies and program guidelines of previous grant programs administered by the Markets Division within the Department of Agriculture. The Department also conducted listening sessions with agricultural stakeholders relating to the New Agricultural Future Loan Program, which encompasses the Farm-to-Market Infrastructure Grant Program.

DEPARTMENT OF AGRICULTURE

Agriculture Commissioner's Office

RULES PERTAINING TO FARM-TO-MARKET INFRASTRUCTURE GRANTS

8 CCR 1207-4

Part 1. Definitions

1.1. "Agriculture" has the same meaning as set forth in 35-1-102(1) C.R.S., which is: "the science and art of production of plants and animals useful to man, including, to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise, and includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products and farm production."

1.2. "Agricultural Processing" means the transforming, packaging, sorting, storage, or grading of Colorado livestock, livestock products, agricultural commodities, plants, or plant products.

1.3. "Award Effective Date" means the date on which the Commissioner of Agriculture, or her designee, sends written communication, whether by e-mail or post, that an applicant's grant application has been approved for a Grant Award.

1.4. "Award Period" means the period of time during which the Department will receive grant applications to process for consideration of grant awards.

1.5. "Commissioner" means the Commissioner of Agriculture.

1.6. "Department" means the Department of Agriculture created in 35-1-103 C.R.S.

1.7. "Eligible Business" means a business that: (a) earns a majority of its revenue from agricultural processing; and (b) in the judgment of the Department has managers and employees who possess sufficient education, training, and experience to operate the business; and provides an economic benefit to Colorado farmers or ranchers.

1.8. "Eligible Expense" means an expense that an applicant identified in its grant application and that an awardee incurred within the contract period as part of completing its awarded project.

1.9. "Eligible Farmer or Rancher" means an individual who: (a) is at least eighteen years of age; (b) is a resident of Colorado; (c) is an owner or operator in fact of a farm or ranch; and (d) in the judgment of the Department: possesses sufficient education, training, and

experience to operate the farm or ranch; and possesses or has access to sufficient working capital, farm machinery, livestock, or land to operate the farm or ranch.

1.10. “Farm-to-Market Infrastructure Grant” means a grant of money from the fund, which money is used for the purpose of agricultural processing.

1.11. “Fund” means the Colorado Agricultural Future Loan Program Cash Fund created in 35-1.2-105 C.R.S.

1.12. “Grant Award” means an award of money from the Fund that the Department grants to an eligible business, eligible rancher, or eligible farmer for the exclusive purpose of agricultural processing.

Part 2. General Eligibility

2.1. Eligible businesses, eligible farmers, and eligible ranchers as defined in 1.7 and 1.9 above may apply to the Department for a Farm-to-Market Infrastructure Grant. The intent of the Department is to award grants totaling $2 million by June 30, 2022.

2.2. Eligible businesses, eligible farmers, and eligible ranchers applying for a Farm-to-Market Infrastructure Grant must have a physical operation(s) in the state of Colorado and the project for which the applicant requests such funds must also be located in Colorado.

2.3. Eligible businesses must be registered and in “good standing” with the Colorado Secretary of State.

2.4. Eligible farmers and eligible ranchers must be residents of Colorado and actively engaged in agriculture.

2.5. Grant Awards may be used only for projects that constitute Agricultural Processing, as that term is defined in 1.2 above.

2.6. The maximum Grant Award amount that the Department will award for any one project is $150,000.

2.7. Awardees shall have not more than two (2) years from the effective date of the Grant Award to fully complete the project.

Part 3. Application for a Grant

3.1. Eligible businesses, eligible farmers, and eligible ranchers interested in participating may apply to the Department at any time using the application processes and procedures on the Department’s web site at https://ag.colorado.gov/

3.2. While applications may be submitted at any time, the Department will adhere to the following schedule for review of applications:

3.2.1. Applications received prior to the close of business on November 30, 2021 (Award Period #1) will be reviewed and awardees selected no later than January 30, 2022. The intent of the Department will be to award $1 million in grants to applications received during this period.

3.2.2. Applications received prior to the close of business on February 28, 2022 (Award Period #2) will be reviewed and awardees selected no later than April 30, 2022. The intent of the Department will be to award $1 million in grants to applications received during this period.

3.2.3. Applications received after February 28, 2022 will be reviewed and awards made contingent upon the availability of grant funds.

3.3. Applicants not selected to receive a grant in an Award Period may resubmit their application or submit a new application for consideration in any subsequent Award Period.

3.4. At the time of application to the Department, an applicant must provide general eligibility information about the applicant, a description of the proposed project and business plan, project timeline, project budget, the grant amount being requested, identification of which expenses the grant funds would be used for, the applicant's contribution (financial or otherwise) to the project, the extent to which the proposed project will strengthen resiliency within Colorado's food and agricultural industry, and any projected changes to employment and sales/volume growth.

3.4.1. Applications from Eligible Businesses must also demonstrate that the Eligible Business earns greater than fifty (50) percent of its revenues from agricultural processing.

3.5. Applications will be reviewed by a panel inclusive of Department staff and the Colorado Value-Added Development Board. This panel will evaluate the merit of each application on the basis of criteria, including, but not limited to, the amount of funds requested, the applicant's contribution (financial or otherwise) to the project, the project's expected economic impact, potential for new job creation, and the extent to which the project will strengthen resiliency within Colorado's food and agricultural industry.

3.6. The review panel will make its recommendations to the Commissioner of projects proposed for selection and the Grant Award proposed to be awarded to fund such projects. To optimize the utilization of funds available, the review panel may recommend Grant Awards less than the amount of funds an applicant requests. The Commissioner of

Agriculture, or the Commissioner's designee, will review such recommendations and make any final awards and grant amounts as deemed appropriate.

3.7. The Department will inform each applicant of the Department's decision regarding an applicant's request for a Grant Award via e-mail within 30 days of the end of each Award Period.

Part 4. Award of Funds

4.1. Grant Awards will be made available to awardees as a Small Dollar Grant Award (purchase order grant).

4.2. Grant Awards are subject to the State of Colorado Small Dollar Grant Award Terms and Conditions (incorporated by reference herein, effective July 1, 2019). Material incorporated by reference does not include any later amendments or editions of the incorporated material. Copies of material incorporated by reference are available for public inspection during regular business hours and may be obtained at a reasonable charge or examined by contacting the Markets Division, Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield, CO 80021. Further, the incorporated material may be examined at no cost on the Internet at: https://osc.colorado.gov/spco/ccu/purchase-order-terms-conditions

4.3. The Department will provide a copy of this material to any eligible business, eligible rancher, or eligible farmer who receives a Grant Award along with the notification of award.

4.4. A Grant Award is not a guarantee of funds as all disbursement of funds is contingent on the awardee's agreeing to and complying with all requirements as determined by the Department.

4.5. Awardees may submit an initial invoice in an amount up to fifty (50) percent of the total grant award upon completing the first performance milestone of participating in a project "kick-off conference" with the Department. Awardees will later submit invoices for actual expenses with supporting documentation and proof of payment to the Department for reimbursement. If an initial payment is made to the awardee, the reimbursement of expenses shall be reduced initially by the amount of the initial payment. To the extent that documented expenses are eligible expenses, the funds will then be reimbursed.

4.6. Awardees may submit invoices at any time as expenses are incurred and paid; however, a final invoice must be submitted not later than one year following the effective date of the Small Dollar Grant Award.

4.7. As a condition of receiving a Grant Award, an awardee shall agree to cooperate with the Department in evaluating the economic impact of the project and any changes to employment in Colorado as a result of completing the project.

Part 5 through 9 Reserved

Part 10. Statement of Basis, Specific Statutory Authority and Purpose

10.1. Emergency Rule Adopted September 8, 2021 – Effective September 8, 2021

Statutory Authority

The Commissioner of Agriculture adopts these rules pursuant to § 35-1.2-103(7)(a) and (c), C.R.S., and § 24-4-103(6), C.R.S. .

Purpose

1. To create the Farm-to-Market Infrastructure Grant Program providing funds to businesses, farmers, and ranchers for the development and expansion of agricultural processing.

2. To establish general eligibility requirements for the Program.

3. To establish application processes and procedures for the Program.

4. To establish processes and procedures for the review of applications and award of grant funds.

5. To establish processes and procedures for reimbursement of expenses to participating businesses, farmers, and ranchers.

Factual and Policy Issues

This temporary emergency rule is necessary to enable the Commissioner of Agriculture to fulfill the requirements of SB 21-248, which created a new “Colorado Agricultural Future Loan Program.” SB 21-248 authorized the Commissioner to commence distributing between five and ten million dollars on or before January 1, 2022, in part, to fund farm-to-market grants. SB 21-248, codified at § 35-1.2-101, et seq., C.R.S., limits the period of time during which the Commissioner may issue such farm-to-market grants, which time period ends June 30, 2022. Further, before the Commissioner may receive an application for a grant or issue a grant, the Commissioner must adopt rules to govern the grant process.

Engaging in the normal rule-making process would not permit these rules to be effective until the start of the new year. Such a delay would result in the Commissioner’s inability to begin receiving and processing grant applications until after the new year. Such a delay would impair the

Commissioner’s ability to issue sufficient grants to comply with the statutory minimums before the statutory deadline of June 30, 2022.

Immediate adoption is therefore imperatively necessary to comply with state law and to enable the Commissioner to fulfill the General Assembly’s desire to fund such farm-to-market infrastructure grants.

In developing these Rules, the Department reviewed policies and program guidelines of previous grant programs administered by the Markets Division within the Department of Agriculture. The Department also conducted listening sessions with agricultural stakeholders relating to the New Agricultural Future Loan Program, which encompasses the Farm-to-Market Infrastructure Grant Program.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00579

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/08/2021

8 CCR 1207-4

RULES PERTAINING TO FARM-TO-MARKET INFRASTRUCTURE GRANTS

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 28, 2021 14:35:08

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Public Safety

Agency

Division of Fire Prevention and Control

CCR number

8 CCR 1507-31

Rule title

8 CCR 1507-31 BUILDING, FIRE, AND LIFE SAFETY CODE ENFORCEMENT AND CERTIFICATION OF INSPECTORS FOR HEALTH FACILITIES LICENSED BY THE STATE OF COLORADO 1 - eff 09/13/2021

Effective date

09/13/2021

Expiration date

01/11/2022

DEPARTMENT OF PUBLIC SAFETY

Division of Fire Prevention and Control

8 CCR 1507-31

BUILDING, FIRE, AND LIFE SAFETY CODE ENFORCEMENT AND CERTIFICATION OF INSPECTORS FOR HEALTH FACILITIES LICENSED BY THE STATE OF COLORADO

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

Pursuant to Section 24-33.5-1203.5, C.R.S., the Director of the Colorado Division of Fire Prevention and Control shall promulgate rules as necessary to carry out the duties of the Division of Fire Prevention and Control. This rule is proposed pursuant to this authority and is intended to be consistent with the requirements of the State Administrative Procedures Act, Section 24-4-101, et seq., C.R.S. The Director of the Division of Fire Prevention and Control is authorized to promulgate rules to establish and enforce standards for the inspection, certification, and use of these apparatuses by the provisions of section 24-33.5-2303, C.R.S.

A modification to C.R.S. 24-33.5-1203(1)(p.5), effective on July 1, 2021, changes the expectations of the Division. Specifically, the Division is now required by the statute to conduct construction plan reviews and inspections of health facility buildings and structures, enforce the codes in accordance with sections 24-33.5-1212.5 and 24-33.5-1213, and issue certificates of compliance for "facilities certified or potentially eligible for certification by the federal centers for medicare and medicaid services." 24-33.5-1203(1)(p.5), C.R.S.

The purpose of this emergency rule making is to establish the above-cited changes to C.R.S. 24-33.5-1203(1)(p.5) in rule. It was declared by the General Assembly in House Bill 19-1237, that in order to promote the public health and welfare of the people of Colorado, it is in the public interest to establish and streamline minimum standards and rules for behavioral health entities operating in the State of Colorado and to provide the authority for the administration and enforcement of such minimum standards and rules. The absence of accurate implementing rules to carry out the purpose of the statute would be contrary to this declaration. For these reasons, it is imperatively necessary that the proposed rules be adopted.

9/13/21

Mike Morgan, Division Director
Colorado Department of Public Safety
Division of Fire Prevention and Control

Date of Adoption

DEPARTMENT OF PUBLIC SAFETY

Division of Fire Prevention and Control

BUILDING, FIRE, AND LIFE SAFETY CODE ENFORCEMENT AND CERTIFICATION OF INSPECTORS FOR HEALTH FACILITIES LICENSED BY THE STATE OF COLORADO

8 CCR 1507-31

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

APPLICABILITY

These rules and regulations apply to all licensed health facilities pursuant to the provisions of §24-33.5-1201, C.R.S.

ARTICLE 1 – AUTHORITY TO ADOPT RULES AND REGULATIONS

1.1 The Director of the Division of Fire Prevention and Control is authorized by the provisions of section 24-33.5-1203.5, C.R.S., to promulgate rules in order to carry out the duties of the Division of Fire Prevention and Control.

1.2 Sections 24-33.5-1201, 24-33.5-1203, 24-33.5-1204.5 and 24-33.5-1206, C.R.S. establish the authority and duty of the Division of Fire Prevention and Control to conduct or oversee the necessary plan reviews, issue building permits, and cause the necessary inspections to be performed as required by the CRS Title 24 Article 33.5 Part 12. Where the Division is the Authority Having Jurisdiction it shall enforce and inspect to the adopted codes and standards for buildings and structures of health facilities licensed by the State of Colorado promulgated by the Division. Where the local building or fire department is the Authority Having Jurisdiction, that department will continue to enforce its adopted codes and standards.

1.3 Sections 24-33.5-1212.5 and 24-33.5-1213.5, C.R.S. establishes the authority and duty of the Division of Fire Prevention and Control to promulgate rules to certify persons to conduct Building Code plan reviews and inspections on behalf of the Division for health facilities licensed by the State of Colorado.

1.4 Section 24-33.5-1211 C.R.S. establishes the authority and duty of the Division of Fire Prevention and Control to certify persons to conduct Fire and Life Safety Code plan reviews and inspections on behalf of the Division for health facilities licensed by the State of Colorado.

1.5 The Director of the Division of Fire Prevention and Control is authorized to establish fees and charges necessary to defray the anticipated costs of the program in these rules by the provisions of 24-33.5-1212.5.

ARTICLE 2 – DEFINITIONS

2.1 The definitions provided in 24-33.5-1202, C.R.S., apply to these rules. The following additional definitions also apply:

“Authority Having Jurisdiction” means the Division, Building Department, Fire Chief, Fire Marshal, or other designated official of a county, municipality, special authority, or special district that has code enforcement responsibilities and employs a building inspector or certified fire inspector.

"Building Department" means the Building Department (or a contracted third party acting on their behalf) of the Division, authority, county, town, city, or city and county.

"Building Permit" means an official document issued by the Authority Having Jurisdiction which authorizes the erection, alteration, demolition and/or moving of buildings and structures.

"Business Entity" means any organization or enterprise and includes, but is not limited to, a sole proprietor, an association, corporation, business trust, joint venture, limited liability company, limited liability partnership, partnership or syndicate. For the purposes of these rules the Business Entity may elect to be represented by a designated representative through a written delegation of authority.

"Certificate of Compliance" means an official document issued by the Division, stating that materials and products meet specified codes and standards, that work has been performed in compliance with approved construction documents, and that the provisions of applicable fire and life safety codes and standards continue to be appropriately maintained.

"Certificate of Occupancy" means an official document issued by the Authority Having Jurisdiction which authorizes a building or structure to be used or occupied for a specified purpose.

"Certified Health Facility" means a Health Facility which has been certified (or is seeking certification) by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, to participate in Federal funding of health care services under the provisions of the Federal Medicare and/or Medicaid programs.

"CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

"Core and Shell Permit" means an official document issued by the Authority Having Jurisdiction which is limited to authorizing the construction of foundation, columns, floor slabs, roof structure, exterior walls, and exterior glazing for the building to be weather tight.

"Construction" means work that is not considered as maintenance or service and that requires a permit as prescribed in the adopted codes and standards of the Division.

"C.R.S." means Colorado Revised Statutes.

"Demolition Permit" means an official document issued by the Authority Having Jurisdiction which is limited to authorizing the demolition of all or part of a building or structure.

"Designated Representative" means a person designated by the Business Entity to act on their behalf through a written delegation of authority and is allowed to act in such manner as outlined in these rules.

"Director" means the Director of the Division of Fire Prevention and Control.

"Division" means the Division of Fire Prevention and Control in the Department of Public Safety.

"Executive Director" means the Executive Director of the Colorado Department of Public Safety.

"Fire Code Official" means the designated authority charged with the administration and enforcement of the Fire Code.

“Foundation” means work related to building footings, piers, foundation walls, slabs on grade, under slab and underground building services.

“Foundation Permit” means an official document issued by the Authority Having Jurisdiction which is limited to authorizing the construction of foundations.

“Health Facility” means a Health Facility as defined in C.R.S. 24-33.5-1202 (7.7).

“ICC” means the International Code Council.

“Individual” or **“Person”** means a person, including an owner, manager, officer, employee, or individual.

“Inspection, Testing, and Maintenance Program” means a program conducted by the building owner to satisfy the periodic inspection, testing, and maintenance requirements of fire protection and life safety systems as required by applicable codes and standards.

“Installation” means the initial placement of equipment or the extension, modification, or alteration of equipment after the initial placement.

“Life Safety Code Official” means the designated authority charged with the administration and enforcement of the Life Safety Code.

“Limited Scope Project” means a project with limited impact to fire and life safety features of a facility as defined by Division policy.

“Maintenance” means to sustain in a condition of repair that will allow performance as originally designed or intended. Maintenance does not include replacement of elements of a system which alter the performance criteria of the system as approved by the Authority Having Jurisdiction.

“Maintenance and Complaint Inspections” means periodic inspections or inspections conducted based on an allegation of nonconformance conducted by the local fire department or the Division to verify conformance with the adopted codes, rules, and standards. Such inspections are not to be considered to relieve the building owner of the responsibility to conduct an inspection, testing, and maintenance program for fire protection and life safety systems as required by the adopted codes, rules, and standards.

“NICET” means the National Institute for Certification in Engineering Technologies.

“NFPA” means the National Fire Protection Association.

“Qualified Inspector” means an inspector who has been certified by an approved national or state certifying body to conduct Building, Fire, and/or Life Safety Code inspections at the appropriate level for the task being performed.

“Qualified Fire Department” means a fire department that has Certified Fire InspectorCertified Fire Inspectors at the appropriate level for the fire prevention-related task being performed and provides fire protection service for the Business Entity's buildings and structures.

“Service (Or Repair)” means to repair in order to return the system to operation as originally designed or intended.

“Temporary Certificate Of Occupancy” means an official document issued by the Authority Having Jurisdiction which authorizes a building or structure to be temporarily used or occupied for a period not to exceed 90 days, unless an extension has been granted by the Authority Having Jurisdiction.

“Temporary Construction Trailer/Office” means a temporary modular building, owned and operated by the contractor that is less than 1,000 square feet and only placed for the duration of the project. Trailers meeting this definition (except where medical services are provided) are exempt from this rule. Trailers not meeting this definition will be considered as a modular building and permitted as such.

“Third-Party Inspector” means building inspectors who have been qualified by the Division to perform third-party inspection services in accordance with Article 10.1 of this rule.

“Total Project Valuation” means the construction cost of the project including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing, equipment, and permanent systems. Such valuation will be calculated using one of the following two methods:

a) For additions to, or new construction of, previously unlicensed Health Facility space, construction cost is calculated based on a per square foot cost using the International Code Council's Building Valuation Data Square Foot Construction Cost Table published February 2013.

b) For all other projects, construction cost is equal to the cost of the project as demonstrated by detailed estimates provided by the Business Entity.

ARTICLE 3 – CODES, DOCUMENTS, AND STANDARDS INCORPORATED BY REFERENCE

3.1 The technical requirements of these rules are supported primarily by codes developed by the International Code Council and the National Fire Protection Association. These two organizations are membership associations dedicated to building safety and fire prevention. These rules establish minimum requirements where the Division is the Authority Having Jurisdiction for building systems using prescriptive and performance related provisions, which are widely used to construct residential and commercial buildings. The appropriate portions of the adopted codes will be applied as prescribed by the adopted codes themselves. Where there are differing provisions for new and existing construction, all work taking place after April 1, 2019 must meet the requirements for new construction and as amended per provisions of IEBC and NFPA 101.

3.2 The following codes and their referenced standards are adopted and promulgated as minimum standards for the construction and maintenance of all property, buildings, and structures containing a Health Facility in the State of Colorado where the Division is the Authority Having Jurisdiction:

3.2.1 Adopted codes pertinent to this rule shall be as prescribed in 8 CCR 1507-101 (BUILDING AND FIRE CODE ADOPTION AND CERTIFICATION OF INSPECTORS FOR FIRE & LIFE SAFETY PROGRAMS ADMINISTERED BY THE STATE OF COLORADO).

3.2.1.1 For the purposes of this rule the Division shall enforce the Building Codes as defined in 8 CCR 1507-101 § 3.2.1.

3.2.1.2 For the purposes of this rule the Division shall enforce the Fire Codes as defined in 8 CCR 1507-101 § 3.2.2.

3.2.1.3 For the purposes of this rule the Division shall enforce the Life Safety and Health Facility Construction Codes and Guidelines as defined in 8 CCR 1507-101 § 3.2.3.

3.3 In any facility where the evacuation capability of the facility or resident population is required to be rated, the "Procedure for Determining Evacuation Capability" published by NFPA is to be used by the facility whether the facility is evaluated utilizing the NFPA 101A, Guide on Alternative Approaches to Life Safety (2013), or NFPA Standard 101, Life Safety Code (2012). The Level of Evacuation Difficulty for each facility will be determined by the scores developed in the Worksheet for Rating Residents completed by responsible staff for each resident and the level of staffing maintained at the facility. It is the responsibility of the owner or administrator to ensure that the abilities of the residents are accurately rated in accordance with the published instructions. Each new resident shall be rated utilizing the Worksheet for Rating Residents within two (2) weeks of their admission to the facility. All resident rating scores shall be reviewed at least annually, or when there are significant changes in a resident's physical or cognitive abilities. Failure to rate the evacuation capability in accordance with these provisions upon two inspections will result in a permanent "impractical" rating for the facility.

3.4 Certificates of Occupancy and Certificates of Compliance issued after the adoption of codes by the Division for space not currently licensed by CDPHE will be based on compliance with the requirements for new construction within the applicable codes.

ARTICLE 4 – AUTHORITY OF LOCAL BUILDING DEPARTMENTS

4.1 Where the Health Facility is located in a jurisdiction with a local Building Department, the authority to conduct the necessary plan reviews, issue building permits, conduct inspections, issue Certificates of Occupancy, issue Temporary Certificates of Occupancy, and take enforcement action to ensure that a building or structure has been constructed in conformity with the locally adopted codes remains the responsibility of the local Building Department. Under these circumstances, the Division will accept a completed Building Permit and associated Certificate of Occupancy from the local Building Department as demonstration of compliance with the locally adopted building codes.

4.2 Where the Health Facility is located in a jurisdiction with no local Building Department, the authority to conduct the necessary plan reviews, issue building permits, conduct inspections, issue Certificates of Occupancy, issue Temporary Certificates of Occupancy, and take enforcement action to ensure that a building or structure has been constructed in conformity with these rules is the responsibility of the Division. Under these circumstances, the Division will issue the applicable Building Permits and associated Certificates of Occupancy as demonstration of compliance with the Division's adopted building codes. The determination of when a building permit is required shall be based upon the International Building Code Section 105 requirements (except 105.1.1 and 105.1.2). Substantial changes to the scope of the project (including addition of square footage to the project scope) will require a submittal of a new application for a permit.

ARTICLE 5 – DEFINITION OF FIRE AND LIFE SAFETY CODE OFFICIALS

5.1 The Division is the Fire and Life Safety Code Official for Certified Health Facilities and facilities that could potentially become a Certified Health Facility.

5.2 For non-certified Health Facilities that cannot potentially become a Certified Health Facility located in a jurisdiction where the local fire department has Certified Fire Inspectors at the appropriate level for the task, the local fire department is responsible for conducting the necessary construction plan reviews and inspections. Under these circumstances, the local fire department is considered the Fire and Life Safety Code Official and will enforce the locally adopted Fire and Life Safety Codes.

5.3 If the local fire department declines to perform the plan review or any subsequent inspection, or if a Certified Fire Inspector is not available, the Division will be considered the Fire and Life Safety Code Official and the Division will perform the construction plan reviews and inspections required by the Division's adopted Fire and Life Safety Codes and will enforce the Division's adopted Fire and Life Safety Codes. The determination of when a fire and life safety permit is required will be based upon the International Building Code Section 105 requirements (except 105.1.1 and 105.1.2) and the International Fire Code Section 105.7 requirements. Substantial changes to the scope of the project (including addition of square footage to the project scope) will require a submittal of a new application for permit.

5.4 For Certified Health Facilities or for facilities that could potentially become Certified Health Facilities that are located in a jurisdiction where the local fire department has Certified Fire Inspectors at the appropriate level for the task, the local fire department is responsible for conducting the necessary fire code construction plan reviews and inspections. Under these circumstances, the local fire department will be considered the Fire Code Official. In this instance, the Division will be considered the Life Safety Code Official and the Division will perform the construction plan reviews and inspections required by the Division's adopted Life Safety Codes and will enforce the Division's adopted Life Safety Codes The determination of when a life safety permit is required shall be based upon the International Building Code Section 105 requirements (except 105.1.1 and 105.1.2) and the International Fire Code Section 105.7 requirements.
Substantial changes to the scope of the project (including addition of square footage to the project scope) will require a submittal of a new application for a permit.

ARTICLE 6 – PERMIT APPLICATION SUBMITTAL TO THE DIVISION

6.1 Notification of Submittal to a Local Building Department

6.1.1 For projects that require a permit that will be reviewed and inspected by a local Building Department, the Business Entity shall notify the Division and the State licensing authority prior to beginning construction. Notification must include:

A) Name of project;

B) Location of project;

C) Scope of work of project;

D) Projected total cost of project;

E) Projected square footage of project;

E) Planned construction start and end dates;

F) Identification of Fire Code Official (Name of the Qualified Fire Department or the Division);

G) Identification of Building Code Official (Name of the Building Code Official or the Division);

H) A description of the proposed health services to be provided and the type of licensure being sought through the state licensing authority;

I) A copy of the Life Safety Code plan sheets submitted in the format as prescribed by the Division.

6.2 Permit Application Submittal to the Division

6.2.1 For all construction (including adding previously unlicensed space to a Health Facility license) or operational permits not covered under a Limited Scope Project permit as defined by this Article, the Business Entity shall submit a complete plan review application package to the Division for Life Safety Code compliance review. If there is not a local building department, the Business Entity shall also submit a complete plan review application package to the Division for Building Code compliance review.

6.2.2 The plan review application package must be submitted to the Division in the format defined by Division policy.

6.2.3 The building permit application package shall be concurrently submitted to the Division and to the local fire department. Either the Qualified Fire Department or the Division will review the submittal for compliance with the applicable codes. Permit issuance is contingent upon the review and approval of the submittal by the applicable Life Safety and/or Fire Code Officials. The Business Entity is required to contact the local fire department to determine the required submittal items not listed in this rule.

6.3 Plan Review and Permitting by the Division

6.3.1 The Division will notify the Business Entity if the permit application is incomplete.

6.3.2 The Building Code plan review will be completed by a qualified building plans examiner within the Division or by a qualified third-party reviewer contracted by the Division.

6.3.3 The Fire Code plan reviews will be completed by an individual qualified as a Fire Inspector III – Plans Examiner within the Division, qualified third-party reviewer contracted by the Division, or by the Qualified Fire Department.

6.3.4 The Life Safety Code plan reviews will be completed by an individual qualified as a Fire Inspector III – Plans Examiner and CMS Qualified Life Safety Code Inspector within the Division.

6.3.5 Upon completion of the code review, the Division will provide the Business Entity with a comprehensive list of corrections to be addressed prior to the issuance of a permit. This list of corrections should not be considered all-inclusive and may not be considered as approval of any condition in violation of applicable code. Once all corrections have been satisfactorily addressed, the Division will issue the permit.

6.4 Phased Construction

6.4.1 Upon request by the Business Entity, the Division may issue individual permits for demolition, construction of foundations, and construction of core and shell, or for individual phases of an overall project provided that construction documents for that portion of the building or structure being permitted have been submitted per Article 6.3. The holder of such permit for demolition or the construction of foundations or vertical construction may then proceed at the holder's own risk with building operation and without assurance that a permit for the entire structure will be granted. Issuance of this permit should not be considered all inclusive and may not be considered as approval of any condition in violation of applicable codes.

6.5 Deferred Design/Build Submittals/Shop Drawings

6.5.1 Deferred design/build (shop drawing) submittals for fire protection and life safety systems are permitted; however, construction documents must provide sufficient information to show compliance with Fire and Life Safety Code requirements and coordination between fire systems and other building systems (i.e., HVAC systems, security systems).

6.5.2 Shop (Installation) drawings for fire protection and life safety systems shall be submitted to the Fire and Life Safety Code Official(s) for review and approval prior to beginning installation of the system.

A) Fire sprinkler and fire alarm shop drawings shall be submitted to the Fire and Life Safety Code Officials in accordance with the requirements of the adopted codes in the format as prescribed by the Division and the local fire department.

B) Shop (installation) drawings for other systems regulated by the Fire and Life Safety Codes shall be submitted to the Division in accordance the appropriate referenced standard for the system.

6.5.3 Minimum Qualifications for Fire Protection and Life Safety System Design and Installation

A) Fire Suppression Systems

Any installation, modification, alteration, or repair of a fire suppression system shall be in accordance with 8 CCR 1507-11 - Colorado Fire Suppression program.

B) Fire Alarm Systems

(1) The design of any new system or alteration of an existing fire alarm system using the prescriptive requirements of NFPA 72 shall be performed by a person who is currently a professional engineer or qualified by NICET at a level III or level IV in fire protection engineering technologies - fire alarm systems, or another nationally recognized organization approved by the Division.

(2) The design of any new system or alteration of an existing fire alarm system using performance-based design methods as described by NFPA 72 or alternative materials and methods as described by the adopted
Fire Code shall be performed by a person who is currently a professional engineer specializing in fire protection.

(3) The installation of a fire alarm system shall be performed by or supervised by a person who is currently qualified at a minimum of NICET level II in fire protection engineering technologies – fire alarm systems, or another nationally recognized organization approved by the Division.

C) Other Fire and Life Safety Protection Systems Regulated by the Building, Fire, or Life Safety Codes

The design and installation shall be performed by a company or individual with manufacturer- or factory-approved training for the specific system, or as otherwise required by the applicable code section or referenced standard.

6.6 Limited Scope Project Permit

6.6.1 In lieu of an individual Building, Fire, or Life Safety Code permit for each limited scope project, the Division may issue a Limited Scope Project Permit upon approved application for or renewal of a Certificate of Compliance. Permits for Limited Scope Projects expire concurrent with the Certificate of Compliance for the Health Facility. The Business Entity shall notify the Local Fire Department prior to the commencement of work conducted under a Limited Scope Project Permit.

6.6.2 Limited Scope Project Permits are restricted to those projects identified by the Division.

6.6.3 The Business Entity to whom a Limited Scope Project Permit is issued shall keep a detailed record, including stamped engineered drawings (if applicable), of all modifications made under such Permit.

6.6.4 All work completed under an Limited Scope Project Permit shall be inspected by a local building department inspector, a Third-Party Inspector, or a qualified tradesperson (as specified by local or state licensing requirements or the installation standards adopted by the Division [if applicable], the manufacturer's installation recommendations, or minimally a person with 3 years or more of experience in the field of construction) within 10 days of completion of a project, and such inspections shall be recorded on an inspection log. The Division may perform interim inspections at any time and must have access to all inspection logs at all times. Copies of such records shall be submitted to the Division within 30 days of the expiration date of the Limited Scope Project Permit.

6.6.5 If the inspection logs associated with the Limited Scope Project Permit demonstrate compliance with the Limited Scope Project Permit requirements, the Division may issue a Certificate of Compliance for projects completed under that permit.

6.6.6 If the inspection logs associated with the Limited Scope Project Permit demonstrate noncompliance with the Limited Scope Project Permit requirements, the Division will issue a correction notice and may revoke and withhold issuing another Limited Scope Project Permit or Certificate of Compliance to the Business Entity until all corrections have been satisfied and may, based on the extent of noncompliance and at the Division’s discretion, elect to not issue a limited scope project permit for the next renewal of the Certificate of Compliance.

ARTICLE 7 – CONSTRUCTION INSPECTIONS

7.1 Building Code Inspections Conducted by the Division

7.1.1 Construction or work for which a permit is required is subject to inspection by the Division or a Third-Party Inspector hired by the Business Entity. Such construction or work shall remain accessible and exposed for inspection purposes until approved. Neither the Division nor a Third-Party Inspector contracted by the Business Entity is liable for expenses incurred in the removal or replacement of any material required to allow inspection.

7.1.2 The Division may contract with Third-Party Inspectors who are qualified in accordance with Article 10 of these rules to perform inspections. A Health Facility may hire and compensate Third-Party Inspectors under contract with the Division or hire and compensate other Third-Party Inspectors who are qualified in accordance with Article 10 of these rules to perform inspections.

A) Prior to commencement of construction on projects requiring third-party inspections, the Business Entity shall notify the Division of the designated Third-Party Inspector for the permitted project. The notification shall be made in writing using a form provided by the Division. The Division may request a preconstruction meeting with the Business Entity, the contractor hired to perform the work, and the qualified Third-Party Inspector.

B) Third-Party Inspectors shall include their printed name and state certification number in the appropriate location on the inspection report or card.

C) The Division will require a sufficient number of third-party inspection reports to be submitted by the inspector based upon the scope and cost of the project to ensure quality inspections are performed. Concurrent with the permit approval, the Division will issue an Inspection Card specifying the applicable required inspections as set forth in Chapter 1 of the Building Code or as determined by the Division. The inspection card shall be on site throughout the duration of the project.

D) If the Division finds that inspections are not completed satisfactorily, or that all violations are not corrected, the Division will take enforcement action against the appropriate Business Entity pursuant to Article 11. In such case the Division may also require that all inspections for the next project undertaken by the Business Entity be conducted by the Division's inspectors.

7.1.3 For permits issued by the Division, the final inspection will be conducted only by the Division after all work required by the building permit is completed. Mid-construction inspections may be performed to observe progress and verify compliance with third-party inspection requirements as deemed necessary by the Division.

7.2 Fire and Life Safety Code Inspections

7.2.1 Project sites shall be inspected by the Fire and Life Safety Code Officials to verify compliance with the Fire and Life Safety Codes and approved construction documents. Construction inspections shall be conducted by a person certified as Fire Inspector II or Fire Inspector III – Plans Examiner. Third-party inspection provisions do not apply to the required Fire and Life Safety Code inspections. Either the Division or the Qualified Fire Department shall perform fire inspections.

7.2.2 Results of all inspections shall be documented on the job site inspection card and in the official records of the inspecting entity, and shall include type of inspection, date of inspection, identification of the responsible individual doing the inspection, and comments regarding approval or disapproval of the inspection. Inspection records shall be retained by the inspecting entity for three years after the Certificate of Compliance or Certificate of Occupancy is issued.

7.2.3 Certified Fire Inspectors shall include their printed name and state fire inspector certification number in the appropriate locations on the inspection report or card.

7.3 Inspection Request Notification to the Division.

7.3.1 The Division shall be provided with notification in writing no later than noon of the Thursday in the week preceding the requested inspection. The Division will make reasonable efforts to provide the inspection on the requested day or time, provided an inspector is available. If the inspection schedule is full, an alternate day and time will be proposed for the inspection to be completed within the next 30 days, unless otherwise negotiated.

7.3.2 It is the duty of the permit holder to provide access to and means for inspections of such work that are required by the inspector.

7.3.3 Work will not be done beyond the point indicated in each successive inspection without first obtaining the approval from the appropriate inspection entity. The inspector, upon notification, will perform the requested inspections. In the case that the Division cannot complete the inspection within the timeframe requested, the Business Entity may elect to hire a Third-Party Inspector to conduct that inspection at their own expense. Upon completion of the inspection, the inspector will either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or their Designated Representative of any deficiencies. Any portions of the construction that do not comply with the codes adopted in these rules shall be corrected and such portion shall not be covered or concealed until authorized by the appropriate inspection entity. The re-inspection shall be requested in accordance with Article 7.3.1.

7.4 Stop Work Orders Issued by the Division.

7.4.1 If the Division finds any work regulated by these rules being performed in a manner either contrary to the provisions of these rules or dangerous or unsafe, the Division is authorized to issue a stop work order.

7.4.2 The stop work order will be in writing and will be given to the Business Entity, the Designated Representative, or the person doing the work. Upon issuance of a stop work order, the cited work must immediately cease. The stop work order will state the reason for the order and the conditions under which the cited work will be permitted to resume.

7.4.3 Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be subject to penalties as prescribed by these rules.

ARTICLE 8 – CERTIFICATE OF OCCUPANCY AND CERTIFICATE OF COMPLIANCE

8.1 The Business Entity shall not occupy or use a Health Facility or portion thereof for the provision of services until a completed and closed Permit, Certificate of Compliance, Certificate of Occupancy or a Temporary Certificate of Occupancy has been issued by Division and/or the local building department.

8.2 The Division or the local building department may issue a Temporary Certificate of Occupancy if a Health Facility requires immediate occupancy and if the Business Entity has passed the appropriate inspections, including fire inspections, that indicate there are no life safety issues. If no renewal of the Temporary Certificate of Occupancy is issued or a permanent Certificate of Occupancy is not issued, the building shall be vacated upon expiration of the Temporary Certificate of Occupancy.

8.3 A Health Facility shall not provide health services without a valid Certificate of Compliance that has been issued by the Division for that portion of the Health Facility. If no renewal of the Certificate of Compliance is issued, the building shall be vacated upon expiration of the Certificate of Compliance.

8.4 Certificates of Occupancy and Certificates of Compliance will be issued based on the codes in effect during the most recent inspection of the facility. No Certificate of Compliance will be issued until compliance with the applicable codes and standards has been demonstrated through record review of local Authority Having Jurisdiction documents of inspection and certification, Division inspection and certification, or other appropriate documentation, showing the building to be in conformance with applicable codes and standards applicable at the time of issuance. The Business Entity is required to submit these documents to the local Authority Having Jurisdiction.

8.5 For the initial issuance of the Certificates of Compliance after July 1, 2013 the Certificate will be based on the codes as adopted and enforced by CDPHE during the last inspection or in effect upon the original submittal for plan review of the facility within the five years prior to July 1, 2013. For facilities that have not been inspected within the last five years, the Certificate will be issued based on the codes as adopted and enforced by CDPHE as of June 30, 2013.

ARTICLE 9 – MAINTENANCE AND COMPLAINT INSPECTIONS AND INSPECTION, TESTING AND MAINTENANCE PROGRAMS.

9.1 Maintenance and Complaint Inspections

9.1.1 The Division may perform inspections of the buildings and structures when deemed necessary to ensure that they are maintained in accordance with the appropriate
chapters of the adopted Fire and Life Safety Codes. If the Health Facility is not certified, is not seeking certification, or cannot potentially seek certification to participate in Medicare or Medicaid funding, the Local Qualified Fire Department providing fire protection service will conduct these maintenance inspections.

A) If the Local Qualified Fire Department is unable or unwilling to perform maintenance or complaint inspections, the Division has the authority and duty to perform them.

B) If the Local Qualified Fire Department does not have an inspector qualified as a Fire Inspector I or above, the Division will perform regular maintenance inspections for the Business Entity to ensure compliance with this rule and the applicable statutes. In this instance the Division inspector will attempt to contact the local Fire Authority to ascertain any concerns the local fire authority might have related to the Health Facility.

9.1.2 Where a local Qualified Fire Department is performing maintenance and complaint inspections, the Business Entity is required to notify the Division that such inspections are being performed. The Business Entity shall provide a copy of the local Qualified Fire Department's inspection report and documentation that all identified deficiencies have been corrected within 30 days of the inspection and subsequent re-inspections until compliance is demonstrated. If such documentation is not provided, the Division will assume that the inspections have not been performed and will have the duty to perform them.

9.1.3 Nothing in this Article prohibits the local fire department providing fire protection services from conducting routine assessments of buildings and structures or from correcting violations that pose an immediate threat to life safety. Additionally, nothing in this Article prohibits the local fire department from seeking enforcement under defined local procedures and rules.

9.1.4 A local Qualified Fire Department providing fire protection service for buildings and structures of a Health Facility that chooses to perform Fire and Life Safety Code inspections may refer notices of deficiencies to the Division for evaluation and enforcement. Notices of deficiencies and requests for evaluation and enforcement shall be submitted in writing to the Division as described in Article 11 of this Rule.

9.2 Inspection, Testing and Maintenance Programs.

9.2.1 The Business Entity shall ensure that building systems are inspected, tested, and maintained as required by the adopted codes and referenced standards.

9.2.2 Personnel employed by a Business Entity performing inspection, testing, and maintenance programs are not required to be Certified Fire Inspectors, but must be qualified to perform the actions as required by the standards or listings of the devices or systems.

Exception: Work conducted on system components that would require permits, licensing, or certifications under any adopted codes, laws, or rules shall be conducted in accordance with those requirements.

9.2.3 Inspection, Testing, and Maintenance Records shall be retained for at least three years. Records must indicate the procedure or inspection performed, the organization that performed the procedure or inspection, the results, and the date. The Business Entity shall provide these records for review by the local Qualified Fire Department or to the Division upon request.

9.2.4 The Business Entity shall report or cause to be reported in the manner and method required by the Division all fires that occur within any Health Facility subject to regulation by the Division in the State of Colorado. This requirement shall be met anytime a fire occurs that causes any one of the following conditions:

A) Activates one of the fire and life safety systems installed in the building or structure (e.g. – fire alarm system, fire suppression system, etc.).

B) Causes a response from the Fire Department

C) Causes the evacuation of any occupants located in the building or structure.

D) Results in the deployment and use of a fire extinguisher.

ARTICLE 10 – BUILDING CODE AND FIRE CODE INSPECTOR QUALIFICATION

10.1 Building Code and Fire Code Inspectors shall be certified in accordance with the provisions of 8 CCR 1507-101 (BUILDING AND FIRE CODE ADOPTION AND CERTIFICATION OF INSPECTORS FOR FIRE & LIFE SAFETY PROGRAMS ADMINISTERED BY THE STATE OF COLORADO).

10.2 Duties of Third-Party Inspectors

10.2.1 Third-Party Inspectors contracted by the Business Entity shall conduct the required inspections and require corrections or modifications as necessary to ensure that a building or structure is constructed in conformity with the Building Code adopted by the Division.

10.2.2 Third-Party Inspectors contracted by the Business Entity shall enforce only the codes adopted by the Division.

10.2.3 The Business Entity shall only use inspectors that are qualified by the Division to work on Health Facility projects.

10.2.4 Third-Party Inspectors contracted by the Business Entity shall send copies of their inspection reports to the Division.

10.2.5 If all inspections are not completed and a building requires immediate occupancy, and if the Business Entity has passed the appropriate inspections that indicate there are no life safety issues, the qualified Third-Party Inspectors contracted by the Business Entity shall notify the Division of the same. Upon this notice, the Division may issue a Temporary Certificate of Occupancy to allow the Business Entity to occupy the buildings and structures.

10.2.6 Applicants for Third-Party Inspection Certification must complete the process as defined by the Division.

10.3 Duties of Certified Fire Inspectors

10.3.1 Where there is a local Qualified Fire Department, local Qualified Fire Inspectors shall conduct the required plan reviews and inspections and require corrections or modifications as necessary to ensure that a building or structure is constructed in conformity with the locally adopted Fire Codes.

10.3.2 Where there is not a Qualified Fire Department, Division Fire Inspectors shall conduct the required plan reviews and inspections and require corrections or modifications as necessary to ensure that a building or structure is constructed in conformity with the Division's adopted Fire and Life Safety Codes.

10.3.3 If all inspections are not completed and a building requires immediate occupancy, and if the Business Entity has passed the appropriate inspections that indicate there are no life safety issues, the Fire Inspector may recommend to the Division or the local Building Department that a Temporary Certificate of Occupancy be issued to allow the Business Entity to occupy the buildings and structures.

10.3.4 The Business Entity shall maintain records of all plan reviews and inspections for a period of no less than five years. Said records shall be made available for review by the Division upon request.

ARTICLE 11 – ENFORCEMENT

11.1 The Director and Executive Director will enforce the requirements of the codes adopted in Article 3 when the Division is considered the Authority Having Jurisdiction, in accordance with the provisions of section 24-33.5-1213, C.R.S.

11.1.1 The Director may issue a notice of violation to a person who is believed to have violated the codes as determined by an inspection pursuant to section 22-32-124(2), 23-71-122(1)(v), 24-33.5-1212.5, or 24-33.5-1213.3, C.R.S. The notice shall be delivered to the alleged violator by certified mail, return receipt requested, or by any means that verifies receipt as reliably as certified mail, return receipt requested.

11.1.2 The notice of violation shall allege the facts that constitute a violation

11.1.3 The notice of violation may require the alleged violator to correct the alleged violation.

11.1.4 Within ten working days after delivery of the notice of violation, the alleged violator may request in writing an informal conference with the Director concerning the notice of violation. If the alleged violator fails to request the conference within ten days, the notice of violation is final and not subject to further review by the Director, and any requirement to correct the alleged violation pursuant to 11.1.4 becomes a binding enforcement order.

11.1.5 Upon receipt of a request for an informal conference, the Director shall set a reasonable time and place for the conference and shall notify the alleged violator of the time and place of the conference. At the conference, the alleged violator may present evidence and arguments concerning the allegations in the notice of violation.

11.1.6 Within twenty working days after the informal conference, the Director shall uphold, modify, or strike the allegations within the notice of violation and may issue an enforcement order. The decision and, if applicable, enforcement order shall be delivered to the alleged violator by certified mail, return receipt requested, or by any means that verifies receipt as reliably as certified mail, return receipt requested.

11.2 A person who is the subject of, and is adversely affected by, a notice of violation or enforcement order issued pursuant to Article 11 may appeal such action to the Executive Director. The Executive Director shall hold a hearing to review such notice or order and take final action in accordance with Article 11 and may either conduct the hearing personally or appoint an administrative law judge from the department of personnel.

11.2.1 Final agency action shall be subject to judicial review pursuant to C.R.S. Article 4 of Title 24.

11.2.2 An alleged violator who is required to correct an action pursuant to Article 11 shall be afforded the procedures set forth in section 24-4-104(3), C.R.S., to the extent applicable.

11.3 An enforcement order issued pursuant to this Article may impose a civil penalty, depending on the severity of the alleged violation, not to exceed five hundred dollars per violation for each day of violation; except that the Director may impose a civil penalty not to exceed one thousand dollars per violation for each day of violation that results in, or may reasonably be expected to result in, serious bodily injury.

11.4 The Director may file suit in district court in the judicial district in which a violation is alleged to have occurred to judicially enforce an enforcement order issued pursuant to this section.

11.5 In addition to the remedies provided in this Article, the Director is authorized to apply to the district court, in the judicial district where the violation has occurred, for a temporary or permanent injunction to restrain any person from violation any provision of section 22-32-124(2) or 23-71- 122(1)(v), C.R.S., or section 24-33.5-1212.3 or 24-33.5-1213.5, C.R.S. regardless of whether there is an adequate remedy at law.

11.6 It is not the intent of this Article to remove, limit, or modify enforcement authority of the fire department providing fire protection service for buildings or structures of a Business Entity.

ARTICLE 12 – CODE INTERPRETATION APPEALS

12.1 A Business Entity who is the subject of, and is adversely affected by, a code decision or interpretation made by a Division inspector or Third-Party Inspector that conducts a plan review or inspection pursuant to these rules, may appeal such decision or interpretation to the Board of Appeals formed by Section 24-33.5-1212.5, C.R.S.

12.1.1 The affected Business Entity will first contest the preliminary code interpretation to the Division. After consideration, the Division will issue its final code determination on the matter.

12.1.2 If the Business Entity still disagrees, it may appeal to the Board of Appeals. The appeal shall be filed within 30 days after the date of the final written decision by the Division. Upon receipt of an appeal, the Division will notify the Chair of the Board of Appeals and schedule a hearing no more than 15 days after the date the appeal was filed.

12.1.3 An application for appeal must be based on a claim that the true intent of this code or the standards legally adopted therein have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The Board of Appeals may not waive any requirements of the codes or standards; however the Board of Appeals may recommend alternative materials or methods as provided in
the codes or standards. The final written decision of the Board of Appeals is final agency action for purposes of section 24-4-106, C.R.S.

ARTICLE 13 – FEES AND CHARGES

13.1 The Division will charge the following fees for Third-Party Inspector Certifications:

Third Party Inspector Certification Fees	
Certification of Third-Party Inspectors Through Equivalent Qualification Review	$75.00
Renewal of Third-Party Inspector Certification	$50.00

13.2 Plan Review, Construction Permit, and Inspection Fees

13.2.1 The Division will charge fees to cover the actual, reasonable, and necessary expenses of the Division.

13.2.2 The plan review, construction permit, and inspection fees are calculated based on the Total Project Valuation.

A) The building inspection component of this fee in 13.2.4(A) includes an allocation of site visits to complete the necessary inspections in accordance with the table below. In the event that additional inspections by the Division are necessary or requested, additional fees may be assessed as outlined in 13.2.4.

B) The Fire and Life Safety inspection component of this fee in 13.2.4(C) includes an allocation of site visits to complete the necessary inspections in accordance with the table below. In the event that additional inspections by the Division are necessary or requested, additional fees may be assessed as outlined in 13.2.4.

New Construction	
Under 50,000 sq.ft.	10 site visits
50,001-100,000 sq.ft	15 site visits
100,001-200,000 sq. ft.	25 site visits
Over 200,000 sq. ft.	5 site visits/each additional 100,000 sq. ft.
Remodels/Renovations/Single System Submittal	
Under 50,000 sq. ft.	5 site visits
50,001-100,000 sq. ft.	10 site visits
Over 100,000 sq. ft	5 site visits/each additional 100,000 sq. ft.

C) Division inspection fees do not include costs associated with inspections conducted by local Authorities Having Jurisdiction or Third-Party Inspectors.

D) If the submitted Total Project Valuation appears to be below market value for the project, the Division reserves the right to request documentation from the Business Entity to verify the Total Project Valuation. The Business Entity has the right to mark documents submitted to verify the Total Project Valuation as proprietary information.

13.2.3 The Division will review the fund balance periodically and may reduce or increase the amount of the fee, if necessary, pursuant to section 24-75-402 (3) and 24-75-402 (4), C.R.S.

13.2.4 A fee calculator posted on the Division website enables determination of total fees (plan review and construction permit fees) prior to submittal of a project.

A) Fees for Building Code reviews performed by the Division will be subject to a base fee of $600.00 plus a fee equal to .0009 times the Total Project Valuation.

B) Fees for Fire and/or Life Safety Code reviews by the Division will be subject to a base fee of $600.00 plus a fee equal to .0009 times the Total Project Valuation.

C) When both Building and Fire and Life Safety Code reviews are performed by the Division the Fees will equal the sum of both the Building review fees in Article 13.2.4(A) and the Fire and Life Safety review fees in Article 13.2.4(B).

13.2.5 Half of the fees must be submitted prior to commencement of plan review and the remaining half must be submitted prior to permit issuance. Inspections will not be performed until the required fee has been paid. Additional inspection fees must be submitted prior to issuance of any associated Certificate of Compliance, Certificate of Occupancy, or completion of the permit.

13.2.6 The Division may assess a $200 inspection for each additional inspection in excess of the number allocated by the table in 13.2.2. Additional Inspections exceeding 4 hours in length, including travel time, will be charged $50 for each additional hour or portion thereof.

13.2.7 The Division may assess an additional off-hours inspection fee of $200 for inspections requested outside of normal business hours.

A) Normal inspection hours are Monday through Friday between 8:00 am and 5:00 pm.

B) Off-hours inspections are scheduled on an “as-available” basis. The Division is not obligated to provide inspections outside of normal operating hours if an inspector is not available.

13.2.8 The Division may assess a fee of $100 for the replacement of a lost inspection record card.

13.3 Fire and Life Safety Certificate of Compliance Inspection Fees

The following fees will be charged for Fire and Life Safety Certificate of Compliance inspections performed by the Division:	
Certificate of Compliance Annual Fee	$ 500.00
On-site re-visit inspection (per 4 hour block including travel)	$ 400.00
Documentation review	$ 200.00

13.3.1 Fees are charged per street address.

13.3.2 Failure to pay for Fire and Life Safety Code inspections performed will result in a notice of violation and enforcement in accordance with Article 11 of this rule. In addition, the Division shall not issue the Certificate of Occupancy and/or Certificate of Compliance.

13.4 Fees may be waived or modified when appropriate at the discretion of the Director or his designee. Request for waiver or modification shall be in writing.

ARTICLE 14 – SEVERABILITY

14.1 If any provision or application of these rules is held invalid, all other provisions and applications of these rules will remain in effect.

ARTICLE 15 – INQUIRIES

15.1 All questions or requests for interpretation of these rules should be submitted in writing to the Fire & Life Safety Section Chief, Colorado Division of Fire Prevention and Control, 700 Kipling St, Suite 4100, Denver, CO 80215. Telephone number: (303) 239-4100

DEPARTMENT OF PUBLIC SAFETY

Division of Fire Prevention and Control

8 CCR 1507-31

BUILDING, FIRE, AND LIFE SAFETY CODE ENFORCEMENT AND CERTIFICATION OF INSPECTORS FOR HEALTH FACILITIES LICENSED BY THE STATE OF COLORADO

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

Pursuant to Section 24-33.5-1203.5, C.R.S., the Director of the Colorado Division of Fire Prevention and Control shall promulgate rules as necessary to carry out the duties of the Division of Fire Prevention and Control. This rule is proposed pursuant to this authority and is intended to be consistent with the requirements of the State Administrative Procedures Act, Section 24-4-101, et seq., C.R.S. The Director of the Division of Fire Prevention and Control is authorized to promulgate rules to establish and enforce standards for the inspection, certification, and use of these apparatuses by the provisions of section 24-33.5-2303, C.R.S.

A modification to C.R.S. 24-33.5-1203(1)(p.5), effective on July 1, 2021, changes the expectations of the Division. Specifically, the Division is now required by the statute to conduct construction plan reviews and inspections of health facility buildings and structures, enforce the codes in accordance with sections 24-33.5-1212.5 and 24-33.5-1213, and issue certificates of compliance for "facilities certified or potentially eligible for certification by the federal centers for medicare and medicaid services." 24-33.5-1203(1)(p.5), C.R.S.

The purpose of this emergency rule making is to establish the above-cited changes to C.R.S. 24-33.5-1203(1)(p.5) in rule. It was declared by the General Assembly in House Bill 19-1237, that in order to promote the public health and welfare of the people of Colorado, it is in the public interest to establish and streamline minimum standards and rules for behavioral health entities operating in the State of Colorado and to provide the authority for the administration and enforcement of such minimum standards and rules. The absence of accurate implementing rules to carry out the purpose of the statute would be contrary to this declaration. For these reasons, it is imperatively necessary that the proposed rules be adopted.

9/13/21

Mike Morgan, Division Director
Colorado Department of Public Safety
Division of Fire Prevention and Control

Date of Adoption

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00583

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Fire Prevention and Control

on 09/13/2021

8 CCR 1507-31

BUILDING, FIRE, AND LIFE SAFETY CODE ENFORCEMENT AND CERTIFICATION OF INSPECTORS FOR HEALTH FACILITIES LICENSED BY THE STATE OF COLORADO

The above-referenced rules were submitted to this office on 09/14/2021 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.

September 29, 2021 19:39:28

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Human Services

Agency

Income Maintenance (Volume 3)

CCR number

9 CCR 2503-9

Rule title

9 CCR 2503-9 COLORADO CHILD CARE ASSISTANCE PROGRAM 1 - eff 10/01/2021

Effective date

10/01/2021

Expiration date

01/01/2022

DEPARTMENT OF HUMAN SERVICES

Income Maintenance (Volume 3)

COLORADO CHILD CARE ASSISTANCE PROGRAM

9 CCR 2503-9

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

****

3.905.1 LOW-INCOME CHILD CARE ELIGIBILITY

****

H. Low-Income Eligibility Guidelines

1. Adult caretaker(s) or teen parent(s) gross income must not exceed eighty-five percent (85%) of the state median income.

    a. Entry eligibility shall be set by the state department at a level based on the self-sufficiency standard, not to be set below one hundred eighty-five percent (185%) of federal poverty level.

    b. Exit income eligibility must be eighty-five percent (85%) of the state median income.

2. Effective October 1, 2021, monthly gross income levels, for one-hundred percent (100%) of the Federal Poverty Guideline (FPG), as well as eighty-five percent (85%) of State Median Income (SMI) for the corresponding household size are as follows:

Family Size	100% Federal Poverty Guideline (FPG)	85% State Median Income (SMI) (State and Federal Maximum Income Limit)
1	$1,073.33	$3,908.75
2	$1,451.67	$5,111.45
3	$1,830.00	$6,314.14
4	$2,208.33	$7,516.83
5	$2,586.67	$8,719.53
6	$2,965.00	$9,922.22
7	$3,343.33	$10,147.73
8	$3,721.67	$10,373.23
Each Additional person	$378.33	$225.51

****

Title of Proposed Rule:	**Colorado Child Care Assistance Program FPG & SMI Updates**	
CDHS Tracking #:	**21-07-22-02**	
Office, Division, & Program: OEC, DECL, CCCAP	Rule Author: Tamara Schmidt	Phone: 720-768-8287 E-Mail: Tamara.Schmidt@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [X] Board [ ] Executive Director

b. [ ] Regular [X] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[X] AG Initial Review [X] Initial Board Reading [ ] AG 2nd Review [ ] Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
1	Amended Rules
	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	September

What date is being requested for this rule to be effective?	October 1, 2021
Is this date legislatively required?	Yes

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates:	1st Board	9/3/2021 (Emergency)	2nd Board	10/8/2021 (Permanent)	Effective Date:	10/1/2021 (Emergency) 11/30/2021 (Permanent	

Title of Proposed Rule:	**Colorado Child Care Assistance Program FPG & SMI Updates**	
CDHS Tracking #:	**21-07-22-02**	
Office, Division, & Program: OEC, DECL, CCCAP	Rule Author: Tamara Schmidt	Phone: 720-768-8287
		E-Mail: Tamara.Schmidt@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. ***1500 Char max***

Annually, the Department updates the Federal Poverty Levels and the State Median Income levels in Rule and in CHATS, the automated system used by counties to administer Colorado Child Care Assistance Program (CCCAP), to align with each federal fiscal year updates. These guidelines are used to determine eligibility for families applying to the CCCAP program.

These updated figures must be in rule in accordance with Administrative Procedure Act, § 24-4-103, which requires the state to address in rule any general standard that is applied to the public (such as income eligibility for child care assistance).

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- [X] to comply with state/federal law and/or
- [ ] to preserve public health, safety and welfare

Justification for emergency:

The updated Federal Poverty Levels and State Median Income levels must be in effect at the beginning of the federal fiscal year, October 1st, in order to comply with federal regulations.

State Board Authority for Rule:

Code	Description
26-1-107(5)(a), (b), C.R.S. (2020)	State Board to promulgate rules
26-1-109(3), C.R.S. (2020)	State department rules to coordinate with federal programs
26-1-111(2)(a), (b), C.R.S. (2020)	State department to administer or supervise all forms of public assistance, in cooperation with federal partners.
26-2-805(1), (13), C.R.S. (2020)	State board to promulgate rules to implement CCCAP

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

Code	Description
26-2-805 (1), (2), C.R.S (2020)	The Board may adjust the percentage of federal poverty guidelines to comply with federal law. Income must not exceed the maximum federal eligibility level of 85% of the State Median Income.
45 CFR 98.16 (h), (k)	Lead Agencies must establish income eligibility thresholds that do not exceed 85% of the State Median Income but that allow for gradual increases in income, and describe the sliding fee scale for cost-sharing by families

Title of Proposed Rule:	**Colorado Child Care Assistance Program FPG & SMI Updates**	
CDHS Tracking #:	**21-07-22-02**	
Office, Division, & Program: OEC, DECL, CCCAP	Rule Author: Tamara Schmidt	Phone: 720-768-8287
		E-Mail: Tamara.Schmidt@state.co.us

Does the rule incorporate material by reference?	☐ Yes	☒ No
Does this rule repeat language found in statute?	☐ Yes	☒ No

If yes, please explain.

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?

Counties who administer Colorado Child Care Assistance Program (CCCAP) will benefit from the rule, ensuring that eligibility is correctly being determined.

Households receiving CCCAP will have their eligibility correctly determined under the new income amounts.

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?

If income levels are not updated, the Department will not be in compliance with federal requirements. Additionally, families applying for services will not be determined eligible under the correct income guidelines if the income levels are not put into effect by October 1, 2021.

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)*

No fiscal impact to the state as the changes in CHATS are covered under standard operations.

County Fiscal Impact

Counties may see a fiscal impact if we do not promulgate this rule package immediately as families that have lost benefits may be able to appeal under the new federal guidelines.

Federal Fiscal Impact

There is no federal fiscal impact as these changes are required and any changes are covered under standard operations.

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

There is a risk that some families will go over income under the current Departmental guidelines but would not go over income under the "new" federal guidelines.

4. Data Description

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

LIHEAP-IM-2021-02: Memo on FF22 Federal Poverty Guidelines, published July 6, 2021
LIHEAP-IM-2021-03: Memo on FFY22 State Median Income Estimates, published July 6, 2021

5. Alternatives to this Rule-making

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

There are no alternatives to this rule making because APA requires that these standards are promulgated in rule.

OVERVIEW OF PROPOSED RULE

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

<table>
<tr><th>Rule section Number</th><th>Issue</th><th>Old Language</th><th>New Language or Response</th><th>Reason / Example / Best Practice</th><th>Public Comment No / Detail</th></tr>
<tr><td>7.000</td><td>Incorrect Statutory Reference</td><td>Section 26.5.103 C.R.S.</td><td>Section 26.5-101(3) C.R.S.</td><td></td><td></td></tr>
<tr><td>3.905.1 (H)(2)</td><td>The FPG and SMI values have changed</td><td>2. Effective October 1, 2020, monthly gross income levels, for one-hundred percent (100%) of the Federal Poverty Guideline (FPG), as well as eighty-five percent (85%) of State Median Income (SMI) for the corresponding household size are as follows:
<table>
<tr><td>Family Size</td><td>100% Federal Poverty Guideline (FPG)</td><td>85% State Median Income (SMI) (State and Federal Maximum Income Limit)</td></tr>
<tr><td>1</td><td>$1,063.33</td><td>$3,711.33</td></tr>
<tr><td>2</td><td>$1,436.67</td><td>$4,853.27</td></tr>
<tr><td>3</td><td>$1,810.00</td><td>$5,995.22</td></tr>
<tr><td>4</td><td>$2,183.33</td><td>$7,137.17</td></tr>
<tr><td>5</td><td>$2,556.67</td><td>$8,279.11</td></tr>
<tr><td>6</td><td>$2,930.00</td><td>$9,421.06</td></tr>
<tr><td>7</td><td>$3,303.33</td><td>$9,635.18</td></tr>
<tr><td>8</td><td>$3,676.67</td><td>$9,849.29</td></tr>
<tr><td>Each Additional Person</td><td>$373.33</td><td>$214.12</td></tr>
</table></td><td>2. Effective October 1, ~~2020~~2021, monthly gross income levels, for one-hundred percent (100%) of the Federal Poverty Guideline (FPG), as well as eighty-five percent (85%) of State Median Income (SMI) for the corresponding household size are as follows:
<table>
<tr><td>Family Size</td><td>100% Federal Poverty Guideline (FPG)</td><td>85% State Median Income (SMI) (State and Federal Maximum Income Limit)</td></tr>
<tr><td>1</td><td>~~$1,063.33~~ $1,073.33</td><td>~~$3,711.33~~ $3,908.75</td></tr>
<tr><td>2</td><td>~~$1,436.67~~ $1,451.67</td><td>~~$4,853.27~~ $5,111.45</td></tr>
<tr><td>3</td><td>~~$1,810.00~~ $1,830.00</td><td>~~$5,995.22~~ $6,314.14</td></tr>
<tr><td>4</td><td>~~$2,183.33~~ $2,208.33</td><td>~~$7,137.17~~ $7,516.83</td></tr>
<tr><td>5</td><td>~~$2,556.67~~ $2,586.67</td><td>~~$8,279.11~~ $8,719.53</td></tr>
<tr><td>6</td><td>~~$2,930.00~~ $2,965.00</td><td>~~$9,421.06~~ $9,922.22</td></tr>
<tr><td>7</td><td>~~$3,303.33~~ $3,343.33</td><td>~~$9,635.18~~ $10,147.73</td></tr>
<tr><td>8</td><td>~~$3,676.67~~ $3,721.67</td><td>~~$9,849.29~~ $10,373.23</td></tr>
<tr><td>Each Additional Person</td><td>~~$373.33~~ $378.33</td><td>~~$214.12~~ $225.51</td></tr>
</table></td><td>The Federal Poverty Guidelines and State Median Income amounts are being revised as required by LIHEAP-IM-2021-02 and LIHEAP-IM-2021-03</td><td>No</td></tr>
</table>

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):

Emergency rule package based on FFY 2021 Federal Poverty Guidelines and State Median Income Estimates

This Rule-Making Package

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

Office of Early Childhood (OEC) PAC & Sub-PAC will be informed of the emergency rule making strategy at the August meetings.

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	CDHS Early Childhood Sub-PAC		
Date presented	August 5, 2021		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
	Unanimous		
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.	Will be presented in September		

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.

(9 CCR 2503-9)

3.905.1 LOW-INCOME CHILD CARE ELIGIBLITY

****

H. Low-Income Eligibility Guidelines

1. Adult caretaker(s) or teen parent(s) gross income must not exceed eighty-five percent (85%) of the state median income.

   a. Entry eligibility shall be set by the state department at a level based on the self-sufficiency standard, not to be set below one hundred eighty-five percent (185%) of federal poverty level.

   b. Exit income eligibility must be eighty-five percent (85%) of the state median income.

2. Effective October 1, ~~2020~~2021, monthly gross income levels, for one-hundred percent (100%) of the Federal Poverty Guideline (FPG), as well as eighty-five percent (85%) of State Median Income (SMI) for the corresponding household size are as follows:

Family Size	100% Federal Poverty Guideline (FPG)	85% State Median Income (SMI) (State and Federal Maximum Income Limit)
1	~~$1,063.33~~ $1,073.33	~~$3,711.33~~ $3,908.75
2	~~$1,436.67~~ $1,451.67	~~$4,853.27~~ $5,111.45
3	~~$1,810.00~~ $1,830.00	~~$5,995.22~~ $6,314.14
4	~~$2,183.33~~ $2,208.33	~~$7,137.17~~ $7,516.83
5	~~$2,556.67~~ $2,586.67	~~$8,279.11~~ $8,719.53
6	~~$2,930.00~~ $2,965.00	~~$9,421.06~~ $9,922.22
7	~~$3,303.33~~ $3,343.33	~~$9,635.18~~ $10,147.73
8	~~$3,676.67~~ $3,721.67	~~$9,849.29~~ $10,373.23
Each Additional Person	~~$373.33~~ $378.33	~~$214.12~~ $225.51

****

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00575

Opinion of the Attorney General rendered in connection with the rules adopted by the

Income Maintenance (Volume 3)

on 09/03/2021

9 CCR 2503-9

COLORADO CHILD CARE ASSISTANCE PROGRAM

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 23, 2021 09:04:28

Philip J. Weiser
Attorney General
by Eric R. Olson
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 - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 1 - eff 09/10/2021

Effective date

09/10/2021

Expiration date

01/08/2022

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Hospice Room and Board
Rule Number: MSB 21-08-18-A
Division / Contact / Phone: Health Programs Office / 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 21-08-18-A, Revision to the Medical Assistance Act Rule concerning Hospice Room and Board

3. This action is an adoption of: new rules

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.550.9.C, 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: 9/10/2021
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Insert the newly proposed text beginning at 8.550.9.C through the end of 8.550.9.C. This rule is effective September 10, 2021.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Hospice Room and Board
Rule Number: MSB 21-08-18-A
Division / Contact / Phone: Health Programs Office / 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 implements Colorado Senate Bill 21-214, which establishes a state-only room and board payment to qualified hospice providers that render hospice care in a licensed hospice facility to an eligible Medicaid-enrolled member who has a hospice diagnosis, is eligible for nursing facility care and, despite attempts to secure a bed, is unable to secure a Medicaid bed in a nursing facility due to COVID-19 impacts, complexity of medical care, behavioral health issues, or other issues as determined by the Department. Room and board reimbursement is available to qualified hospice providers who provided such services during the period beginning the last quarter of the 2020-21 state fiscal year through the 2021-22 state fiscal year, within existing appropriations.

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:

   This rule is imperatively necessary to comply with state law at CRS § 25.5-4-424 to implement the hospice state-only room and board payment mandated by statute.

3. Federal authority for the Rule, if any:

   Not applicable, this is a state-only payment.

4. State Authority for the Rule:

   Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2018);
   CRS § 25.5-4-424 (2021)

Initial Review	**[date]**	Final Adoption	**[date]**
Proposed Effective Date	**[date]**	Emergency Adoption	
[date]			

DOCUMENT #

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Hospice Room and Board
Rule Number: MSB 21-08-18-A
Division / Contact / Phone: Health Programs Office / Russ Zigler / 303-866-5927

REGULATORY ANALYSIS

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

   Eligible patients enrolled in Medicaid who are eligible for nursing facility care, have a hospice diagnosis, and, despite attempts to secure a bed, are unable to secure a Medicaid bed in a nursing facility due to COVID-19 impacts, complexity of medical care, behavioral issues, or other issues as determined by the Department are affected by this rule, as are the qualified hospice providers who provide room and board to such patients where nursing facility beds are unavailable.

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

   The proposed rule will improve access to room and board for eligible patients and, within existing appropriations, provide state-only payment to the qualified hospice providers who provide room and board to such patients.

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

   The proposed rule will increase General Fund expenditures for the Department of Health Care Policy and Financing by $684,000 for expenditures beginning in state fiscal year 2020-21 and ending in state fiscal year 2021-22. This assumes an average of 13 patients per day will receive hospice services at an average state per diem rate of $115.38 for 456 days. For state fiscal year 2020-21, the authorizing statute includes a General Fund appropriation of $684,000 to the Department. Funds not expended prior to July 1, 2021, are further appropriated for state fiscal year 2021-22.

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

The costs of the proposed rule are detailed in question #3. The benefit of the proposed rule is implementing the statutory mandate in CRS § 25.5-4-424 and providing state payment for room and board payment for qualified patients as detailed in questions #1 and #2. The cost of inaction is failure to implement the statutory mandate in CRS § 25.5-4-424. There are benefits to inaction.

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

   There are no less costly methods or less intrusive methods to implement the state-only hospice room and board payment mandated in CRS § 25.5-4-424

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   There are no alternative methods for implementing the state-only hospice room and board payment mandated in CRS § 25.5-4-424.

8.550 HOSPICE BENEFIT

8.550.9 REIMBURSEMENT

8.550.9.C. State-Only Hospice Room and Board Reimbursement

1. As used in this section, unless context otherwise requires:

   a. "Eligible Patient" means a person who is enrolled in Colorado Medicaid at the time the service is provided and who:

      i) Is eligible under Colorado Medicaid for care in a nursing facility at the time the service is provided;

      ii) Has a hospice diagnosis; and

      iii) Despite attempts to secure a bed, is unable to secure a Medicaid bed in a nursing facility due to COVID-19 impacts, complexity of medical care, behavioral health issues, or other issues as determined by the Department.

   b. "Qualified Hospice Provider" means a hospice provider that:

      i) Has been continuously enrolled with the Department since at least January 1, 2021;

      ii) Provided hospice services to the eligible patient in a licensed hospice facility during the period beginning in the last quarter of the 2020-2021 state fiscal year through the 2021-2022 state fiscal year; and

      iii) Complies with any billing or administrative requests of the Department for purposes of determining eligibility for and administering the state payment.

2. Qualified Hospice Providers who provide hospice care in a licensed hospice facility to an Eligible Patient may receive a room and board payment equal to one-half (1/2) of the statewide average per diem rate, as defined in C.R.S. § 25.5-6-201. The payment is subject to the following limitations:

   a. Payment is limited to not more than twenty-eight (28) days per Eligible Patient.

   b. No payments will be made after June 30, 2022 or after appropriations are exhausted, whichever occurs first, in accordance with C.R.S. § 25.5-4-424.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300
Rule Number: MSB 21-08-30-A
Division / Contact / Phone: Health Programs Office / 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 21-08-30-A, Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300

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) Sections 8.300.3 and 8.300.5, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)? Yes

   If yes, state effective date: September 10, 2021

   Is rule to be made permanent? (If yes, please attach notice of hearing). No

PUBLICATION INSTRUCTIONS*

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Replace the current text at 8.300 with the proposed text beginning at 8.300.3.A.6 through the end of 8.300.A.6. Insert the proposed text beginning at 8.300.4 through the end of 8.300.4. Insert the proposed text beginning at 8.300.5.F through the end of 8.300.5.F. This rule is effective September 10, 2021.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300
Rule Number: MSB 21-08-30-A
Division / Contact / Phone: Health Programs Office / 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).

   During the Coronavirus Disease 2019 (COVID-19) public health emergency, subacute care may be administered by an enrolled hospital in its inpatient hospital or alternate care facilities. Subacute care in a hospital setting shall be equivalent to the level of care administered by a skilled nursing facility for skilled nursing and intermediate care services as defined in 10 CCR 2505-10, Sections 8.406 and 8.409. Patients may be admitted to subacute care after an inpatient admission, or directly from an emergency department, observation status, or primary care referral to the administering hospital. Subacute care will be paid at the rate equal to the estimated adjusted State-wide average rate per patient-day paid for services provided in skilled nursing facilities under the State Plan. Adding subacute care to the covered hospital services in an inpatient hospital, or an associated alternate care facility, increases access to such services for the duration of the COVID-19 public health emergency.

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:

   Addition of subacute care to the list of the covered services for inpatient hospitals, and associated alternate care facilities, increases access to such care for the duration of the COVID-19 public health

emergency and is imperatively necessary for the preservation of public health, safety, and welfare.

3. Federal authority for the Rule, if any:

   42 CFR §447, Subpart C (2020)

4. State Authority for the Rule:

   Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021);
   C.R.S. 25.5-5-102(1)(a) (2019)

Title of Rule: Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300
Rule Number: MSB 21-08-30-A
Division / Contact / Phone: Health Programs Office / Russ Zigler / 303-866-5927

REGULATORY ANALYSIS

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

   Inpatient hospitals, and associated alternate care facilities (AFC), will be affected by, and benefit from, the proposed rule with the addition of subacute care as a covered treatment modality for the duration of the COVID-19 public health emergency. Clients receiving subacute care in an inpatient hospital, or in an AFC, for the duration of the COVID-19 public health emergency will also be affected by, and benefit from, the proposed rule. The Department will bear the cost of reimbursement for subacute care services authorized under the proposed rule.

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

   The qualitative impact of the proposed rule is adding the subacute care treatment modality to the inpatient hospital, and associated AFC, covered services for the duration of the COVID-19 public health emergency. The proposed rule increases access to such services during the COVID-19 public health emergency by allowing hospitals to treat clients that would normally be discharged from the hospital in order to receive a lower level of care. It may be difficult for hospitals to discharge and place such clients in a skilled nursing facility during the COVID-19 public health emergency due to COVID-19 positive or presumptive status. The proposed rule allows hospitals to treat

such clients on-site and be reimbursed for such care. Because the clients are being treated at an inpatient hospital or alternate care facility for the same care they would have otherwise received at a skilled nursing facility, the proposed rule is budget neutral.

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

   Because the clients treated at an inpatient hospital or alternate care facility for the subacute care under the authority of this rule would have otherwise received such care at a skilled nursing facility, the proposed rule is budget neutral. There are no probable implementation or enforcement costs to the Department or to any other agency. There is no anticipated effect on state revenues.

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

   The probable cost of the proposed rule is reimbursement for subacute care at inpatient hospitals and associated AFCs. The probable benefit of the proposed rule is increased access to subacute care for the duration of the COVID-19 public health emergency. There are no benefits to inaction. Diminished access to subacute care, as described in question two above, for the duration of the COVID-19 public health emergency could be a cost of inaction.

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

   There are no less costly or less intrusive methods for adding subacute care to the covered services for inpatient hospitals and associated AFCs for the duration of the COVID-19 public health emergency.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the

Department and the reasons why they were rejected in favor of the proposed rule.

There are no alternative methods for adding subacute care to the covered services for inpatient hospitals and associated AFCs for the duration of the COVID-19 public health emergency.

8.300 HOSPITAL SERVICES

8.300.3 Covered Hospital Services

8.300.3.A Covered Hospital Services - Inpatient

Inpatient Hospital Services are a Medicaid benefit, when provided by or under the direction of a physician, for as many days as determined Medically Necessary.

1. Inpatient Hospital services include:

    a. bed and board, including special dietary service, in a semi-private room to the extent available;

    b. professional services of hospital staff;

    c. laboratory services, therapeutic or Diagnostic Services involving use of radiology & radioactive isotopes;

    d. emergency room services;

    e. drugs, blood products;

    f. medical supplies, equipment and appliances as related to care and treatment; and

    g. associated services provided in a 24-hour period immediately prior to the Hospital admission, during the Hospital stay and 24 hours immediately after discharge. Such services can include, but are not limited to laboratory, radiology and supply services provided on an outpatient basis.

2. Medical treatment for the acute effects and complications of substance abuse toxicity is a covered benefit.

3. Prior to July 1, 2020, Medicaid payments on behalf of a newborn are included in reimbursement for the period of the mother's hospitalization for the delivery. If there is a Medical Necessity requiring that the infant remain hospitalized following the mother's discharge, services are reimbursed under the newborn's identification number, and separate from the payment for the mother's hospitalization.

    Beginning July 1, 2020, reimbursement for a mother's hospitalization for delivery does not include reimbursement for the newborn's hospitalization. Services shall be reimbursed under the identification number of each client.

4. Psychiatric Hospital Services

    Inpatient Hospital psychiatric care is a Medicaid benefit for individuals age 20 and under when provided as a service of an in-network Hospital.

    a. Inpatient care in a Psychiatric Hospital is limited to forty-five (45) days per state fiscal year, unless additional services are prior-authorized as medically necessary by the Department's utilization review vendor or other Department

representative, and includes physician services, as well as all services identified in 8.300.3.A.1, above.

b. Inpatient psychiatric care in Psychiatric Hospitals is a Medicaid benefit only when:

i. services involve active treatment which a team has determined is necessary on an Inpatient basis and can reasonably be expected to improve the condition or prevent further regression so that the services shall no longer be needed; the team must consist of physicians and other personnel qualified to make determinations with respect to mental health conditions and the treatment thereof; and

ii. services are provided prior to the date the individual attains age 21 or, in the case of an individual who was receiving such services in the period immediately preceding the date on which he/she attained age 21, the date such individual no longer requires such services or, if earlier, the date such individual attains age 22.

c. Medicaid clients obtain access to inpatient psychiatric care through the Community Mental Health Services Program defined in 10 CCR 2505-10, Section 8.212.

5. Inpatient Hospital Dialysis

Inpatient Hospital dialysis treatment is a Medicaid benefit at in-network DRG Hospitals for eligible recipients who are Inpatients only in those cases where hospitalization is required for:

a. an acute medical condition for which dialysis treatments are required; or

b. any other medical condition for which the Medicaid Program provides payment when the eligible recipient receives regular maintenance treatment in an Outpatient dialysis program; or

c. placement or repair of the dialysis route (“shunt”, “cannula”).

6. Inpatient Subacute Care

Administration of subacute care by an enrolled hospital in its inpatient hospital or alternate care facilities is covered for the duration of the Coronavirus Disease 2019 (COVID-19) public health emergency. Subacute care in a hospital setting shall be equivalent to the level of care administered by a skilled nursing facility for skilled nursing and intermediate care services as defined in 10 CCR 2505-10, Sections 8.406 and 8.409. Members may be admitted to subacute care after an inpatient admission, or directly from an emergency department, observation status, or primary care referral to the administering hospital.

8.300.4 Non-Covered Services

The following services are not covered benefits:

1. Inpatient Hospital Services defined as experimental by the United States Food and Drug Administration.

2. Inpatient Hospital Services which are not a covered Medicare benefit.

3. Court-ordered psychiatric Inpatient care which does not meet the Medical Necessity criteria established for such care by the Department's utilization review vendor or other Department representative.

.

8.300.5 Payment for Inpatient Hospital Services

8.300.5.F Payment for Inpatient Subacute Care

1. Inpatient Subacute Care days shall be paid at a rate equal to the estimated adjusted State-wide average rate per patient-day paid for services provided in skilled nursing facilities under the State plan approved by the Centers for Medicare and Medicaid Services (CMS), for the State in which such hospital is located.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs, Section 8.765
Rule Number: MSB 21-07-26-A
Division / Contact / Phone: Health Programs Office / 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 21-07-26-A, Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs, Section 8.765

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) 8.765, 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: 10/1/2021
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.765 with the proposed text beginning at 8.765 through the end of 8.765.1. Insert the newly proposed text beginning at 8.765.14 through the end of 8.765.14.F. This rule is effective October 1, 2021.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs, Section 8.765
Rule Number: MSB 21-07-26-A
Division / Contact / Phone: Health Programs Office / 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).
   Revises the rules for child-serving residential facilities to include the new Qualified Residential Treatment Program (QRTP) license type. The new license type will take effect October 1, 2021 in accordance with the federal Family First Prevention Services Act (FFPSA) and there will be a grace period until June 30, 2022 for all facilities enrolled with Medicaid to be in compliance. The revision will allow the Department to reimburse new QRTP facilities in compliance with the FFPSA and align Department rule with the Colorado Department of Human Services' new QRTP license type. QRTPs will provide a trauma-informed model of care to address the needs, including clinical needs, of children with serious emotional or behavioral disorders or disturbances.

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:

   The Qualified Residential Treatment Program provisions of the Family First Prevention Services Act, Pub.L. 115-123, Div. E, Title VII, § 50734, Feb. 9, 2018, 132 Stat. 252, were to go into effect October 1, 2018. However, the U.S. Department of Health and Human Services issued Program Instruction PI-18-07 permitting requests for delayed effective dates up to two years past the statutory deadline. The Colorado Department of Human Services applied for, and received, an extension until December 31, 2020, but no later than September 29, 2021. This rule is imperatively necessary to comply with federal law to implement the delayed effective date for the Family First Prevention Services Act provisions pertaining to Qualified Residential Treatment Programs and to align with the parallel Colorado Department of Human Services license.

3. Federal authority for the Rule, if any:

   Pub.L. 115-123, Div. E, Title VII, § 50734, Feb. 9, 2018, 132 Stat. 252

   42 CFR 440.160 (2021)

DO NOT PUBLISH THIS PAGE

4. State Authority for the Rule:

   Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2018);
   CRS § 25.5-5-202(1)(i) (2021)

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs, Section 8.765
Rule Number: MSB 21-07-26-A
Division / Contact / Phone: Health Programs Office / Russ Zigler / 303-866-5927

REGULATORY ANALYSIS

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

   Members currently residing in Residential Child Care Facilities (RCCF), and RCCF providers, will be impacted by the proposed rule.

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

   RCCF providers will have costs associated with changing their model of care and the requirement that QRTPs be 16 beds or less. For our members, services provided in a QRTP will be trauma-informed and designed to address the needs, including clinical needs, of children with serious emotional or behavioral disorders or disturbances, in a setting limited to 16 beds. Members who require this level of care will receive services within the state and better tailored to their needs.

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

   The Department anticipates the proposed rule to be budget neutral because RCCF services will be phased out and the same funds will be applied QRTP payment.

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

   The probable costs of the proposed rule are RCCF providers being required to obtain the Qualified Residential Treatment Program license. The probable benefit of the proposed rule is aligning with the Federal Family First Prevention Services Act (FFPSA) and aligning with Colorado Department of Human Services license requirements. The probable cost of inaction is non-compliance with the FFPSA. There are no probable benefits to inaction.

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

There are no less costly methods or less intrusive methods to align Department rule with the FFPSA and with Colorado Department of Human Services license requirements.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

   There are no alternative methods to align Department rule with the FFPSA and with Colorado Department of Human Services license requirements.

8.765 SERVICES FOR CLIENTS IN RESIDENTIAL CHILD CARE FACILITIES AS DEFINED BELOW

8.765.1 DEFINITIONS

Assessment means the process of continuously collecting and evaluating information to develop a client's profile on which to base a Plan of Care, service planning, and referral.

Clinical Staff means medical staff that are at a minimum licensed at the level of registered nurse, performing within the authority of the applicable practice acts.

Colorado Client Assessment Record (CCAR) means a clinical instrument designed to assess the behavior/mental health status of a medically eligible client. The CCAR is used to identify current diagnosis and clinical issues facing the client, to measure progress during treatment and to determine mental health medical necessity. This instrument is used for children in the custody of a county department of human/social services or Division of youth corrections and for those children receiving mental health services in an RCCF through the Child Mental Health Treatment Act.

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) is the Colorado Medicaid program's benefit under Section 8.280 for children and adolescents that provides a comprehensive array of prevention, diagnostic, and treatment services for low-income infants, children and adolescents under age 21.

Emergency Safety Intervention means the use of Restraint and Seclusion as an immediate response to an Emergency Safety Situation.

Emergency Safety Situation means unanticipated behavior of the client that places the client or others at serious threat of violence or injury if no intervention occurs and that calls for Emergency Safety Intervention.

Emergency Services means emergency medical and crisis management services.

Independent Assessment means a process to assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool. The assessment determines whether treatment in a Qualified Residential Treatment Program (QRTP) provides the most effective and appropriate level of care for the child in the least restrictive environment, in accordance with Colorado Department of Human Services regulations.Independent Team means a team certifying the need for Psychiatric Residential Treatment Facility (PRTF) services that is independent of the Referral Agency and includes a physician who has competence in the diagnosis and treatment of mental illness and knowledge of the client's condition.

Interdisciplinary Team means staff in a PRTF comprised of a physician, and a Licensed Mental Health Professional, registered nurse or occupational therapist responsible for the treatment of the client.

Licensed Mental Health Professional means a psychologist licensed pursuant to part 3 of article 43 of title 12, C.R.S., a psychiatrist licensed pursuant to part 1 of article 36 of title 12, C.R.S., a clinical social worker licensed pursuant to part 4 of article 43 of title 12, C.R.S., a marriage and family therapist licensed pursuant to part 5 of article 43 of title 12, C.R.S., a professional counselor licensed pursuant to part 6 of article 43 of title 12, C.R.S., or a social worker licensed pursuant to part 4 of article 43 or title 12, C.R.S., that is supervised by a licensed clinical social worker. Sections 12-43-301, et seq, 12-36-101, et seq, 12-43-401, et seq, 12-43-501, et seq and 12-43-601, et seq, C.R.S. (2005) are incorporated herein by reference. 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 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications repository library.

Medication Management Services means review of medication by a physician at intervals consistent with generally accepted medical practice and documentation of informed consent for treatment.

Multidisciplinary Team means staff in a Residential Child Care Facility (RCCF) providing mental health services comprised of at least one Licensed Mental Health Professional and other staff responsible for the treatment of the client and may include a staff member from the Referral Agency.

Plan of Care means a treatment plan designed for each client and family, developed by an Interdisciplinary or Multidisciplinary Team.

Prone Position means a client lying in a face down or front down position.

Psychiatric Residential Treatment Facility (PRTF) means a facility that is not a hospital and provides inpatient psychiatric services for individuals under age 21 under the direction of a physician, licensed pursuant to part 1 of article 36 of title 12, C.R.S.

Qualified Residential Treatment Programs (QRTP) means a facility that provides residential trauma-informed treatment that is designed to address the needs, including clinical needs, of children with serious emotional or behavioral disorders or disturbances. As appropriate, QRTP treatment facilitates the participation of family members in the child's treatment program, including siblings, and documents outreach to family members, including siblings.

Referral Agency means the Division of Youth Corrections, County Departments of Human/Social Services who have legal custody of a client, Behavioral Healthcare Organization or Community Mental Health Center that refers the client to a PRTF or RCCF for the purpose of placement through the Child Mental Health Treatment Act.

Restraint includes Drug Used as a Restraint, Mechanical Restraint and Personal Restraint.

Drug Used as a Restraint means any drug that is administered to manage a client's behavior in a way that reduces the safety risk to the client or to others; has the temporary affect of restricting the client's freedom of movement and is not a standard treatment for the client's medical or psychiatric condition.

Mechanical Restraint means any device attached or adjacent to the client's body that the client cannot easily remove that restricts freedom of movement or normal access to the client's body.

Personal Restraint means personal application of physical force without the use of any device, for the purpose of restraining the free movement of the client's body. This does not include briefly holding a client without undue force in order to calm or comfort, or holding a client's hand to safely escort the client from one area to another. This does not include the act of getting the client under control and into the required position for Restraint.

Residential Child Care Facility (RCCF) means any facility that provides out-of-home, 24-hour care, protection and supervision for children in accordance with 12 C.C.R. 2509-8, Section 7.705.91.A.

Seclusion means the involuntary confinement of a client alone in a room or an area from which the client is physically prohibited from leaving.

8.765.14 QUALIFIED RESIDENTIAL TREATMENT PROGRAM (QRTP)

8.765.14.A CLIENT ELIGIBILITY

1. Children up to age eighteen (18) years old and for those persons up to twenty-one (21) years old who consent to the placement or are placed by court order, for whom an assessment determines that the child's needs cannot be met in a less restrictive, family- based setting because of their serious emotional or behavioral disorders or disturbances.

2. Managed Care Entities must use the Independent Assessment to inform medical necessity determinations.

3. For children in the custody of a county department of human/social services or Division of Youth Services and for those children receiving mental health services in a Qualified Residential Treatment Program (QRTP) through the Child and Youth Mental Health Treatment Act, the Independent Assessment will determine mental health medical necessity.

8.765.14.B QRTP AND PROVIDER ELIGIBILITY

1. Beginning October 1, 2021, to be eligible for Colorado Medicaid reimbursement, a QRTP must:

    a. Be enrolled with Colorado Medicaid;

    b. Be licensed by the Colorado Department of Human Services (CDHS), Provider Services Unit (PSU), as a Child Care Facility with QRTP indicated as the Service Type in accordance with CDHS regulations;

    c. Be accredited by:

        i. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO),

        ii. The Commission on Accreditation of Rehabilitation Facilities (CARF),

        iii. The Council on Accreditation of Services for Families and Children, or

        iv. Any other independent, not-for-profit accrediting organization approved by the Secretary of Health and Human Services.

    d. Submit an attestation form to the Department with the facility's Colorado Medicaid enrollment application with Colorado Medicaid that attests:

        i. The facility has no more than sixteen (16) beds, including all beds at a single address or on adjoining properties regardless of program or facility type;

        ii. The facility does not share a campus with a Psychiatric Residential Treatment Facility (PRTF);

        iii. For facilities more than one (1) mile but less than ten (10) miles apart by road from another overnight facility controlled by the same ownership or governing body, the other overnight facility meets the following criteria:

            1. The facility maintains its own license;

2. The facility has dedicated staff that ensures a stable treatment environment;

3. Residents do not move between the facility and another during the episode of care

iv. For facilities less than one (1) mile apart, but not on the same campus or adjoining properties, the QRTP is in a home-like structure (cottage, house, apartment) located farther than 750 feet from another overnight facility within a community setting that includes publicly used infrastructure (roads, parks, shared spaces, etc.).

2. Eligible providers.

a. The following services must be rendered by an enrolled Licensed Mental Health Professionals in a QRTP:

i. Individual therapy,

ii. Group therapy, and

iii. Family therapy.

8.765.14.C COVERED SERVICES

1. Medically necessary services pursuant to Section 8.076.1.8 that are not excluded in Section 8.765.14.D and are:

a. Included in the member's stabilization plan created by the QRTP in accordance Colorado Department of Human Services (CDHS) regulations.

b. Included in the member's individual child and family plan created by the QRTP in accordance with CDHS regulations.

c. Included in the member's discharge and aftercare plan created by the QRTP in accordance with CDHS regulations.

2. All EPSDT services not specified in Sections 8.765.14.C.1-3 are covered under Section 8.280.

8.765.14.D NON-COVERED SERVICES

1. The following services are not covered for members in a QRTP:

a. Room and board;

b. Educational, vocational, and job training services;

c. Recreational or social activities; and

d. Services provided to inmates of public institutions or residents of Institutions of Mental Disease (IMD).

8.765.14.E PRIOR AUTHORIZATION REQUIREMENTS

1. Prior authorization may be required for this benefit.

8.765.14.F REIMBURSEMENT.

1. QRTPs are reimbursed a per diem rate, as determined by the Department, if the following conditions are fulfilled:

    a. Rendered services are documented in the treatment record at the frequencies specified in the member's care plan(s);

    b. A care plan(s) is on record for the time period reported in the reimbursement claim; and

    c. The care meets professionally recognized standards for care in a QRTP.

2. QRTPs must enroll as a Colorado Medicaid provider to act as a billing entity for Licensed Mental Health Professionals rendering mental health services in the QRTP.

COLORADO
Department of Health Care Policy & Financing
Medical Services Board

SEPTEMBER 2021 EMERGENCY JUSTIFICATION FOR MEDICAL ASSISTANCE RULES ADOPTED AT THE SEPTEMBER 10, 2021 EMERGENCY MEDICAL SERVICES BOARD MEETING

MSB 21-08-18-A, Revision to the Medical Assistance Act Rule concerning Hospice Room and Board, Section 8.550.9.C

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. This rule is imperatively necessary to comply with state law at CRS § 25.5-4-424 to implement the hospice state-only room and board payment mandated by statute and is imperatively necessary for the preservation of public health safety, and welfare.

MSB 21-08-30-A, Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Addition of subacute care to the list of the covered services for inpatient hospitals, and associated alternate care facilities, increases access to such care for the duration of the COVID-19 public health emergency and is imperatively necessary for the preservation of public health, safety, and welfare.

MSB 21-07-26-A, Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs, Section 8.765

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The Qualified Residential Treatment Program provisions of the Family First Prevention Services Act, Pub.L. 115-123, Div. E, Title VII, § 50734, Feb. 9, 2018, 132 Stat. 252, were to go into effect October 1, 2018. However, the U.S. Department of Health and Human Services issued Program Instruction PI-18-07 permitting requests for delayed effective dates up to two years past the statutory deadline. The Colorado Department of Human Services applied for, and received, an extension until December 31, 2020, but no later than September 29, 2021. This rule is imperatively necessary to comply with federal law to implement the delayed effective date for the Family First Prevention Services Act provisions pertaining to Qualified Residential Treatment Programs and to align with the parallel Colorado Department of Human Services license.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00580

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 09/10/2021

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY

The above-referenced rules were submitted to this office on 09/10/2021 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.

September 28, 2021 14:36:43

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Human Services

Agency

Food Assistance Program (Volume 4B)

CCR number

10 CCR 2506-1

Rule title

10 CCR 2506-1 RULE MANUAL VOLUME 4B, FOOD ASSISTANCE 1 - eff 10/01/2021

Effective date

10/01/2021

Expiration date

01/01/2022

10 CCR 2506-1 § Clean copy- AG and SBHS approved
FFY22 SNAP COLA Updates - 21-08-11-02

*****

4.207.3 Benefit Allotment

*****

D. The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

Household Size	Maximum Monthly Allotment Effective October 1, 2021
1	$250
2	$459
3	$658
4	$835
5	$992
6	$1,190
7	$1,316
8	$1,504
Each additional person	+$188

Household Size	Minimum Monthly Allotment Effective October 1, 2021
1-2	$20

******

4.401.1 Gross Income Levels

Effective October 1, 2021, the gross income level for one hundred thirty percent (130%), two hundred percent (200%), and one hundred sixty-five percent (165%) of the federal poverty level for the corresponding household size is as follows:

Household Size	130% Gross Income Level	200% Gross Income Level	165% Gross Income Level
1	$1,396	$2,148	$1,771
2	$1,888	$2,904	$2,396
3	$2,379	$3,660	$3,020
4	$2,871	$4,418	$3,644
5	$3,363	$5,174	$4,268
6	$3,855	$5,930	$4,893
7	$4,347	$6,688	$5,517
8	$4,839	$7,444	$6,141
Each additional person	+$492	+$758	+$625

*****

4.401.2 Net Income Levels

Effective October 1, 2021, the net income level of one hundred percent (100%) of the federal poverty level for the corresponding household size is as follows:

Household Size	100% Net Income Level
1	$1,074
2	$1,452
3	$1,830
4	$2,209
5	$2,587
6	$2,965
7	$3,344
8	$3,722
Each additional person	+$379

*****

4.407.1 Standard Deduction

A standard deduction of 8.31% of the federal poverty income guidelines for the household size as described in 4.401.2 will be used to calculate the amount that is allowed to all households. The established standard amount will be adjusted annually as announced by FNS, USDA. The calculation of 8.31% of the federal poverty income guidelines for eligible members will be used for all households up to the household size of six (6). All households with six (6) or more eligible members will use the six (6) person standard deduction.

Standard Deduction Amount				
Household Size	**1-3**	**4**	**5**	**6+**
Effective October 1, 2021	$177	$184	$215	$246

*****

4.407.3 Excess Shelter Deduction

*****

B. A shelter deduction cap, as specified below, applies to households that do not contain a person who is elderly and/or a person with a disability. Those households containing a person who is elderly and/or a person with a disability shall receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

Shelter Deduction Cap	
Effective October 1, 2021	$597

C. Homeless households shall be entitled to use a standard estimate of shelter expenses for households in which all members are homeless and are not receiving free shelter throughout the calendar month.

The FNS, USDA, provides an update of this estimated figure annually when the shelter cap for other households is adjusted.

The Homeless Shelter Deduction is as follows:

Homeless Shelter Deduction	
Effective October 1, 2021	$159.73

All homeless households that incur, or reasonably expect to incur, shelter costs during a month shall be eligible for the estimate, unless higher shelter costs are verified, at which point the household may use actual shelter costs rather than the estimate.

Homeless households that incur no shelter costs during the month shall not be eligible for the homeless shelter deduction

If a homeless household has difficulty in obtaining traditional types of verification of shelter costs, the eligibility technician shall use the prudent person principle in determining if verification obtained is adequate.

*****

4.407.31 Four-Tiered Mandatory Standard Utility Allowance

*****

A. Heating and Cooling Utility Allowance (HCUA)

*****

4. The HCUA standard is as follows:

HCUA Standard	
Effective October 1, 2021	$493

*****

B. Basic Utility Allowance (BUA)

*****

3. The BUA standard is as follows:

BUA Standard	
Effective October 1, 2021	$314

*****

C. One Utility Allowance (OUA)

*****

3. The OUA standard is as follows:

OUA Standard	
Effective October 1, 2021	$59

*****

D. Telephone Allowance

*****

2. The telephone allowance is as follows:

Telephone Standard	
Effective October 1, 2021	$80

*****

4.408 RESOURCE ELIGIBILITY STANDARDS

*****

E. The resource limits are as follows: Effective October 1, 2021, the resource limit for households that contain a member who is elderly and/or a person with a disability is three thousand seven hundred and fifty dollars ($3,750). The resource limit for households that do not contain a member who is elderly and/or a person with a disability is two thousand five hundred dollars ($2,500).

*****

Title of Proposed Rule:	FFY22 SNAP COLA Updates	
CDHS Tracking #:	21-08-11-02	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [X] Board [ ] Executive Director

b. [ ] Regular [X] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[X] AG Initial Review [X] Initial Board Reading [ ] AG 2nd Review [ ] Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
7	Amended Rules
	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	September 2021

What date is being requested for this rule to be effective?	October 2021
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION
Comments:

Estimated Dates: 1st Board September 2021 2nd Board October 2021 Effective Date October 2021

Title of Proposed Rule:	FFY22 SNAP COLA Updates	
CDHS Tracking #:	21-08-11-02	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@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. ***1500 Char max***

The Supplemental Nutrition Assistance Program (SNAP) is a Food Assistance program in Colorado, formerly known as Food Stamps. SNAP provides food assistance benefits as part of a federal nutrition program to help low-income households purchase food. The United States Department of Agriculture, Food and Nutrition Services (FNS) annually evaluates Federal income poverty guidelines and cost of living increases to determine appropriate adjustments to income eligibility standards, benefit allotments, and deductions for the upcoming Federal Fiscal Year (FFY). The modified figures are typically made available to states during the month of August immediately prior to the next fiscal year. The Cost of Living Adjustment (COLA) changes in this regulation package are required to become effective 10/01/2021.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- [x] to comply with state/federal law and/or
- [ ] to preserve public health, safety and welfare

Justification for emergency:

Each year, FNS disseminates the new standards to states for use in the upcoming federal fiscal year. The COLA adjustments were made available to CDHS August 16, 2021 and are mandated to be implemented at the beginning of FFY22 (October 1, 2021). It is imperative to incorporate these rules to comply with federal SNAP regulations that must be effective October 1, 2021. Noncompliance with federal SNAP regulations as of October 1, 2021 conflicts with public interest.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2020)	State Board to promulgate rules
26-1-109(3), C.R.S. (2020)	State department shall cooperate with federal agencies in any reasonable manner which may be necessary to qualify for federal aid
26-1-111(2)(d)(I), C.R.S. (2020)	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
26-2-301 (2020), C.R.S.	Designates the Colorado Department of Human Services as the responsible agency to administer the Food Assistance Program in the State of Colorado.
26-2-302 (2020), C.R.S.	Prohibits any interference that would prevent the Colorado Department of Human Services from complying with federal mandates prescribed under the federal "Food Stamp Act" as amended.
26-1-107(5)(b) (2020),	Authorizes the State Board to adopt rules for "programs administered … by

Title of Proposed Rule:	FFY22 SNAP COLA Updates	
CDHS Tracking #:	21-08-11-02	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@state.co.us

C.R.S.	the state department as set out in this title [26],” and § 26-2-301 designates the Department as the agency to “administer” the Food Assistance program.
Agricultural Act of 2014 (Public Law 113-79)	Federal program authority

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:	FFY22 SNAP COLA Updates	
CDHS Tracking #:	21-08-11-02	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@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?

Updates to COLA will benefit all SNAP applicants and participants as well as county SNAP administration and staff.

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?

Annual adjustments to the four-tiered mandatory standard utility allowances, standard deduction, homeless shelter deduction, maximum allotments, and income threshold guidelines have the potential to increase current benefit amounts for participants and increase program accessibility for future applicants.

3. Fiscal Impact

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

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

There is no impact because the costs associated with the Colorado Benefits Management System to incorporate these changes have already been allocated in the system maintenance budget.

County Fiscal Impact

There are no county fiscal impacts associated with this rule change.

Federal Fiscal Impact

There are no federal fiscal impacts associated with this rule change.

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

There are no other fiscal impacts associated with this rule change.

4. Data Description

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

Federal memorandums from the Food and Nutrition Services as well as data from the Consumer Price Index for all Urban Consumers were used in the development of this rule.

Title of Proposed Rule:	FFY22 SNAP COLA Updates	
CDHS Tracking #:	21-08-11-02	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@state.co.us

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…"**

As COLA is federally mandated by SNAP, federal updates must be incorporated into Colorado regulation prior to implementation. There are no available alternatives that exist to incorporate these program changes statewide.

Title of Proposed Rule: FFY22 SNAP COLA Updates

CDHS Tracking #: 21-08-11-02

Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP

Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor

Phone: 303-829-7245

E-Mail: andrea.poole@state.co.us

OVERVIEW OF PROPOSED RULE

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

<table>
<tr><th>Rule section Number</th><th>Issue</th><th>Old Language</th><th>New Language or Response</th><th>Reason / Example / Best Practice</th><th>Public Comment No / Detail</th></tr>
<tr><td>7.000</td><td>Incorrect Statutory Reference</td><td>Section 26.5.103 C.R.S.</td><td>Section 26.5-101(3) C.R.S.</td><td></td><td></td></tr>
<tr><td>4.207.3</td><td>Outdated Information</td><td>4.207.3 Benefit Allotment

D. The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

<table><tr><th>Household Size</th><th>Maximum Monthly Allotment Effective October 1, 2020</th></tr><tr><td>1</td><td>$204</td></tr><tr><td>2</td><td>$374</td></tr><tr><td>3</td><td>$535</td></tr><tr><td>4</td><td>$680</td></tr><tr><td>5</td><td>$807</td></tr><tr><td>6</td><td>$969</td></tr><tr><td>7</td><td>$1,071</td></tr><tr><td>8</td><td>$1,224</td></tr><tr><td>Each additional person</td><td>+$153</td></tr></table>
<table><tr><th>Household Size</th><th>Minimum Monthly Allotment Effective October 1, 2020</th></tr><tr><td>1-2</td><td>$16</td></tr></table></td><td>4.207.3 Benefit Allotment
*****
D. The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

<table><tr><th>Household Size</th><th>Maximum Monthly Allotment Effective October 1, 20202021</th></tr><tr><td>1</td><td>$<s>204</s>250</td></tr><tr><td>2</td><td>$<s>374</s>459</td></tr><tr><td>3</td><td>$<s>535</s>658</td></tr><tr><td>4</td><td>$<s>680</s>835</td></tr><tr><td>5</td><td>$<s>807</s>992</td></tr><tr><td>6</td><td>$<s>969</s>1,190</td></tr><tr><td>7</td><td>$<s>1,071</s>1,316</td></tr><tr><td>8</td><td>$<s>1,224</s>1,504</td></tr><tr><td>Each additional person</td><td>+$<s>153</s>188</td></tr></table>
<table><tr><th>Household Size</th><th>Minimum Monthly Allotment Effective October 1, 20202021</th></tr><tr><td>1-2</td><td>$<s>16</s>20</td></tr></table></td><td></td><td></td></tr>
<tr><td>4.401.1</td><td>Outdated information</td><td>4.401.1 Gross Income Levels</td><td>4.401.1 Gross Income Levels</td><td></td><td></td></tr>
</table>

Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP
Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor
Phone: 303-829-7245
E-Mail: andrea.poole@state.co.us

<table>
<tr>
<td></td>
<td></td>
<td>Effective October 1, 2020, the gross income level for one hundred thirty percent (130%), two hundred percent (200%), and one hundred sixty-five percent (165%) of the federal poverty level for the corresponding household size is as follows:

<table>
<tr><th>Household Size</th><th>130% Gross Income Level</th><th>200% Gross Income Level</th><th>165% Gross Income Level</th></tr>
<tr><td>1</td><td>$1,383</td><td>$2,128</td><td>$1,755</td></tr>
<tr><td>2</td><td>$1,868</td><td>$2,874</td><td>$2,371</td></tr>
<tr><td>3</td><td>$2,353</td><td>$3,620</td><td>$2,987</td></tr>
<tr><td>4</td><td>$2,839</td><td>$4,368</td><td>$3,603</td></tr>
<tr><td>5</td><td>$3,324</td><td>$5,114</td><td>$4,219</td></tr>
<tr><td>6</td><td>$3,809</td><td>$5,860</td><td>$4,835</td></tr>
<tr><td>7</td><td>$4,295</td><td>$6,608</td><td>$5,451</td></tr>
<tr><td>8</td><td>$4,780</td><td>$7,354</td><td>$6,067</td></tr>
<tr><td>Each additional person</td><td>+$486</td><td>+$748</td><td>+$616</td></tr>
</table>
</td>
<td>Effective October 1, ~~2020~~2021, the gross income level for one hundred thirty percent (130%), two hundred percent (200%), and one hundred sixty-five percent (165%) of the federal poverty level for the corresponding household size is as follows:

<table>
<tr><th>Household Size</th><th>130% Gross Income Level</th><th>200% Gross Income Level</th><th>165% Gross Income Level</th></tr>
<tr><td>1</td><td>~~$1,383~~1,396</td><td>~~$2,128~~2,148</td><td>~~$1,755~~1,771</td></tr>
<tr><td>2</td><td>~~$1,868~~1,888</td><td>~~$2,874~~2,904</td><td>~~$2,371~~2,396</td></tr>
<tr><td>3</td><td>~~$2,353~~2,379</td><td>~~$3,620~~3,660</td><td>~~$2,987~~3,020</td></tr>
<tr><td>4</td><td>~~$2,839~~2,871</td><td>~~$4,368~~4,418</td><td>~~$3,603~~3,644</td></tr>
<tr><td>5</td><td>~~$3,324~~3,363</td><td>~~$5,114~~5,174</td><td>~~$4,219~~4,268</td></tr>
<tr><td>6</td><td>~~$3,809~~3,855</td><td>~~$5,860~~5,930</td><td>~~$4,835~~4,893</td></tr>
<tr><td>7</td><td>~~$4,295~~4,347</td><td>~~$6,608~~6,688</td><td>~~$5,451~~5,517</td></tr>
<tr><td>8</td><td>~~$4,780~~4,839</td><td>~~$7,354~~7,444</td><td>~~$6,067~~6,141</td></tr>
<tr><td>Each additional person</td><td>+~~$486~~492</td><td>+~~$748~~758</td><td>+~~$616~~625</td></tr>
</table>
</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.401.2</td>
<td>Outdated information</td>
<td>4.401.2 Net Income Levels

Effective October 1, 2020, the net income level of one hundred percent (100%) of the federal poverty level for the corresponding household size is as follows:

<table>
<tr><th>Household Size</th><th>100% Net Income Level</th></tr>
<tr><td>1</td><td>$1,064</td></tr>
<tr><td>2</td><td>$1,437</td></tr>
<tr><td>3</td><td>$1,810</td></tr>
</table>
</td>
<td>4.401.2 Net Income Levels

Effective October 1, ~~2020~~2021, the net income level of one hundred percent (100%) of the federal poverty level for the corresponding household size is as follows:

<table>
<tr><th>Household Size</th><th>100% Net Income Level</th></tr>
<tr><td>1</td><td>~~$1,064~~1,074</td></tr>
<tr><td>2</td><td>~~$1,437~~1,452</td></tr>
<tr><td>3</td><td>~~$1,810~~1,830</td></tr>
<tr><td>4</td><td>~~$2,184~~2,209</td></tr>
</table>
</td>
<td></td>
<td></td>
</tr>
</table>

Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP
Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor
Phone: 303-829-7245
E-Mail: andrea.poole@state.co.us

		<table><tr><td>4</td><td>$2,184</td></tr><tr><td>5</td><td>$2,557</td></tr><tr><td>6</td><td>$2,930</td></tr><tr><td>7</td><td>$3,304</td></tr><tr><td>8</td><td>$3,677</td></tr><tr><td>Each additional person</td><td>+$374</td></tr></table>	<table><tr><td>5</td><td>~~$2,557~~2,587</td></tr><tr><td>6</td><td>~~$2,930~~2,965</td></tr><tr><td>7</td><td>~~$3,304~~3,344</td></tr><tr><td>8</td><td>~~$3,677~~3,722</td></tr><tr><td>Each additional person</td><td>+~~$374~~379</td></tr></table>		
4.407.1	Outdated information	4.407.1 Standard Deduction A standard deduction of 8.31% of the federal poverty income guidelines for the household size will be used to calculate the amount that is allowed to all households. The established standard amount will be adjusted annually as announced by the Food and Nutrition Service, USDA. The calculation of 8.31% of the federal poverty income guidelines for eligible members will be used for all households up to the household size of six (6). All households with six (6) or more eligible members will use the six (6) person standard deduction. <table><tr><th colspan="5">Standard Deduction Amount</th></tr><tr><th>Household Size</th><th>1-3</th><th>4</th><th>5</th><th>6+</th></tr><tr><td>Effective October 1, 2020</td><td>$167</td><td>$181</td><td>$212</td><td>$243</td></tr></table>	**4.407.1 Standard Deduction** A standard deduction of 8.31% of the federal poverty income guidelines for the household size AS DESCRIBED IN 4.401.2 will be used to calculate the amount that is allowed to all households. The established standard amount will be adjusted annually as announced by the Food and Nutrition Service, USDA. The calculation of 8.31% of the federal poverty income guidelines for eligible members will be used for all households up to the household size of six (6). All households with six (6) or more eligible members will use the six (6) person standard deduction. <table><tr><th colspan="5">Standard Deduction Amount</th></tr><tr><th>Household Size</th><th>1-3</th><th>4</th><th>5</th><th>6+</th></tr><tr><td>Effective October 1, ~~2020~~2021</td><td>~~$167~~ 177</td><td>~~$181~~ 184</td><td>~~$212~~ 215</td><td>~~$243~~ 246</td></tr></table>		
4.407.3 (B&C)		4.407.3 Excess Shelter Deduction B. A shelter deduction cap, as specified below, applies to households that do not contain A person who is elderly and/or a person with a disability as defined in Section 4.304.41. Those households containing a person who is elderly and/or a person with a disability shall	**4.407.3 Excess Shelter Deduction** ***** B. A shelter deduction cap, as specified below, applies to households that do not contain a person who is elderly and/or a person with a disability ~~as defined in Section 4.304.41~~. Those households containing a person who is elderly and/or a person with a disability shall		

Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP
Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor
Phone: 303-829-7245
E-Mail: andrea.poole@state.co.us

		receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions. **Shelter Deduction Cap** Effective October 1, 2020 | $586 C. Homeless households shall be entitled to use a standard estimate of shelter expenses for households in which all members are homeless and are not receiving free shelter throughout the calendar month. The Food and Nutrition Service, USDA, provides an update of this estimated figure annually when the shelter cap for other households is adjusted. The Homeless Shelter Deduction is as follows: **Homeless Shelter Deduction** Effective October 1, 2020 | $156.74 All homeless households that incur or reasonably expect to incur shelter costs during a month shall be eligible for the estimate, unless higher shelter costs are verified, at which point the household may use actual shelter costs rather than the estimate. Homeless households that incur no shelter costs during the month shall not be eligible for the homeless shelter deduction If a homeless household has difficulty in obtaining traditional types of verification of shelter costs, the eligibility technician shall use the prudent person	receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions. **Shelter Deduction Cap** Effective October 1, ~~2020~~2021 | ~~$586~~597 C. Homeless households shall be entitled to use a standard estimate of shelter expenses for households in which all members are homeless and are not receiving free shelter throughout the calendar month. The Food and Nutrition Service, USDA, provides an update of this estimated figure annually when the shelter cap for other households is adjusted. The Homeless Shelter Deduction is as follows: **Homeless Shelter Deduction** Effective October 1, ~~2020~~2021 | ~~$156.74~~159.73 All homeless households that incur, or reasonably expect to incur, shelter costs during a month shall be eligible for the estimate, unless higher shelter costs are verified, at which point the household may use actual shelter costs rather than the estimate. Homeless households that incur no shelter costs during the month shall not be eligible for the homeless shelter deduction If a homeless household has difficulty in obtaining traditional types of verification of shelter costs, the eligibility technician shall use the prudent person principle		

<table>
<tr><td></td><td></td><td>principle in determining if verification obtained is adequate.</td><td>in determining if verification obtained is adequate.</td><td></td><td></td></tr>
<tr><td>4.407.31 (A)(4), (B) (3), (C)(3), and (D) (2)</td><td></td><td>4.407.31 Four-Tiered Mandatory Standard Utility Allowance
*****
A. Heating and Cooling Utility Allowance (HCUA)
*****
4. The HCUA standard is as follows:
<table><tr><th colspan="2">HCUA Standard</th></tr><tr><td>Effective October 1, 2020</td><td>$486</td></tr></table>
*****
B. Basic Utility Allowance (BUA)
*****
3. The BUA standard is as follows:
<table><tr><th colspan="2">BUA Standard</th></tr><tr><td>Effective October 1, 2019</td><td>$310</td></tr></table>
*****
C. One Utility Allowance (OUA)
*****
3. The OUA standard is as follows:
<table><tr><th colspan="2">OUA Standard</th></tr><tr><td>Effective October 1, 2019</td><td>$58</td></tr></table>
*****
D. Telephone Allowance
*****
2. The telephone allowance is as follows:
<table><tr><th colspan="2">Telephone Standard</th></tr><tr><td>Effective October 1, 2019</td><td>$79</td></tr></table></td><td>4.407.31 Four-Tiered Mandatory Standard Utility Allowance
*****
A. Heating and Cooling Utility Allowance (HCUA)
*****
4. The HCUA standard is as follows:
<table><tr><th colspan="2">HCUA Standard</th></tr><tr><td>Effective October 1, ~~2020~~2021</td><td>~~$486~~493</td></tr></table>
*****
B. Basic Utility Allowance (BUA)
*****
3. The BUA standard is as follows:
<table><tr><th colspan="2">BUA Standard</th></tr><tr><td>Effective October 1, ~~2019~~2021</td><td>~~$310~~314</td></tr></table>
*****
C. One Utility Allowance (OUA)
*****
3. The OUA standard is as follows:
<table><tr><th colspan="2">OUA Standard</th></tr><tr><td>Effective October 1, ~~2019~~2021</td><td>~~$58~~59</td></tr></table>
*****
D. Telephone Allowance
*****
2. The telephone allowance is as follows:
<table><tr><th colspan="2">Telephone Standard</th></tr><tr><td>Effective October 1, ~~2019~~2021</td><td>~~$79~~80</td></tr></table></td><td></td><td></td></tr>
<tr><td>4.408</td><td>Outdated information</td><td>4.408 RESOURCE ELIGIBILITY STANDARDS
*****
E. The resource limits are as follows: Effective October</td><td>4.408 RESOURCE ELIGIBILITY STANDARDS
*****
E. The resource limits are as follows: Effective October 1,</td><td></td><td></td></tr>
</table>

Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP
Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor
Phone: 303-829-7245
E-Mail: andrea.poole@state.co.us

		1, 2017, the resource limit for households that do contain a member who is elderly and/or a person with a disability is three thousand five hundred ($3,500). The resource limit for households that do not contain a member who is elderly and/or a person with a disability is two thousand two hundred fifty dollars ($2,250).	~~2017~~2021, the resource limit for households that contain a member who is elderly and/or a person with a disability is three thousand ~~five hundred~~ SEVEN HUNDRED AND FIFTY DOLLARS ($~~3,500~~3,750). The resource limit for households that do not contain a member who is elderly and/or a person with a disability is two thousand FIVE HUNDRED ~~two hundred fifty~~ dollars ($~~2,250~~2,500).		

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

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

[ ] Yes [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?

Title of Proposed Rule:	FFY22 SNAP COLA Updates	
CDHS Tracking #:	21-08-11-02	
Office, Division, & Program: Office of Economic Security, Food and Energy Assistance Division, SNAP	Rule Author: Andrea Poole, SNAP Program Initiatives Supervisor	Phone: 303-829-7245 E-Mail: andrea.poole@state.co.us

☐ Yes ☒ No

Name of Sub-PAC			
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.	Delay in receiving COLA from FNS; Will be presented 09/02/21		

PAC

Have these rules been approved by PAC?

☐ Yes ☒ No

Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.	Delay in receiving COLA from FNS; Will be presented 09/02/21		

Other Comments

Comments were received from stakeholders on the proposed rules:

☐ Yes ☒ No

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

10 CCR 2506-1 §

*****

4.207.3 Benefit Allotment

****

D. The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

Household Size	Maximum Monthly Allotment Effective October 1, ~~2020~~2021
1	$~~204~~250
2	$~~374~~459
3	$~~535~~658
4	$~~680~~835
5	$~~807~~992
6	$~~969~~1,190
7	$~~1,071~~1,316
8	$~~1,224~~1,504
Each additional person	+$~~153~~188

Household Size	Minimum Monthly Allotment Effective October 1, ~~2020~~2021
1-2	$~~16~~20

******

4.401.1 Gross Income Levels

Effective October 1, ~~2020~~2021, the gross income level for one hundred thirty percent (130%), two hundred percent (200%), and one hundred sixty-five percent (165%) of the federal poverty level for the corresponding household size is as follows:

Household Size	130% Gross Income Level	200% Gross Income Level	165% Gross Income Level
1	$~~1,383~~1,396	$~~2,128~~2,148	$~~1,755~~1,771
2	$~~1,868~~1,888	$~~2,874~~2,904	$~~2,371~~2,396
3	$~~2,353~~2,379	$~~3,620~~3,660	$~~2,987~~3,020
4	$~~2,839~~2,871	$~~4,368~~4,418	$~~3,603~~3,644
5	$~~3,324~~3,363	$~~5,114~~5,174	$~~4,219~~4,268
6	$~~3,809~~3,855	$~~5,860~~5,930	$~~4,835~~4,893
7	$~~4,295~~4,347	$~~6,608~~6,688	$~~5,451~~5,517
8	$~~4,780~~4,839	$~~7,354~~7,444	$~~6,067~~6,141
Each additional person	+$~~486~~492	+$~~748~~758	+$~~616~~625

****

4.401.2 Net Income Levels

Effective October 1, ~~2020~~2021, the net income level of one hundred percent (100%) of the federal poverty level for the corresponding household size is as follows:

Household Size	100% Net Income Level
1	~~$1,064~~1,074
2	~~$1,437~~1,452
3	~~$1,810~~1,830
4	~~$2,184~~2,209
5	~~$2,557~~2,587
6	~~$2,930~~2,965
7	~~$3,304~~3,344
8	~~$3,677~~3,722
Each additional person	+~~$374~~379

*****

4.407.1 Standard Deduction

A standard deduction of 8.31% of the federal poverty income guidelines for the household size AS DESCRIBED IN 4.401.2 will be used to calculate the amount that is allowed to all households. The established standard amount will be adjusted annually as announced by the Food and Nutrition Service, USDA. The calculation of 8.31% of the federal poverty income guidelines for eligible members will be used for all households up to the household size of six (6). All households with six (6) or more eligible members will use the six (6) person standard deduction.

Standard Deduction Amount				
Household Size	**1-3**	**4**	**5**	**6+**
Effective October 1, ~~2020~~2021	~~$167~~177	~~$181~~184	~~$212~~215	~~$243~~246

*****

4.407.3 Excess Shelter Deduction

*****

B. A shelter deduction cap, as specified below, applies to households that do not contain a person who is elderly and/or a person with a disability ~~as defined in Section 4.304.41~~. Those households containing a person who is elderly and/or a person with a disability shall receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

Shelter Deduction Cap	
Effective October 1, ~~2020~~2021	~~$586~~597

C. Homeless households shall be entitled to use a standard estimate of shelter expenses for households in which all members are homeless and are not receiving free shelter throughout the calendar month.

The Food and Nutrition Service, USDA, provides an update of this estimated figure annually when the shelter cap for other households is adjusted.

The Homeless Shelter Deduction is as follows:

Homeless Shelter Deduction	
Effective October 1, ~~2020~~2021	~~$156.74~~159.73

All homeless households that incur, or reasonably expect to incur, shelter costs during a month shall be eligible for the estimate, unless higher shelter costs are verified, at which point the household may use actual shelter costs rather than the estimate.

Homeless households that incur no shelter costs during the month shall not be eligible for the homeless shelter deduction

If a homeless household has difficulty in obtaining traditional types of verification of shelter costs, the eligibility technician shall use the prudent person principle in determining if verification obtained is adequate.

*****

4.407.31 Four-Tiered Mandatory Standard Utility Allowance

*****

A. Heating and Cooling Utility Allowance (HCUA)

*****

4. The HCUA standard is as follows:

HCUA Standard	
Effective October 1, ~~2020~~2021	$~~486~~493

*****

B. Basic Utility Allowance (BUA)

*****

3. The BUA standard is as follows:

BUA Standard	
Effective October 1, ~~2019~~2021	$~~310~~314

*****

C. One Utility Allowance (OUA)

*****

3. The OUA standard is as follows:

OUA Standard	
Effective October 1, ~~2019~~2021	$~~58~~59

*****

D. Telephone Allowance

*****

2. The telephone allowance is as follows:

Telephone Standard	
Effective October 1, ~~2019~~2021	$~~79~~80

*****

4.408 RESOURCE ELIGIBILITY STANDARDS

*****

E. The resource limits are as follows: Effective October 1, ~~2017~~2021, the resource limit for households that contain a member who is elderly and/or a person with a disability is three thousand ~~five hundred~~ SEVEN HUNDRED AND FIFTY DOLLARS ($~~3,500~~3,750). The resource limit for households that do not contain a member who is elderly and/or a person with a disability is two thousand FIVE HUNDRED ~~two hundred fifty~~ dollars ($~~2,250~~2,500).

*****

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00573

Opinion of the Attorney General rendered in connection with the rules adopted by the

Food Assistance Program (Volume 4B)

on 09/03/2021

10 CCR 2506-1

RULE MANUAL VOLUME 4B, FOOD ASSISTANCE

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 23, 2021 09:03:21

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Human Services

Agency

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-2

Rule title

12 CCR 2509-2 REFERRAL AND ASSESSMENT 1 - eff 09/03/2021

Effective date

09/03/2021

Expiration date

01/01/2022

DEPARTMENT OF HUMAN SERVICES

Social Services Rules

REFERRAL AND ASSESSMENT

12 CCR 2509-2

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

7.112 STATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS

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 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. The Office of Administrative Courts shall also issue a protective order which will protect and govern the handling of all pleadings, discovery, and evidence. The order must be signed by an Administrative Law Judge and must state that:

a. Any documents exchanged by the parties containing confidential information, including, but not limited to pleadings, Trails reports and investigative records, medical records, law enforcement investigation records, and documents regarding child victims will be used for the sole purpose of proceeding with this appeal.

b. The parties may disclose confidential information to their attorneys or any expert witness only as necessary for the prosecution or defense of the appeal. The appellant is not authorized to disclose or use confidential information for any other purpose.

c. The parties may exchange discovery containing information that is confidential under department rule 12 CCR 2509-2, § 7.111.

d. To the extent that the parties may disclose confidential records to expert witnesses, the parties shall provide a copy of the protective order to the expert witnesses and advise the expert witness of his or her obligation not to disclose the records or information learned from the confidential records.

e. The exchange and use of the confidential information or records does not waive the right of either party to object to the admission of the documents into evidence on any grounds.

f. If the parties use or offer confidential information or records as evidence during the course of the hearing, counsel and the parties shall take reasonable measures to protect such information or records from public disclosure including but not limited to filing records under seal.

g. The appellant must destroy or return to the department all protected health and abuse and neglect information (including all copies made) at the end of the appeal or, should the appellant choose to pursue any further administrative remedies, when those remedies have been exhausted.

h. The hearing regarding the factual basis for the child abuse and/or neglect finding shall be closed to the public.

i. This order does not prohibit the department from using documents or information as authorized, required, or permitted by law.

3. The notice of issues shall include the following:

a. The specific allegations(s) that form the basis of the county department's finding that the Appellant was responsible for child abuse or neglect;

b. The specific type and severity of child abuse asserted against Appellant and the legal authority supporting the finding; and,

c. To the extent that the State Department determines that the facts contained in the state automated case management system support a modification of the type or severity of child abuse or neglect 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 finding(s).

4. The Appellant shall respond to the State Department's submittal 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 the response referenced herein, the Office of Administrative Courts shall deem the appeal to have been abandoned by the Appellant and render an Initial Decision Dismissing Appeal. In accordance with the procedures set forth below, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

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 child abuse or neglect indicated in the notice of issues provided by the State Department. The state automated case management system is not the only acceptable evidence for establishing 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-toface 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 founded 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 and severity level of the child abuse or neglect finding 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 the state automated case management system.

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 Appeal. In accordance with the procedures set forth in Section 7.114, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

Title of Rule:	**Child Abuse and Neglect Cases and Protective Orders**	
CDHS Tracking #:	21-08-18-02	
Office, Division, & Program:	Rule Author: Marc Mackert, Director,	Phone: Office: 720-512-8814 E-Mail: marc.mackert@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [X] Board [ ] Executive Director

b. [ ] Regular [X] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[X] AG Initial Review [X] Initial Board Reading [ ] AG 2nd Review [ ] Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
X	Amended Rules
	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	September, 2021

What date is being requested for this rule to be effective?	September 3, 2021
Is this date legislatively required?	No.

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates:	1st Board	9/3/2021	2nd Board	Effective Date	September 3, 2021(Emergency) September 3, 2021(Permanent)

Title of Rule:	**Child Abuse and Neglect Cases and Protective Orders**	
CDHS Tracking #:	21-08-18-02	
Office, Division, & Program:	Rule Author: Marc Mackert, Director,	Phone: Office: 720-512-8814 E-Mail: marc.mackert@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. ***1500 Char max***

The charging documents for Child Abuse and Neglect cases Notices of Issues (NOI) include protected abuse and neglect information and regularly need to include some level of medical information for the alleged victim because an element of these cases is to show that the victim was abused or neglected. Mistreatment often-times involves investigation and diagnosis by a medical provider. The requirement to include medical information about the alleged victim in the NOI is in conflict with the state's obligation to protect this information.

Presently, the state may file a motion for a protective order from the court. However, the Office of Administrative Courts (OAC) currently does not permit the filing of such a motion prior to the submission of an NOI. As such, NOIs are routinely filed before the granting of a protection order, which, in turn, releases information before protection is in place.

Additionally, filing motions in all of these cases creates an undue burden on the Attorney General's office as well as the OAC which is not a good use of state resources and is inconsistent with the protection of neglected and/or abused children.

The rule change will resolve these concerns by requiring the OAC to issue protective orders at the time of the NOI.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

X	to comply with state/federal law and/or
X	to preserve public health, safety and welfare

Justification for emergency:

Present procedure requires that certain sensitive abuse and neglect, as well as medical, information be made available to appellants in initial charging documents relating to Child Abuse and Neglect cases. It is in the interest of preserving public health, safety and welfare to have such information protected during proceedings before the OAC. Further, the state is obligated under state and federal law to protect such sensitive information. Without the uniform issuance of protective orders in all child welfare cases when they are set, there are concerns with victims' protected information being shared before an Administrative Law Judge can review and enter a protective order.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2020)	State Board to promulgate rules

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
19-3-216, C.R.S. (2020)	State Board shall promulgate rules to determine whether there is child abuse or neglect or if a child is neglected or dependent.

Title of Rule:	**Child Abuse and Neglect Cases and Protective Orders**	
CDHS Tracking #:	21-08-18-02	
Office, Division, & Program:	Rule Author: Marc Mackert, Director,	Phone: Office: 720-512-8814 E-Mail: marc.mackert@state.co.us

19-3-313.5(3), C.R.S. (2020)	State Board shall promulgate rules to establish a process at the state level by which a person who is found to be responsible in a confirmed report of child abuse or neglect filed with the state department may appeal the finding of a confirmed report of child abuse or neglect to the state department.

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 Rule:	**Child Abuse and Neglect Cases and Protective Orders**	
CDHS Tracking #:	21-08-18-02	
Office, Division, & Program:	Rule Author: Marc Mackert, Director,	Phone: Office: 720-512-8814 E-Mail: marc.mackert@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?

Appellants with substantiated findings indicating they were responsible for abuse or neglect of a child and the children that are the subjects of those findings.

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?

This rule change will afford greater protections of private, confidential, and sensitive information for children who have cases that are part of an appeal.

During the 2020-2021 Fiscal Year, 171 Child Abuse and Neglect cases were set by the Office of Administrative Courts. It can be assumed that a similar number of these cases will be set by the Office of Administrative Court in fiscal year 2021-2022. The children and persons involved in those cases will be impacted by this rule change in that their information will be more secure.

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)*

This rule change may have a minor impact on the Office of Administrative Courts, as it will require the issuance of a protective order signed by an Administrative Law Judge in every Child Abuse and Neglect case. However, the Attorney General's office currently files motions for protective orders routinely in most, if not all, Child Abuse and Neglect cases, which requires the Administrative Law Judge to review a motion filed in every case and issue a ruling. Under the new procedure, the Administrative Law Judge will only be required to sign a standard protective order issued simultaneously with the procedural setting order, which may save the Office of Administrative Courts time and resources.

This rule change should have an impact on the legal costs incurred by the Administrative Review Division. The Attorney General's office estimates that approximately two hours of time are required to prepare, edit, and file a motion for a protective order and a proposed order in the Office of the Administrative Courts. Using the numbers from fiscal year 2020-2021 and assuming a similar case load in fiscal year 2021-2021 (if anything, the number of cases next year will rise), Child Abuse and Neglect cases will experience a reduction of approximately 342 hours in billable attorney hours, which are billed at a blended rate of $106/hour, creating a potential annual savings of $36,252.

County Fiscal Impact

As county departments are not involved in this specific aspect of the hearing process, there is no fiscal impact.

Federal Fiscal Impact

The appeals process is funded through a cash fund. As such, there is no federal fiscal impact.

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

None

4. Data Description

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

During the current Fiscal Year (2020-2021), 171 Child Abuse and Neglect cases were set by the Office of Administrative Courts. Future impact analysis was based on the assumption of similar numbers.

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…"**

Until now, the Attorney General's office has been filing motions requesting protective orders for each individual Child Abuse and Neglect appeal before the Office of Administrative Courts. While it would be possible to continue this practice, it expends considerable attorney time to draft and file the motions and proposed orders. It also requires time for an Administrative Law Judge from the Office of Administrative Courts to review and rule upon each motion filed. Because the Office of Administrative Courts generally will not consider motions for protective orders until an appeal has been placed at issue, through the filing of a Notice of Issues, there is a risk in this practice that confidential information will be disclosed in violation of rule and law before a protective order has entered. There is also a risk that the Administrative Law Judges may, in their individual discretion, deny motions for protective orders, resulting in inconsistent protection of the confidential information of child victims.

Addressing this challenge through rule-making will eliminate the need for the Attorney General's office to file motions for protective orders in individual cases as well as the need for individual review by an Administrative Law Judge. By establishing the issuance of a standard protective order through rule, the risk of inconsistent protection of the confidential information of at-risk victims will also be reduced.

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
7.112 (A)(2)	Lack of protection of medical information	**7.112 STATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS** 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	**7.112 STATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS** 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 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. THE OFFICE OF ADMINISTRATIVE COURTS SHALL ALSO ISSUE A PROTECTIVE ORDER WHICH WILL PROTECT	Proposed language to provide for protection of medical and abuse and neglect information of children presently included in charging documents.	

			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 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.	AND GOVERN THE HANDLING OF ALL PLEADINGS, DISCOVERY, AND EVIDENCE. THE ORDER MUST BE SIGNED BY AN ADMINISTRATIVE LAW JUDGE AND MUST STATE THAT: a. ANY DOCUMENTS EXCHANGED BY THE PARTIES CONTAINING CONFIDENTIAL INFORMATION, INCLUDING, BUT NOT LIMITED TO PLEADINGS, TRAILS REPORTS AND INVESTIGATIVE RECORDS, MEDICAL RECORDS, LAW ENFORCEMENT INVESTIGATION RECORDS, AND DOCUMENTS REGARDING CHILD VICTIMS WILL BE USED FOR THE SOLE PURPOSE OF PROCEEDING WITH THIS APPEAL. b. THE PARTIES MAY DISCLOSE CONFIDENTIAL INFORMATION TO THEIR ATTORNEYS OR ANY EXPERT WITNESS ONLY AS NECESSARY FOR THE PROSECUTION OR DEFENSE OF THE APPEAL. THE APPELLANT IS NOT AUTHORIZED TO DISCLOSE OR USE CONFIDENTIAL INFORMATION FOR ANY		

				OTHER PURPOSE. c. THE PARTIES MAY EXCHANGE DISCOVERY CONTAINING INFORMATION THAT IS CONFIDENTIAL UNDER DEPARTMENT RULE 12 CCR 2509-2, § 7.111. d. TO THE EXTENT THAT THE PARTIES MAY DISCLOSE CONFIDENTIAL RECORDS TO EXPERT WITNESSES, THE PARTIES SHALL PROVIDE A COPY OF THE PROTECTIVE ORDER TO THE EXPERT WITNESSES AND ADVISE THE EXPERT WITNESS OF HIS OR HER OBLIGATION NOT TO DISCLOSE THE RECORDS OR INFORMATION LEARNED FROM THE CONFIDENTIAL RECORDS. e. THE EXCHANGE AND USE OF THE CONFIDENTIAL INFORMATION OR RECORDS DOES NOT WAIVE THE RIGHT OF EITHER PARTY TO OBJECT TO THE ADMISSION OF THE DOCUMENTS INTO EVIDENCE ON ANY GROUNDS. f. IF THE PARTIES USE OR OFFER CONFIDENTIAL INFORMATION OR		

				RECORDS AS EVIDENCE DURING THE COURSE OF THE HEARING, COUNSEL AND THE PARTIES SHALL TAKE REASONABLE MEASURES TO PROTECT SUCH INFORMATION OR RECORDS FROM PUBLIC DISCLOSURE INCLUDING BUT NOT LIMITED TO FILING RECORDS UNDER SEAL. g. THE APPELLANT MUST DESTROY OR RETURN TO THE DEPARTMENT ALL PROTECTED HEALTH AND ABUSE AND NEGLECT INFORMATION (INCLUDING ALL COPIES MADE) AT THE END OF THE APPEAL OR, SHOULD THE APPELLANT CHOOSE TO PURSUE ANY FURTHER ADMINISTRATIVE REMEDIES, WHEN THOSE REMEDIES HAVE BEEN EXHAUSTED. h. THE HEARING REGARDING THE FACTUAL BASIS FOR THE CHILD ABUSE AND/OR NEGLECT FINDING SHALL BE CLOSED TO THE PUBLIC. i. THIS ORDER DOES NOT PROHIBIT THE DEPARTMENT FROM		

			USING DOCUMENTS OR INFORMATION AS AUTHORIZED, REQUIRED, OR PERMITTED BY LAW.		

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):

Attorney General's office

This Rule-Making Package

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

Office of Administrative Courts, CDHS Office of Appeals

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	Child Welfare		
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [ ] No

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

DEPARTMENT OF HUMAN SERVICES

Social Services Rules

REFERRAL AND ASSESMENT

12 CCR 2509-2

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

7.112 STATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS

B. 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 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. THE OFFICE OF ADMINISTRATIVE COURTS SHALL ALSO ISSUE A PROTECTIVE ORDER WHICH WILL PROTECT AND GOVERN THE HANDLING OF ALL PLEADINGS, DISCOVERY, AND EVIDENCE. THE ORDER MUST BE SIGNED BY AN ADMINISTRATIVE LAW JUDGE AND MUST STATE THAT:

a. ANY DOCUMENTS EXCHANGED BY THE PARTIES CONTAINING CONFIDENTIAL INFORMATION, INCLUDING, BUT NOT LIMITED TO PLEADINGS, TRAILS REPORTS AND INVESTIGATIVE RECORDS, MEDICAL RECORDS, LAW ENFORCEMENT INVESTIGATION RECORDS, AND DOCUMENTS REGARDING CHILD VICTIMS WILL BE USED FOR THE SOLE PURPOSE OF PROCEEDING WITH THIS APPEAL.

b. THE PARTIES MAY DISCLOSE CONFIDENTIAL INFORMATION TO THEIR ATTORNEYS OR ANY EXPERT WITNESS ONLY AS NECESSARY FOR THE PROSECUTION OR DEFENSE OF THE APPEAL. THE APPELLANT IS NOT AUTHORIZED TO DISCLOSE OR USE CONFIDENTIAL INFORMATION FOR ANY OTHER PURPOSE.

c. THE PARTIES MAY EXCHANGE DISCOVERY CONTAINING INFORMATION THAT IS CONFIDENTIAL UNDER DEPARTMENT RULE 12 CCR 2509-2, § 7.111.

d. TO THE EXTENT THAT THE PARTIES MAY DISCLOSE CONFIDENTIAL RECORDS TO EXPERT WITNESSES, THE PARTIES SHALL PROVIDE A COPY OF THE PROTECTIVE ORDER TO THE EXPERT WITNESSES AND ADVISE THE EXPERT WITNESS OF HIS OR HER OBLIGATION NOT TO DISCLOSE THE RECORDS OR INFORMATION LEARNED FROM THE CONFIDENTIAL RECORDS.

e. THE EXCHANGE AND USE OF THE CONFIDENTIAL INFORMATION OR RECORDS DOES NOT WAIVE THE RIGHT OF EITHER PARTY TO OBJECT TO THE ADMISSION OF THE DOCUMENTS INTO EVIDENCE ON ANY GROUNDS.

f. IF THE PARTIES USE OR OFFER CONFIDENTIAL INFORMATION OR RECORDS AS EVIDENCE DURING THE COURSE OF THE HEARING, COUNSEL AND THE PARTIES SHALL TAKE REASONABLE MEASURES TO PROTECT SUCH INFORMATION OR RECORDS FROM PUBLIC DISCLOSURE INCLUDING BUT NOT LIMITED TO FILING RECORDS UNDER SEAL.

g. THE APPELLANT MUST DESTROY OR RETURN TO THE DEPARTMENT ALL PROTECTED HEALTH AND ABUSE AND NEGLECT INFORMATION (INCLUDING ALL COPIES MADE) AT THE END OF THE APPEAL OR, SHOULD THE APPELLANT CHOOSE TO PURSUE ANY FURTHER ADMINISTRATIVE REMEDIES, WHEN THOSE REMEDIES HAVE BEEN EXHAUSTED.

h. THE HEARING REGARDING THE FACTUAL BASIS FOR THE CHILD ABUSE AND/OR NEGLECT FINDING SHALL BE CLOSED TO THE PUBLIC.

i. THIS ORDER DOES NOT PROHIBIT THE DEPARTMENT FROM USING DOCUMENTS OR INFORMATION AS AUTHORIZED, REQUIRED, OR PERMITTED BY LAW.

3. The notice of issues shall include the following:

a. The specific allegations(s) that form the basis of the county department's finding that the Appellant was responsible for child abuse or neglect;

b. The specific type and severity of child abuse asserted against Appellant and the legal authority supporting the finding; and,

c. To the extent that the State Department determines that the facts contained in the state automated case management system support a modification of the type or severity of child abuse or neglect 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 finding(s).

4. The Appellant shall respond to the State Department's submittal 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 the response referenced herein, the Office of Administrative Courts shall deem the appeal to have been abandoned by the Appellant and render an Initial Decision Dismissing Appeal. In accordance with the procedures set forth below, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

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.

C. 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 child abuse or neglect indicated in the notice of issues provided by the State Department. The state automated case management system is not the only acceptable evidence for establishing 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-toface 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 founded 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.

D. 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.

E. The Initial Decision shall uphold, modify or overturn/reverse the county finding. The Administrative Law Judge shall have the authority to modify the type and severity level of the child abuse or neglect finding 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 the state automated case management system.

F. 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 Appeal. In accordance with the procedures set forth in Section 7.114, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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: 2021-00576

Opinion of the Attorney General rendered in connection with the rules adopted by the

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

on 09/03/2021

12 CCR 2509-2

REFERRAL AND ASSESSMENT

The above-referenced rules were submitted to this office on 09/09/2021 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.

September 23, 2021 09:05:15

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 09/28/2021

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

NOTICE OF PUBLIC INFORMATIONAL HEARING
BEFORE THE
COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

The commission will hold an Issues Formulation Hearing for the Classifications and Numeric Standards for:

- San Juan and Dolores River Basins, Regulation #34 (5 CCR 1002-34); and
- Gunnison and Lower Dolores River Basins, Regulation #35 (5CCR 1002-35).

SCHEDULE OF IMPORTANT DATES:

Written comments due	10/27/2021	Additional submittal information below
Public Hearing	**11/8/2021** **9:00 a.m.**	**Remote Via Zoom** **Or** **Sabin Cleere Conference Room** **Department of Public Health and Environment** **4300 Cherry Creek Drive South** **Denver, CO 80246**

TRIENNIAL REVIEW PROCESS OVERVIEW:

This Issues Formulation Hearing is the second step in a three-step process for triennial review of water quality classifications and standards in Colorado. The first step is an Issues Scoping Hearing, which provides an opportunity for **early identification of potential issues** that may need to be addressed in the next major rulemaking hearing for particular regulations, and for identification of any issues that may need to be addressed in rulemaking prior to that time. This second step in the triennial review process – the Issues Formulation Hearing – results in the **identification of the specific issues to be addressed** in the next major rulemaking hearing. The third step is the Rulemaking Hearing, where any **revisions to the water quality classifications and standards are formally adopted**. The Rulemaking Hearing for this regulation will be held in June 2022. The commission's website contains additional Information regarding triennial reviews of water quality classifications and standards.

ADDITIONAL BACKGROUND INFORMATION:

Information regarding the current quality of waters in the state is provided in the 2022 Integrated Water Quality Monitoring and Assessment Report, which is Colorado's latest report pursuant to section 305(b) of the federal Clean Water Act. In addition, an identification of

river basin segments included on Colorado's 2022 Section 303(d) List of Impaired Waters or Colorado's current Monitoring and Evaluation List are set forth in Regulation #93 (5 CCR 1002-93). These documents are also available on the commission's website.

PUBLIC PARTICIPATION ENCOURAGED:

The commission encourages input from interested persons, either in writing prior to the hearing or orally at the hearing. Interested persons should provide their opinions or recommendations as to any specific issues that should be addressed in the June 2022 rulemaking hearing for these regulations.

Anyone identifying issues should provide supporting information as to why those issues should be addressed in the rulemaking hearing. The commission does not desire to hear the full evidence that would be presented at a rulemaking hearing that would follow. The commission requests only information needed for it to determine whether or not to propose a regulatory change. In deciding whether any identified issue should be addressed in the upcoming rulemaking hearing, the commission will consider whether the issue is ripe for resolution and whether there is any reason to address the issue in a hearing separate from the upcoming major hearing on the regulation in question. The question of "ripeness" generally will turn on whether adequate data or other information is or will be available, whether there has been or will be a good faith effort toward informal exploration of the proposal with the Division and other interested persons, and whether there is a need for an expeditious resolution of the issue.

For each issue to be addressed in the June rulemaking, a specific proposal with marked-up changes to the regulation, as well as proposed statement of basis and purpose language in support of the proposal, will be required by mid-January 2022. Any third party advancing a proposal should assure that it will be able to provide the full set of evidence in support of its proposal in time to meet a mid-March deadline that will be set forth in the rulemaking hearing notice.

PROCEDURAL MATTERS:

The commission will receive all written submittals electronically. Submittals must be provided as PDF documents and may be emailed to cdphe.wqcc@state.co.us, provided via an FTP site, CD or flash drive, or otherwise conveyed to the commission office so as to be received by the deadline. Written comments will be available to the public on the commission's web site.

Those wishing to provide oral testimony at the hearing should contact Jeremy Neustifter (jeremy.neustifter@state.co.us or 303-692-3478) **no later than 5:00 p.m. November 5, 2021** to be included on the schedule for oral testimony.

AUTHORITY FOR PUBLIC HEARING:

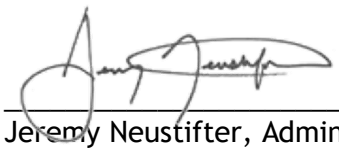
The provisions of 25-8-202(1)(f) C.R.S. and section 21.5 B of the "Procedural Rules" (5 CCR 1002-21) provide the authority for this hearing.

PARTY STATUS:

This is not a rulemaking hearing; therefore, party status provisions of 25-8-101 et. seq., and 24-4-101 et. seq., C.R.S. do not apply. The commission shall not consider party status requests.

Dated this 28th day of September 2021.

WATER QUALITY CONTROL COMMISSION



Jeremy Neustifter, Administrator

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 09/28/2021

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

COLORADO
Water Quality
Control Commission
Department of Public Health & Environment

NOTICE OF PUBLIC INFORMATIONAL HEARING
BEFORE THE
COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

The commission will hold an Issues Scoping Hearing for the Classifications and Numeric Standards for:

- Arkansas River Basin, Regulation #32 (5 CCR 1002-32); and
- Rio Grande Basin, Regulation #36 (5CCR 1002-36).

SCHEDULE OF IMPORTANT DATES:

Written comments due	10/27/2021	Additional submittal information below
Public Hearing	**11/8/2021 9:00 a.m.**	Remote Via Zoom **Or** **Sabin Cleere Conference Room** **Department of Public Health and Environment** **4300 Cherry Creek Drive South** **Denver, CO 80246**

TRIENNIAL REVIEW PROCESS OVERVIEW:

This Issues Scoping Hearing is the first step in a three-step process for triennial review of water quality classifications and standards in Colorado. The Issues Scoping Hearing provides an opportunity for **early identification of potential issues** that may need to be addressed in the next major rulemaking hearing for particular regulations, and for identification of any issues that may need to be addressed in rulemaking prior to that time. The second step in the triennial review process – the Issues Formulation Hearing – results in the **identification of the specific issues to be addressed** in the next major rulemaking hearing. The Issues Formulation Hearing for this regulation will be held in November 2022. The third step is the Rulemaking Hearing, where any **revisions to the water quality classifications and standards are formally adopted**. The Rulemaking Hearing for this regulation will be held in June 2023. Information regarding triennial reviews of water quality classifications and standards is provided on the Commission's website.

ADDITIONAL BACKGROUND INFORMATION:

Information regarding the current quality of waters in the state is provided in the 2022 Integrated Water Quality Monitoring and Assessment Report, which is Colorado's latest report pursuant to section 305(b) of the federal Clean Water Act. In addition, an identification of river basin segments included on Colorado's 2022 Section 303(d) List of Impaired Waters or Colorado's current Monitoring and Evaluation List are set forth in Regulation #93 (5 CCR 1002-93). These documents are also available on the Commission's website.

PROCEDURAL MATTERS:

The commission encourages input from interested persons, either in writing prior to the hearing or orally at the hearing. Interested persons should provide their opinions or recommendations as to (1) issues that potentially need to be addressed in the next major rulemaking hearing for these regulations, and (2) any issues that may need to be addressed in rulemaking prior to that time.

(1) Issues for the next major rulemaking hearing: The Commission is seeking recommendations as to issues to be addressed or changes to be considered in the June 2023 rulemaking hearing for these regulations. Recommendations should be concise and include a brief explanation of why these issues or changes need to be considered in that rulemaking hearing. It also would be helpful to identify additional efforts that are planned or may be needed to develop additional data, develop watershed partnerships or to analyze available options prior to the rulemaking hearing.

(2) Issues to be addressed prior to the June 2023 rulemaking hearing: If there are recommendations as to issues that parties believe need to be addressed in rulemaking **prior to** the June 2023 rulemaking, such recommendations should include a concise summary of the issue or proposed changes, supported by reference to the evidence that would be offered if the commission moved forward to formally consider the recommended regulatory amendments. An explanation should also be included as to why these issues or changes need to be addressed prior to June 2023.

The commission will receive all written submittals electronically. Submittals must be provided as PDF documents and may be emailed to cdphe.wqcc@state.co.us, provided via an FTP site, CD or flash drive, or otherwise conveyed to the commission office to be received by the deadline. Written comments will be available to the public on the commission's web site.

Those wishing to provide oral testimony at the hearing should contact Jeremy Neustifter (jeremy.neustifter@state.co.us or 303-692-3478) **no later than 5:00 p.m. November 5, 2021** to be included on the schedule for oral testimony.

AUTHORITY FOR PUBLIC HEARING:

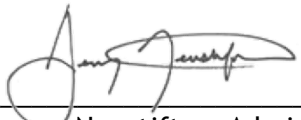
The provisions of 25-8-202(1)(f) C.R.S. and section 21.5 B of the "Procedural Rules" (5 CCR 1002-21) provide the authority for this hearing.

PARTY STATUS:

This is not a rulemaking hearing; therefore, party status provisions of 25-8-101 et. seq., and 24-4-101 et. seq., C.R.S. do not apply. Party status requests shall not be considered by the commission.

Dated this 28th day of September 2021 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION



Jeremy Neustifter, Administrator

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 09/28/2021

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

COLORADO
Water Quality
Control Commission
Department of Public Health & Environment

NOTICE OF PUBLIC INFORMATIONAL HEARING
BEFORE THE
COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

Triennial review of the commission's current regulation titled:

"401 Certification Regulation," #82 (5 CCR 1002-82).

PURPOSE OF HEARING:

This hearing is to fulfill State statutory requirements for triennial review of control regulations.

SCHEDULE OF IMPORTANT DATES:

Written comments due	10/27/2021	Additional submittal information below
Public Hearing	**11/8/2021** **9:00 a.m.**	**Remote Via Zoom** **Or** **Sabin Cleere Conference Room** **Department of Public Health and Environment** **4300 Cherry Creek Drive South** **Denver, CO 80246**

PROCEDURAL MATTERS:

The commission encourages input from interested persons, either in writing prior to the hearing or orally at the hearing. Interested persons should provide their opinions or recommendations as to whether the foregoing regulation should be continued in its current form, repealed, or changed, and if so, in what respect.

The commission will receive all written submittals electronically. Submittals must be provided as PDF documents and may be emailed to cdphe.wqcc@state.co.us, provided via an FTP site, or otherwise conveyed to the commission office so as to be received no later than the date shown above. Written comments will be available to the public on the commission's web site.

Any suggested changes deemed by the commission to require further action will be proposed as regulatory changes for subsequent public rulemaking. Recommendations for changes should be concise and supported by reference to the evidence that would be offered if the commission moved forward to formally consider the recommended regulatory amendments.

At this informational hearing the commission does not desire to hear the full evidence that would be presented at a rulemaking hearing that would follow. The commission requests only the information needed to determine whether or not to propose a regulatory change. Oral public comment will be accepted at the hearing.

AUTHORITY FOR PUBLIC HEARING:

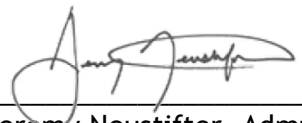
The provisions of 25-8-202(1)(f) C.R.S. and section 21.5 B of the "Procedural Rules" (5 CCR 1002-21) provide the authority for this hearing.

PARTY STATUS:

This is not a rulemaking hearing; therefore, party status provisions of 25-8-101 et. seq., and 24-4-101 et. seq., C.R.S. do not apply. Party status requests shall not be considered by the commission.

Dated this 28th day of September 2021 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION



Jeremy Neustifter, Administrator

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 09/28/2021

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

COLORADO
Water Quality
Control Commission
Department of Public Health & Environment

NOTICE OF PUBLIC ADMINISTRATIVE ACTION HEARING
BEFORE THE
COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

At the date, time and location listed below, the Water Quality Control Commission will hold a public Administrative Action Hearing to consider approval of an extension to the expiration date of the Guidance for Implementation of Colorado's Narrative Sediment Standard, Regulation #31, Section 31.11(1)(a)(i), Commission Policy 98-1.

SCHEDULE OF IMPORTANT DATES:

Written Comments due	11/3/2021	Additional submittal information below
Public Administrative Action Hearing	**11/8/2021 9:00 a.m.**	**Remote Via Zoom** **Or** **Sabin Cleere Conference Room** **Department of Public Health and Environment** **4300 Cherry Creek Drive South** **Denver, CO 80246**

PROCEDURAL MATTERS:

The commission encourages input from interested persons, either in writing prior to the hearing or orally at the hearing. Interested persons should provide their opinions or recommendations regarding the proposed extension.

The commission will receive all written submittals electronically. Submittals must be provided as PDF documents and may be emailed to cdphe.wqcc@state.co.us, provided via an FTP site, on a CD or flash drive, or otherwise conveyed to the commission office to be received no later than the due date. Written comments will be available to the public on the commission's website.

AUTHORITY FOR PUBLIC HEARING:

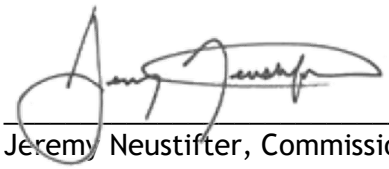
The provisions of 25-8-202(1)(g),(h), (i), (o) and (2) C.R.S. and Section 21.5 B of the "Procedural Rules", Regulation #21 (5 CCR 1002-21) provide the authority for this hearing.

PARTY STATUS:

This is not a rulemaking hearing; therefore, party status provisions of 25-8-101 et. seq., and 24-4-101 et. seq., C.R.S. do not apply. Party status requests shall not be considered by the commission.

Dated this 28th day of September, 2021 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION



Jeremy Neustifter, Commission Administrator

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/07/2021

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Board of Marriage and Family Therapist Examiners

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

NOTICE OF PERMANENT RULEMAKING HEARING
STATE BOARD OF MARRIAGE AND FAMILY THERAPIST EXAMINERS

This Permanent Rulemaking Hearing is for the Board to consider adopting:

Revisions to the Rule 1.8(B), to implement **Colorado Senate Bill 21-077** (*Concerning the elimination of verification of an individual's lawful presence in the United States as a requirement for individual credentialing*).

PLEASE NOTE: This hearing will be held via WEBINAR ONLY

This hearing will be held:

Friday, October 29, 2021, at 1:30 P.M. (MDT)

To attend the hearing via webcast, please register using the link below:

https://attendee.gotowebinar.com/register/3167013918779394572

What is this about?

The purpose of this Permanent Rulemaking Hearing is to allow stakeholders a final opportunity to provide feedback, and for the Board to consider adopting revisions to Rule 1.8(B), to implement Colorado Senate Bill 21-077. SB21-077 eliminates the requirement of the Department of Regulatory Agency to verify the lawful presence of each applicant before issuing or renewing a license, and allows applicants to use an Individual Taxpayer Identification Number (ITIN) as a form of identification.

A copy of SB21-077 and the subsequent proposed draft rule is attached to this notice.

How do I submit my comments and what is the deadline?

We will hold a VIRTUAL Permanent Rulemaking Hearing on Friday, October 29, 2021, at 1:30 P.M. (MDT). Stakeholder testimonies will be limited to the above referenced topic, please register in advance to provide testimony at the hearing. If you cannot attend the hearing virtually or wish to make written comments rather than speaking, you may email your written comments to dora_dpo_rulemaking@state.co.us. To

provide the Board with adequate time for review and consideration, please submit your written comments by Thursday, October 14, 2021.

Will my comments become part of the official record for rulemaking?

Your written and oral comments regarding the proposed rule changes will be publicly available, and provided to the Board before the Board considers permanent adoption of the proposed rule.

May I invite others?

YES! If you know of any person or persons who may be interested in providing input, please do not hesitate to forward this information.

What if I need additional Information?

If you have any questions or concerns about stakeholder input or the rulemaking process, please send them to dora_dpo_rulemaking@state.co.us.

DEPARTMENT OF REGULATORY AGENCIES

Board of Marriage and Family Therapist Examiners

MARRIAGE AND FAMILY THERAPIST EXAMINERS RULES AND REGULATIONS

4 CCR 736-1

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

…

1.8 REPORTING CHANGE OF ADDRESS TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-20-204, 12-245-204, 12-245-206)

A. Licensees shall inform the Division of any name, telephone number or address change within thirty days of such change. Staff shall not change licensees' information without written notification from the Licensee. Notification via mail, fax, e-mail, and the online system is acceptable. Verbal notification is not acceptable.

B. Any of the following documentation is required to change a Licensee's name or correct a social security number or individual taxpayer identification number; marriage license, divorce decree, ~~or~~ court order, or documentation from the Internal Revenue Service verifying the licensee's valid individual taxpayer identification number~~or IRS form W-7, as applicable~~. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Director of Support Services.

Commented [MD1]: Board: Should ITIN be added in this sentence?

Commented [MD2]: Should this be updated?

…

Editor's Notes

History

Rule 17(a) emer. rule eff. 10/26/2007; expired eff. 01/26/2008.
Rule 17 eff. 03/01/2008.
Purpose and Scope, rules 12, 15, 19, 20 emer. rules eff. 01/01/2011.
Purpose and Scope, rules 12, 15, 19, 20 eff. 02/01/2011.
Entire rule emer. rule eff. 12/09/2011.
Entire rule eff. 02/01/2012.
Rule 12 eff. 05/02/2016.
Rules 1.6 A, 1.14 A, 1.14 C.1, 1.14 C.6.a, 1.16 A emer. rules eff. 10/23/2020.
Rules 1.6 A, 1.12, 1.14 A, 1.14 C.1, 1.14 C.6.a, 1.16 A, 1.22, Appendix A eff. 12/15/2020.

SENATE BILL 21-077

BY SENATOR(S) Gonzales, Bridges, Buckner, Donovan, Fenberg, Ginal, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Rodriguez, Story, Winter, Garcia;
also REPRESENTATIVE(S) Benavidez and Kipp, Amabile, Bacon, Bernett, Caraveo, Daugherty, Duran, Esgar, Exum, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Kennedy, Lontine, McCluskie, McCormick, Michaelson Jenet, Mullica, Ortiz, Ricks, Sirota, Tipper, Weissman, Woodrow, Bird, Boesenecker, Titone.

CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 22-60.5-119, **amend** (1) as follows:

22-60.5-119. Applications for licenses - authority to suspend licenses - rules. (1) Every application by an individual for a license issued by the department of education or any authorized agent of such department shall require the applicant's name AND address, and EITHER THE APPLICANT'S

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

social security number, THE APPLICANT'S INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER, OR ANOTHER DOCUMENT VERIFYING THE APPLICANT'S IDENTITY AS DETERMINED BY THE STATE BOARD OF EDUCATION.

SECTION 2. In Colorado Revised Statutes, 24-34-107, **amend** (1) as follows:

24-34-107. Applications for licenses - authority to suspend licenses - rules. (1) ~~(a)~~ Every application by an individual for a license issued pursuant to the authority set forth in titles 10, 11, and 12 ~~C.R.S.,~~ by any division, board, or agency of the department of regulatory agencies shall require the applicant's name, address, and social security number. ~~Subject to the exemptions found in 8 U.S.C. sec. 1621 (c)(2), to the extent that any such license constitutes a professional license or commercial license regulated by 8 U.S.C. sec. 1621, such division, board, or agency may issue or renew any such license to an individual only if the individual is lawfully present in the United States, and shall immediately deny any such license or renewal thereof upon determining that the individual is unlawfully present in the United States. The individual shall prove his or her identity with a secure and verifiable document, as that term is defined in section 24-72.1-102. The division, board, or agency shall not sell or utilize for any purpose other than those specified in law the information contained in the secure and verifiable document, and shall keep such information confidential unless disclosure is required by law; except that nothing in this paragraph (a) shall be construed to limit public access to records that are available for public inspection pursuant to article 72 of this title~~ IF THE APPLICANT DOES NOT HAVE A SOCIAL SECURITY NUMBER, THE DIVISION, BOARD, OR AGENCY SHALL REQUIRE THE APPLICANT'S INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER, OR ANOTHER DOCUMENT VERIFYING THE APPLICANT'S IDENTITY, AS DETERMINED BY SUCH DIVISION, BOARD, OR AGENCY.

~~(b) For purposes of this subsection (1), an individual is unlawfully present in the United States if the individual is an alien who is not:~~

~~(I) A qualified alien as defined in 8 U.S.C. sec. 1641;~~

~~(II) A nonimmigrant under the "Immigration and Nationality Act", federal Public Law 82-414, as amended; or~~

~~(III) An alien who is paroled into the United States under 8 U.S.C. sec. 1182 (d)(5) for less than one year.~~

~~(c) This subsection (1) shall be enforced without regard to race, religion, gender, ethnicity, or national origin.~~

SECTION 3. In Colorado Revised Statutes, **amend** 24-76.5-102 as follows:

24-76.5-102. Definitions. As used in this ~~article~~ ARTICLE 76.5, unless the context otherwise requires:

(1) ~~"Emergency medical condition" shall have the same meaning as provided in 42 U.S.C. sec. 1396b (v)(3)~~ "APPLICANT" MEANS A PERSON APPLYING, PURSUANT TO STATE OR LOCAL LAW, FOR A NEW LICENSE, CERTIFICATE, OR REGISTRATION OR TO RENEW, REINSTATE, OR REACTIVATE A LICENSE, CERTIFICATE, OR REGISTRATION THAT IS AUTHORIZED PURSUANT TO STATE OR LOCAL LAW.

(2) ~~"Federal public benefits" shall have the same meaning as provided in 8 U.S.C. sec. 1611~~ "CERTIFICATE" OR "CERTIFICATION" MEANS A CREDENTIAL THAT DEMONSTRATES THAT A PERSON HAS THE QUALIFICATIONS REQUIRED BY STATE OR LOCAL LAW TO PRACTICE THE PROFESSION OR OCCUPATION REGULATED BY THAT APPLICABLE STATE OR LOCAL LAW.

(3) ~~"State or local public benefits" shall have the same meaning as provided in 8 U.S.C. sec. 1621~~ "EMERGENCY MEDICAL CONDITION" HAS THE SAME MEANING AS PROVIDED IN 42 U.S.C. SEC. 1396b (v)(3).

(4) "FEDERAL PUBLIC BENEFITS" HAS THE SAME MEANING AS PROVIDED IN 8 U.S.C. SEC. 1611 (c).

(5) "REGISTER" MEANS TO RECORD THE INFORMATION REQUIRED BY STATE OR LOCAL LAW IN THE FORM AND MANNER DETERMINED BY THE REGULATOR THAT REGULATES THE PRACTICE OF A PROFESSION OR OCCUPATION PURSUANT TO THAT APPLICABLE STATE OR LOCAL LAW. "REGISTERED" AND "REGISTRATION" HAVE CORRESPONDING MEANINGS.

(6) "REGULATE" MEANS TO SUBJECT AN INDIVIDUAL TO A

REQUIREMENT IN ORDER TO PRACTICE A PROFESSION OR OCCUPATION.

(7) "STATE OR LOCAL PUBLIC BENEFITS" HAS THE SAME MEANING AS PROVIDED IN 8 U.S.C. SEC. 1621.

SECTION 4. In Colorado Revised Statutes, 24-76.5-103, **amend** (3)(i); **repeal** (3)(h); and **add** (3)(k) and (3.5) as follows:

24-76.5-103. Verification of lawful presence - exceptions - reporting - rules. (3) Verification of lawful presence in the United States is not required:

(h) ~~For renewing an educator license pursuant to article 60.5 of title 22, C.R.S.; or~~

(i) For receipt of educational services or benefits from institutions of higher education, except as may be limited pursuant to section 23-7-110, including participation in the college opportunity fund program pursuant to part 2 of article 18 of title 23, college savings plans pursuant to ~~section 23-3.1-301~~ PART 3 OF ARTICLE 3.1 OF TITLE 23, state student financial assistance pursuant to article 3.3 of title 23, and any other financial benefit of the institution of higher education relating to attendance at the institution of higher education; OR

(k) FOR AN APPLICANT FOR A LICENSE, CERTIFICATE, OR REGISTRATION TO PRACTICE A REGULATED PROFESSION OR OCCUPATION, INCLUDING AN APPLICANT SEEKING LICENSURE AS A CHILD CARE CENTER, CHILD CARE PROVIDER, CHILDREN'S RESIDENT CAMP, FAMILY CHILD CARE HOME, GUEST CHILD CARE FACILITY, NEIGHBORHOOD YOUTH ORGANIZATION, SUBSTITUTE CHILD CARE PROVIDER, OR SUBSTITUTE PLACEMENT AGENCY, AS THOSE TERMS ARE DEFINED IN SECTION 26-6-102.

(3.5) SUBSECTION (3)(k) OF THIS SECTION IS A STATE LAW WITHIN THE MEANING OF 8 U.S.C. SEC. 1621 (d), AS THAT SECTION EXISTED ON JANUARY 1, 2021.

SECTION 5. In Colorado Revised Statutes, 30-15-401, **repeal** (10) as follows:

30-15-401. General regulations - definitions. (10) ~~(a) Subject to~~

~~the exemptions found in 8 U.S.C. sec. 1621 (c)(2), to the extent that a license, permit, certificate, or other authorization to conduct business issued by a county constitutes a professional license or commercial license regulated by 8 U.S.C. sec. 1621, a county may issue such authorization to an individual only if the individual is lawfully present in the United States, and shall immediately deny any such authorization or renewal thereof upon determining that the individual is unlawfully present in the United States. The individual shall prove his or her identity with a secure and verifiable document, as that term is defined in section 24-72.1-102, C.R.S. A county shall not sell or utilize for any purpose other than those specified in law the information contained in the secure and verifiable document, and shall keep such information confidential unless disclosure is required by law; except that nothing in this paragraph (a) shall be construed to limit public access to records that are available for public inspection pursuant to article 72 of title 24, C.R.S.~~

~~(b) For purposes of this subsection (10), an individual is unlawfully present in the United States if the individual is an alien who is not:~~

~~(I) A qualified alien as defined in 8 U.S.C. sec. 1641;~~

~~(II) A nonimmigrant under the "Immigration and Nationality Act", federal Public Law 82-414, as amended; or~~

~~(III) An alien who is paroled into the United States under 8 U.S.C. sec. 1182 (d)(5) for less than one year.~~

~~(c) This subsection (10) shall be enforced without regard to race, religion, gender, ethnicity, or national origin.~~

SECTION 6. In Colorado Revised Statutes, 31-15-501, **repeal** (2) as follows:

31-15-501. Powers to regulate businesses. (2) ~~(a) Subject to the exemptions found in 8 U.S.C. sec. 1621 (c)(2), to the extent that any license, permit, certificate, or other authorization to conduct business issued by a municipality constitutes a professional license or commercial license regulated by 8 U.S.C. sec. 1621, the governing body of a municipality may issue such authorization to an individual only if the individual is lawfully present in the United States, and shall immediately deny any such~~

~~authorization or renewal thereof upon determining that the individual is unlawfully present in the United States. The individual shall prove his or her identity with a secure and verifiable document, as that term is defined in section 24-72.1-102, C.R.S. A municipality shall not sell or utilize for any purpose other than those specified in law the information contained in the secure and verifiable document, and shall keep such information confidential unless disclosure is required by law; except that nothing in this paragraph (a) shall be construed to limit public access to records that are available for public inspection pursuant to article 72 of title 24, C.R.S.~~

~~(b) For purposes of this subsection (2), an individual is unlawfully present in the United States if the individual is an alien who is not:~~

~~(I) A qualified alien as defined in 8 U.S.C. sec. 1641;~~

~~(II) A nonimmigrant under the "Immigration and Nationality Act", federal Public Law 82-414, as amended; or~~

~~(III) An alien who is paroled into the United States under 8 U.S.C. sec. 1182 (d)(5) for less than one year.~~

~~(c) This subsection (2) shall be enforced without regard to race, religion, gender, ethnicity, or national origin.~~

SECTION 7. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED May 27, 2021 at 11:10 am
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

Calendar of Hearings

Hearing Date/Time	Agency	Location
11/03/2021 10:00 AM	Taxation Division	Virtual Hearing See Below
11/03/2021 10:00 AM	Taxation Division	Virtual Hearing See Below
11/03/2021 10:00 AM	Taxation Division	Virtual Hearing See Below
11/02/2021 10:00 AM	Liquor and Tobacco Enforcement Division	VIRTUAL http://meet.google.com/qka-umbh-vdx
11/09/2021 01:00 PM	Division of Motor Vehicles	Virtual Hearing (link and call in in additional notes)
11/04/2021 11:00 AM	Division of Motor Vehicles	Virtual Hearing (link and call in in additional notes)
11/01/2021 09:00 AM	Marijuana Enforcement Division	Virtual
11/10/2021 09:00 AM	Colorado State Board of Education	201 E. Colfax, State Board Room or Webinar
11/10/2021 09:00 AM	Colorado State Board of Education	201 E. Colfax, State Board Room or Webinar
11/18/2021 08:00 AM	Colorado Parks and Wildlife (405 Series, Parks)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (405 Series, Parks)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/18/2021 08:00 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Lamar Community College, 2401 S Main St, Lamar, CO 81052
11/05/2021 08:30 AM	Behavioral Health	Location Pending State's Response to COVID-19. Anticipated to be held entirely online
11/02/2021 10:00 AM	Division of Insurance	Webinar or 1560 Broadway, STE 850, Denver CO 80202
11/02/2021 10:00 AM	Division of Insurance	Webinar or 1560 Broadway, STE 850, Denver CO 80202
11/04/2021 01:15 PM	Division of Professions and Occupations - Colorado Dental Board	Webinar Only: https://attendee.gotowebinar.com/register/7604076599995125516
11/10/2021 09:00 AM	Division of Professions and Occupations - State Board of Examiners of Nursing Home Administrators	Webinar Only: https://attendee.gotowebinar.com/register/5429537269369865228
11/04/2021 09:00 AM	Division of Real Estate	Virtual Rulemaking Hearing - 1560 Broadway; Denver, CO 80202
11/01/2021 09:30 AM	Division of Professions and Occupations - Office of Private Investigator Voluntary Licensure	Webinar Only: https://attendee.gotowebinar.com/register/1372079878845462286
11/01/2021 09:00 AM	Division of Professions and Occupations - Office of Private Investigator Licensing	Webinar Only: https://attendee.gotowebinar.com/register/7368004857153853196
12/14/2021 04:30 PM	Air Quality Control Commission	This hearing will be held online only via the Zoom platform; there will be no in-person participation. See Notice for all details.
12/14/2021 04:30 PM	Air Quality Control Commission	This hearing will be held online only via the Zoom platform; there will be no in-person participation. See Notice for all details.
11/17/2021 10:00 AM	Center for Health and Environmental Data (1006, 1009 Series)	Via Zoom: https://us02web.zoom.us/meeting/register/tZIsce-trD8jHdLfU9scrz_eoSjt9VO0HE3n
11/17/2021 10:00 AM	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	Via Zoom: https://us02web.zoom.us/meeting/register/tZIsce-trD8jHdLfU9scrz_eoSjt9VO0HE3n
11/01/2021 10:00 AM	Division of Workers' Compensation	Online only - see comments for additional information
11/01/2021 10:00 AM	Division of Workers' Compensation	Online only - see comments for additional information
11/01/2021 03:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, 12th Floor, Denver, CO 80202
11/01/2021 03:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, 12th Floor, Denver, CO 80202
11/01/2021 03:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, 12th Floor, Denver, CO 80202
11/03/2021 05:00 PM	Division of Family and Medical Leave Insurance	Virtual and 633 17th St, 12th floor conference room, Denver CO 80202
11/05/2021 08:30 AM	Child Support Services (Volume 6)	Location Pending State's Response to COVID-19. Anticipated to be held entirely online

Calendar of Hearings

Hearing Date/Time	Agency	Location
11/12/2021 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	(VIRTUAL) 303 East 17th Avenue, 11th Floor, Denver, CO 80203
11/05/2021 08:30 AM	Food Assistance Program (Volume 4B)	Location Pending State's response to COVID-19. Anticipated to be held entirely
11/05/2021 08:30 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	Location Pending State's Response to COVID-19. Anticipated to be held entirely online
11/05/2021 08:30 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	Location Pending State's Response to COVID-19. Anticipated to be held entirely online.