

Colorado Register



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Introduction

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

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

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

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

Notice of Proposed Rulemaking

Tracking number

2017-00495

Department

400 - Department of Natural Resources

Agency

404 - Oil and Gas Conservation Commission

CCR number

2 CCR 404-1

Rule title

PRACTICE AND PROCEDURE

Rulemaking Hearing**Date**

12/11/2017

Time

09:00 AM

Location

Colorado Oil and Gas Conservation Commission, 1120 Lincoln Street, Suite 801, Denver, CO 80203

Subjects and issues involved

Flowline Rulemaking

Statutory authority

34-60-105(1), 34-60-105(2)(a), 34-60-106(2)(d), and 34-60-108, C.R.S.

Contact information**Name**

Julie Prine

Title

Hearings and Regulatory Affairs Manager

Telephone

303-894-2100

Email

julie.prine@state.co.us

BEFORE THE OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF CHANGES TO THE)	CAUSE NO. 1R
RULES OF PRACTICE AND PROCEDURE OF)	
THE OIL & GAS CONSERVATION)	DOCKET NO. 171200767
COMMISSION OF THE STATE OF COLORADO)	
)	TYPE: RULEMAKING

NOTICE OF RULEMAKING HEARING

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

The Oil and Gas Conservation Commission of the State of Colorado ("Commission"), on its own motion, will consider additions and amendments to Commission Rules of Practice and Procedure, 2 C.C.R. 404-1 ("Rules"), 100-Series definitions; 216; 303; 306; 312; 313; 317B; 318A; 325; 328; 330; 602; 604; 605; 706; 711; 802; 906; 907; 1002; 1004; 1100-Series; 1203; 1204; and 1205, as part of its "Flowline Rulemaking." A clean version of the Draft proposed rules is attached as **Appendix A**. A redline version of the Draft proposed rules is attached as **Appendix B**. The draft Statement of Basis, Specific Statutory Authority and Purpose is attached as **Appendix C**. The Commission is exploring these proposed draft changes as well as the North Dakota Industrial Commission rules adopted in Order Number 27865, amending reporting requirements, and any other conforming changes necessary.

On August 22, 2017, Governor John Hickenlooper announced seven oil and gas policy initiatives, two of which required rulemaking by the Commission. This Flowline Rulemaking is in response to the Governor's announcement and the Commission's review of its Rules. The Commission has the authority to conduct this rulemaking pursuant to §§ 34-60-105(1), 34-60-105(2)(a), 34-60-106(2)(d), and 34-60-108, C.R.S.

NOTICE IS HEREBY GIVEN that the Commission has scheduled the above entitled matter for a rulemaking hearing commencing on:

Date: Monday, December 11, 2017
Tuesday, December 12, 2017

Time: 9:00 a.m.

Place: Colorado Oil and Gas Conservation Commission
1120 Lincoln Street
Suite 801
Denver, CO 80203

Public Participation. The Commission encourages the public to participate in the rulemaking by commenting on the proposed rules in advance of or during the rulemaking hearing. Any person may submit written comments in advance of the hearing pursuant to the procedures described below. In addition, any person may participate in the process and offer oral testimony during the public comment period at the hearing. The Commission may place a time limit on public comments during the hearing depending on the number of people who wish to comment. Speakers are asked to be concise, and avoid repeating comments made by others or reading previously submitted written comments. The Commission requests that any written comments be submitted on or before **Friday, December 1, 2017**. Individuals and groups with common interests are encouraged to consolidate their comments in a single written document signed by all supporters.

Persons or groups who know in advance they would like to address the Commission during the rulemaking hearing should notify the Commission via email to DNR_COGCC.Rulemaking@state.co.us by **Friday, December 1, 2017**. An estimate of the time needed for comments must be included with the notice. Persons who sign up in advance will be given priority both in the order and length of comments during the rulemaking hearing. Individuals and groups with common interests are encouraged to consolidate their comments through a single spokesperson.

Party Status. If a person or an organization wants to participate in this rulemaking as a party, the Commission must receive a written request for party status that includes the following information: (1) name of the party and its representative, if any; and (2) the electronic mail address, street address, and telephone number that the Commission and other parties should use for purposes of this rulemaking. Written party status requests must be filed with the Commission on or before **Monday, October 30, 2017**. A link to a form for requesting party status is available on the Commission's website on the Flowline Rulemaking webpage. The Commission will compile a list of all parties with contact information and make it available on the Commission's website. Late requests for party status will not be accepted absent good cause for the delay.

Prehearing Statements and Party Filings. A party's prehearing statement must be filed with the Commission on or before the deadline established by the Hearing Officer. Prehearing statements are limited to 5 single spaced pages. Prehearing statements should summarize pertinent factual and legal issues and the submitting party's position on each issue. Parties are requested to include as an attachment to their prehearing statements a draft of their alternative rule language showing differences from the Staff's proposed rules in redline format. A party's response to prehearing statements, if any, is limited to 5 single spaced pages and must be filed with the Commission on or before the deadline established by the Hearing Officer. Parties are required to serve electronic copies of their prehearing statements and responses on all other parties. Parties must be able to participate in a prehearing conference that will be held on **Tuesday, November 7, 2017, from 9:00 a.m. to noon**, at the Commission's Denver Office.

Filing and service. On or before the deadlines identified above, all written

comments, requests for party status prehearing statements, and responses must be filed with the Commission via U.S. Mail in hard copy and electronic copy as follows:

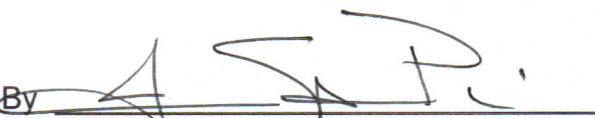
1. The original and 2 copies delivered to Julie Prine, Hearings and Regulatory Affairs Manager, Docket No. 1717000767, Oil and Gas Conservation Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado, 80203; and
2. An electronic copy emailed, preferably in portable document format (*pdf*), to DNR_COGCC.Rulemaking@state.co.us.

The Commission may modify or amend the rules described or proposed herein, and make conforming modifications to other rules, as it determines reasonably necessary through the course of the stakeholder process, comment period, and rulemaking hearing.

In accordance with the Americans with Disabilities Act, if any person requires special accommodations as a result of a disability for this hearing, please contact Margaret Humecki at (303) 894-2100 ext. 5139, prior to the hearing and arrangements will be made.

Copies of the proposed Rules and other information about the Flowline Rulemaking are available on the Commission's internet homepage at <http://cogcc.state.co.us> by following the "Flowline Rulemaking" hyperlink or upon request at the Commission offices, 1120 Lincoln Street, Suite 801, Denver, CO 80203.

OIL AND GAS CONSERVATION COMMISSION OF
THE STATE OF COLORADO

By 
Julie Prine, Secretary

Dated: October 15, 2017

APPENDIX A

Flowline Rulemaking
Docket No. 171200767

Initial Draft of Proposed Rules
October 15, 2017

FLOWLINE RULEMAKING INITIAL DRAFT OF PROPOSED RULES

DEFINITIONS (100 Series)

BREAKOUT TANK means a tank used to either relieve surges in a liquid hydrocarbon pipeline system or receive and store liquid hydrocarbons transported by a pipeline for reinjection and continued transportation by pipeline.

DOMESTIC TAP means an individual gas service line directly connected to a flowline.

FLOWLINE means a segment of pipe transferring oil, gas, or condensate between the wellhead and the point of delivery to a U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration or Colorado Public Utilities Commission regulated gathering line or a segment of pipe transferring produced water between a wellhead and the point of disposal, discharge, or loading. The different types of flowlines are:

Wellhead Line means a flowline that transmits well production fluids from an oil or gas well to the process equipment (e.g., separator, production separator, tank, heater treater), which may include pre-conditioning equipment such as sand traps and line heaters that do not materially reduce line pressure.

Oil Transfer Line means a flowline transferring crude oil from one or more wells that is not regulated by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 C.F.R. § 195.2.

Production Piping means a segment of pipe that transfers well production fluids from the wellhead line through the production facility to a gathering line or storage vessel and includes the following:

Production Line means a flowline connecting a separator to a meter, LACT, or gathering line;

Dump Line means a flowline that transfers produced water, crude oil, or condensate to a storage tank, or process vessel and operates at atmospheric pressure at the flowline's outlet;

Manifold Piping means a flowline that transfers fluids from lines that have been joined together to comingle fluids into a piece of production facility equipment; and

Process Piping means all other piping that is integral to oil and gas exploration and production related to an individual piece or a set of production facility equipment pieces.

Peripheral Piping means a flowline transferring fluids between oil and gas facilities for lease use, that may include, but is not limited to, fuel gas, lift gas, instrument gas, and power fluids.

Produced Water Flowline means a flowline used to transfer produced water from one or more wells for treatment, storage, discharge, injection or reuse for oil and gas operations.

A segment of pipe transferring only freshwater is not a flowline. A line that would otherwise satisfy the above definition will not be considered a flowline if all of the following are satisfied:

- the operator prospectively marks and tags the line as a support line;
- the line is not integral to production;
- the line is used infrequently to service or maintain production equipment;
- the line does not hold a constant pressure, and
- the line is isolated from a pressure source when not in use.

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This definition does not include gathering lines.

GATHERING LINE means a gathering pipeline as defined by 4 C.C.R. § 723-4901 or a pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 C.F.R. §§ 195.2 or 192.8.

GRADE 1 GAS LEAK means a leak that represents an existing or probable hazard to persons or property and requires immediate repair or continuous action until the conditions are no longer hazardous.

LOCKOUT means installing a device, such as a blind plug, blank flange, or bolted slip blind, that prevents operation of an energy-isolating device, such as a valve, and ensures the equipment cannot be operated until the lockout device is removed.

MAXIMUM ANTICIPATED OPERATING PRESSURE means the highest operational pressure expected to be applied to a flowline when in service.

OFF-LOCATION FLOWLINE means a flowline transferring fluids between two or more different oil and gas locations.

PIPELINE means a flowline or gathering line as defined in these Rules.

RISER means the component of a flowline transitioning from below grade to above grade.

TAGOUT means securely fastening a tagout device to an energy-isolating device, such as a valve, to indicate that the energy-isolating device and the equipment being controlled may not be operated until the tagout device is removed.

TAGOUT DEVICE means a prominent warning device, such as a tag, that will not deteriorate or become illegible with exposure to weather conditions or wet and damp locations. The tagout device must: include an instruction to not operate the equipment; the date of the last successful integrity test; the reason for tagging out the equipment; and be color coded per ANSI/ASME A13.1.

FLOWLINE REGULATIONS (1100 Series)

1101. Registration Requirements

- a. **Reporting of Off-Location Flowlines.** An operator of an off-location flowline must submit a Flowline Form, Form 44, to the Director after completing construction and must include the following information about the flowline: GPS location points for the risers; pipe and bedding materials used in construction; diameter; fluids that will be transferred; the maximum anticipated operating pressure and initial pressure test results; a schematic drawing of the flowline, associated oil and gas locations, and existing and proposed pipelines related to the oil and gas locations; and the COGCC Facility ID assigned to the associated oil and gas locations.
- b. **Domestic Tap Registration.** Operators must report to the Director the GPS location for the point of flowline connection for a domestic tap and the address of the point of delivery for the domestic tap for all domestic taps the operator knows are connected to the operator's flowlines.
- c. **Oil Gathering Line Registration.** At least 30 days before beginning construction of an oil gathering line with segments subject to safety regulation by the Office of Pipeline Safety, U.S. Department of

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Transportation, an operator must submit a schematic showing the gathering line's route and its crossings of public by-ways and natural and manmade watercourses to the Director.

1102. INSTALLATION, OPERATIONS, MAINTENANCE, REPAIR AND RECLAMATION

a. **Material.** Materials for pipe and pipe components must be:

- (1) Able to maintain the structural integrity of the flowline under temperature, pressure, and other conditions that may be anticipated;
- (2) Compatible with the substances to be transported; and
- (3) Locatable by a tracer line or location device placed adjacent to or in the trench of all buried nonmetallic flowlines to facilitate locating such flowlines.

b. **Design and Installation.**

(1) Each component of a flowline must meet one of the following standards:

- A. American Society of Mechanical Engineers, Pipeline Transportation Systems for Liquids and Slurries, 2016 Edition (ASME B31.4-2016), and no later editions of the standard. ASME B31.4-2016 is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. Additionally, ASME B31.4-2016 may be examined at any state publications depository library and is available to purchase from the ASME. The ASME can be contacted at Two Park Avenue, New York, NY 10016-5990, 1-800-843-2763;
- B. ASME Gas Transmission and Distribution Piping Systems, 2016 Edition (ASME B31.8-2016), and no later editions of the standard. ASME B31.8-2016 is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. Additionally, ASME B31.8-2016 may be examined at any state publications depository library and is available to purchase from the ASME. The ASME can be contacted at Two Park Avenue, New York, NY 10016-5990, 1-800-843-2763;
- C. ASME Process Piping, 2016 Edition (ASME 31.3-2016), and no later editions of the standard. ASME 31.3-2016 is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. Additionally, ASME 31.3-2016 may be examined at any state publications depository library and is available to purchase from the ASME. The ASME can be contacted at Two Park Avenue, New York, NY 10016-5990, 1-800-843-2763; or
- D. API Specification 15S, Spoolable Reinforced Plastic Line Pipe, Second Edition, March 2016 (API Specification 15S), and no later editions of the standard. API Specification 15S is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. In addition, API Specification 15S may be examined at any state publications depository library and is available from API at 1220 L Street, NW Washington, DC 20005-4070, 1-202-682-8000.

(2) Each component of a flowline must be designed and installed to:

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- A. Prevent failure from internal or external corrosion;
 - B. Withstand maximum anticipated operating pressures and other internal loadings without impairment of its serviceability;
 - C. Have appropriate access for verifying integrity; and
 - D. Withstand anticipated external pressures and loads that will be imposed on the pipe after installation.
- c. **Cover.**
- (1) All installed flowlines must have cover sufficient to protect them from damage. On crop land, all flowlines must have a minimum cover of three (3) feet.
 - (2) Where an underground structure, geologic, economic or other uncontrollable condition prevents flowlines from being installed with minimum cover, or when there is a written agreement between the surface owner and the operator, the flowline may be installed with less than minimum cover or above ground.
- d. **Maintenance.**
- (1) Each operator must take reasonable precautions to prevent failures, leakage and corrosion of flowlines.
 - (2) Whenever an operator discovers any condition that could adversely affect the safe and proper operation of a flowline, it must correct it within a reasonable time. However, if the condition presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until the operator has corrected the condition.
 - (3) Any flowline not actively in use must have all valves locked or tagged out.
- e. **Repair.**
- (1) Each operator must, in repairing its flowlines, make repairs in a safe manner that prevents injury to persons and damage to equipment and property.
 - (2) An operator may not use any pipe, valve, or fitting to repair flowline facilities unless the components meet the installation requirements of this section. A flowline installed prior to February 14, 2018, that undergoes a major modification or change in service after February 14, 2018, must satisfy all requirements of this section before an operator can place the flowline in to service.
 - (3) An operator must pressure test any repaired section of a flowline before returning the flowline to service.
- f. **Marking.**
- (1) In Designated Setback Locations, and where crossing public rights-of-way or utility easement, an operator must install and maintain a marker that identifies the location of flowlines.
 - (2) The marker must include the following language:

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"Warning", "Caution" or "Danger" followed by the words "gas (or name of gas or petroleum transported) flowline" along with the name of the operator and the telephone number where the operator can be reached at all times. The letters must be legible, written on a background of sharply contrasting color and on each side with at least one (1) inch high with one-quarter (¼) inch stroke.

g. Excavation, backfill and reclamation.

- (1) When flowlines cross crop lands, unless waived by the surface owner, the operator must segregate topsoil while trenching, and backfill trenches so that the soils can must be returned to their original relative positions and contour. This requirement to segregate and backfill topsoil does not apply to trenches which are twelve (12) inches or less in width. Operator must make reasonable efforts to run flowlines parallel to crop irrigation rows on flood irrigated land.
- (2) On crop lands and non-crop lands, flowline trenches must be maintained in order to correct subsidence and reasonably minimize erosion. Interim and final reclamation, including revegetation, must be performed in accordance with the applicable 1000 Series rules.

h. Record Keeping. An operator must keep records of flowline size, route, materials, maximum anticipated operating pressure, pressure test results, and integrity management documentation for the life of the flowline. These records are available for inspection by the Director pursuant to Rule 205.

i. One Call participation. Every operator must become a Tier One member of the UNCC and participate in Colorado's One Call notification system, the requirements of which are established by §9-1.5-101, C.R.S. et seq.

- (1) An operator must include its UNCC member code when filing an Operator Registration, Form 1, Change of Operator, Form 10, or Gas Facility Registration, Form 12.
- (2) Upon completing a purchase of an asset or construction of an underground oil and gas facility, an operator must submit to UNCC such new or updated digital information regarding its underground oil and gas facilities as soon as reasonably practical.
- (3) An operator's registration with the Commission grants the Director permission to access information the operator submits to UNCC about its underground oil and gas facilities.

1103. FLOWLINE INTEGRITY MANAGEMENT

- a. Initial Pressure Test Requirements.** After installation or being taken out of service and before operating a segment of flowline, an operator must test the Flowline to maximum anticipated operating pressure. In conducting tests, each operator must ensure that reasonable precautions are taken to protect its employees and the general public. The operator may conduct the test using well head pressure sources and well bore fluids, including gas.
- b. Off-Location Flowlines.** All off-location flowlines must be subject to one of the following integrity management programs:
 - (1) Annual pressure test;
 - (2) Continuous pressure monitoring; or
 - (3) For aboveground flowlines, annual visual inspection.

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- c. **Belowground Dump Lines.** An operator must verify integrity of belowground dump lines by performing an annual static-head test.
- d. **Aboveground Dump Lines and Small Diameter Peripheral Piping.** An operator must verify integrity of aboveground dump lines or peripheral piping with an external cross sectional area of less than 0.8 square inches (1-inch nominal diameter) by performing an annual visual inspection.
- e. **Integrity Management for All Other Flowlines.** Any flowlines not subject to b. through d. above, must be subject to one of the following integrity management programs:
 - (1) A pressure test every three years and annual visual inspection; or
 - (2) Continuous pressure monitoring.
- f. **Pressure Test Requirements.** A pressure test must subject the flowline to the maximum anticipated operating pressure and be conducted in accordance with API RP 1110, Recommended Practice for the Pressure Testing of Steel Pipelines for the Transportation of Gas, Petroleum Gas, Hazardous Liquids, Highly Volatile Liquids or Carbon Dioxide (6th Ed., February 1, 2013) (API RP 1110), and no later editions of the standard. API RP 1110 is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. In addition, API RP 1110 may be examined at any state publications depository library and is available from API at 1220 L Street, NW Washington, DC 20005-4070, 1-202-682-8000. g. **Continuous Pressure Monitoring Requirements.** An operator's continuous pressure monitoring program must ensure:
 - (1) Pressure data are monitored continuously, i.e., 24 hours, 7 days a week, and the monitoring is sufficiently sophisticated to identify integrity or pressure anomalies;
 - (2) Systems are capable of being shut-in for repairs immediately upon discovery of an anomaly, either through automation or through a documented, manual process;
 - (3) The operator documents the continuous monitoring program, including integrity anomalies and the documentation demonstrates how an operator will maintain flowlines and repair flowlines anomalies; and
 - (4) A map of the flowline system is available in ESRI shapefile format. The shapefile must show the flowline alignments, location of isolation valves, and pressure-monitoring points.
- h. **Visual Inspection Requirements.** An operator must perform a visual, aerial, or other survey of the entire flowline length to detect integrity failures, leaks, spills, or releases, or signs of a leak, spill, or release like stressed vegetation or soil discoloration. An operator may use audio, visual, or olfactory or other detection technology, like optical gas imaging or LASERs, to detect integrity failures. An operator must document the employee conducting the inspection, detection methodology, and date and time of the inspection.

1104. ABANDONMENT

- a. A flowline remains subject to all of the requirements in Rules 1101 through 1103 until the operator completes all flowline abandonment requirements set forth below.
- b. For abandonment, operators must permanently remove a flowline from service by physically separating the Flowline from all sources of fluids or pressure and comply with one of the following:

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- (1) **Abandonment in place.** The operator must:
 - A. Purge the flowline of any liquids;
 - B. Deplete the flowline to atmospheric pressure;
 - C. Cut the flowline's risers to three (3) feet below grade or to the depth of the flowline, whichever is shallower;
 - D. Seal the ends of the flowline below grade; and
 - E. Remove cathodic protection and above-grade equipment associated with the riser.
 - (2) **Removal.** The operator must remove the flowline and risers, and cathodic protection and above-grade equipment associated with the riser.
- c. Once an operator removes a flowline from service and is in the process of abandoning the flowline, the operator must lockout and tagout the risers associated with the flowline using appropriate devices.
 - d. Within 7 days of an operator completing abandonment requirements for a flowline, the operator must file a Notice of Flowline Abandonment, Form 44, with the Director. If the operator abandons an Off-Location Flowline and has not submitted GPS location points for the flowline's risers, the Notice of Flowline Abandonment must include this information.
 - e. The Director will provide the filed Notice of Flowline Abandonment, Form 44 to the appropriate Local Governmental Designee and UNCC.
 - f. These abandonment requirements apply to compressor or gas plant feeder pipelines upon decommissioning or closure of a portion or all of a compressor station or gas plant.

DRILLING, DEVELOPMENT, PRODUCTION AND ABANDONMENT (300 Series)

312. COGCC Form 10. CERTIFICATE OF CLEARANCE AND/OR CHANGE OF OPERATOR

* * *

- i. A completed Form 10 is required for any change of operator for all oil and gas facilities, excluding produced water flowline transfer systems, gas gathering systems, gas processing plants, and underground gas storage facilities as those must be changed with a Form 12, Gas Facility Registration/Change of Operator.

313A. COGCC Form 11. MONTHLY REPORT OF GASOLINE OR OTHER EXTRACTION PLANT

All operators of gasoline or other extraction plants must make monthly reports to the Director on a Form 11. Such forms must contain all information required thereon and must be filed with the Director on or before the twenty-fifth (25th) day of each month covering the preceding month.

313B. COGCC Form 12. PRODUCED WATER FLOWLINE TRANSFER SYSTEM, AND GAS FACILITY REGISTRATION/CHANGE OF OPERATOR

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- a. An operator must submit a Form 12 to register a new produced water flowline transfer system, gas gathering system, a new gas processing plant, or a new underground gas storage facility. The operator must attach a facility layout drawing and a topographic map to the Form 12.
- b. When an operator makes significant changes to an existing produced water flowline transfer system, gas gathering system, gas processing plant, or underground gas storage facility, the operator must submit a Form 12 to update the Commission's records regarding the facility. The operator must attach an updated facility layout drawing and an updated topographic map to the Form 12.
- c. An operator must submit a Form 12 to change the operator of a produced water flowline transfer system, gas gathering system, gas processing plant, or an underground gas storage facility. The operator must attach documentation confirming transfer of the asset(s) to the Form 12 for a change of operator.
- d. At least 30 days before beginning construction of a gas gathering line with segments subject to safety regulation by the Office of Pipeline Safety, U.S. Department of Transportation, an operator must submit a Form 12 to the Director. The operator must attach a schematic showing the gathering line's route and its crossings of public by-ways and natural and manmade watercourses to the Form 12.

328. MEASUREMENT OF OIL

* * *

- d. **Tank Gauging.** Measurement by tank gauging must be completed in accordance with industry standards as specified in:
 - i. The API Manual of Petroleum Measurement Standards, Chapter 3.1A Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, (Second Edition, August 2005) and no later editions;
 - ii. The API Manual of Petroleum Measurement Standards, Chapter 3.1B Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, (Second Edition, June 2001) and no later editions;
 - iii. The API Manual of Petroleum Measurement Standards, Chapter 3.1A Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, (Second Edition, August 2005) and no later editions;
 - iv. The API Manual of Petroleum Measurement Standards Chapter 18.1 - Custody Transfer - Section 1-Measurement Procedures for Crude Oil Gathered from Small Tanks by Truck (Second Edition, April 1997) and no later editions, or
 - v. The API Manual of Petroleum Measurement Standards Chapter 18.2, Custody Transfer of Crude Oil from Lease Tanks Using Alternative Measurement Methods, (First Edition, July 2016) and no later editions.

The API Manuals identified in i. through v. above are available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. In addition, the API Manuals may be examined at any state publications depository library and is available from API at 1220 L Street, NW Washington, DC 20005-4070, 1-202-682-8000.

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**SAFETY REGULATIONS
(600 Series)****605. OIL AND GAS FACILITIES.**

605.d. **Mechanical Conditions.** All valves, pipes and fittings must be securely fastened, inspected at regular intervals, and maintained in good mechanical condition. An operator must fully open and close all valves at least annually and repair or replace valves that are not fully operational. Any valve, flange, fitting or other component connected to a flowline must have a manufacturer's rating that is equal to or greater than the flowline's maximum anticipated operating pressure.

(1) A valve must be installed at each of the following locations:

- A. On the suction end and the discharge end of a pump station in a manner that permits isolation of the pump station equipment in the event of an emergency;
- B. On each flowline entering or leaving a breakout tank in a manner that permits isolation of the breakout tank from other facilities;
- C. At locations along a flowline system that will minimize the likelihood of damage or pollution from accidental discharge of hydrocarbons or E&P Waste, as appropriate for the terrain in open country or for populated areas;
- D. On each flowline to allow integrity testing of the flowline without interrupting fluid flow of other connected pipelines;
- E. On each side of a flowline crossing a waterbody that is more than 100 feet (30 meters) wide from high-water mark to high-water mark; and
- F. On each side of a flowline crossing a reservoir holding water for human consumption.

(2) Check Valves Required.

- A. Where an operator produces two or more wells through a common flowline, separator, or manifold, the operator must equip each flowline leading from a well to the common flowline, separator, or manifold with a check valve or other means of shut-off. The check valve or other means of shut-off must be in the flowline serving the well. The check valve must be located between the wellhead and the point where the flowline connects with any other Flowline, common separator, or common manifold.
 - i. For wells produced through a common flowline or separator, the operator must place the check valve or other means of shut-off in each flowline leading from a well as close to the wellhead connection as is practicable.
 - ii. For wells produced through a common manifold, the operator may place the check valve or other means of shut-off in each flowline from a well near a point where the flowline enters the manifold or as close to the wellhead connection as practicable.
- B. The check valve or other means of shut-off must be installed to permit fluids moving from the well to the common flowline, separator, or manifold and to prevent any fluid from entering the well through the flowline.

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- C. The operator must keep the check valve or other means of shut-off in good working order.
- D. Upon the Director's request, operators must test the operation of the check valve or other means of shut-off.

FINANCIAL ASSURANCE AND OIL AND GAS CONSERVATION AND ENVIRONMENTAL RESPONSE FUND (700 Series)

711. Produced water flowline transfer systems, gas gathering, gas processing and underground gas storage facilities.

Operators of produced water flowline transfer systems, gas gathering, gas processing, or underground gas storage facilities must provide statewide blanket financial assurance to ensure compliance with the 900 Series rules in the amount of fifty thousand dollars (\$50,000), or in an amount voluntarily agreed to with the Director, or in an amount determined by order of the Commission. Operators of small systems gathering or processing less than five (5) MMSCFD may provide individual financial assurance in the amount of five thousand dollars (\$5,000).

E&P WASTE MANAGEMENT (900 Series)

906. SPILLS AND RELEASES

b. Reporting spills or releases of E&P Waste or produced fluids.

- (1) Report to the Director. Operators shall report a spill or release of E&P Waste or produced fluids that meet any of the following criteria to the Director verbally or in writing as soon as practicable, but no more than twenty-four (24) hours after discovery (the "Initial Report").
 - A. A spill/release of any size that impacts or threatens to impact any waters of the state, a residence or occupied structure, livestock, or public byway;
 - B. A spill/release in which one (1) barrel or more of E&P Waste or produced fluids is spilled or released outside of berms or other secondary containment;
 - C. A spill/release of five (5) barrels or more regardless of whether the spill/release is completely contained within berms or other secondary containment; or
 - D. Any Grade 1 Gas Leak. Operators reporting a Grade 1 Gas Leak must use a Form 44 to submit the Initial Report or subsequent information required by this section.

The Initial Report to the Director shall include, at a minimum, the location of the spill/release and any information available to the Operator about the type and volume of waste involved.

If the Initial Report was not made by submitting a COGCC Spill/Release Report, Form 19 the Operator must submit a Form 19 with the Initial Report information as soon as practicable but not later than 72 hours after discovery of the spill/release unless extended by the Director.

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In addition to the Initial Report to the Director, the Operator shall make a supplemental report on Form 19 not more than 10 calendar days after the spill/release is discovered that includes an 8 1/2 x 11 inch topographic map showing the governmental section and location of the spill or an aerial photograph showing the location of the spill; all pertinent information about the spill/release known to the Operator that has not been reported previously; and information relating to the initial mitigation, site investigation, and remediation measures conducted by the Operator.

The Director may require further supplemental reports or additional information.

* * *

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CONFORMING CHANGES

DEFINITIONS (100 Series)

OIL AND GAS FACILITY means equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, treatment, or processing of crude oil, condensate, E&P waste, or gas.

OIL AND GAS OPERATIONS means exploring for oil and gas, including conducting seismic operations and the drilling of test bores; siting, drilling, deepening, recompleting, reworking, or abandoning a well; producing operations related to any well, including installing flowlines; the generating, transporting, storing, treating, or disposing exploration and production wastes; and any constructing, site preparing, or reclaiming activities associated with such operations.

PLUGGING AND ABANDONMENT means the cementing of a well, the removal of its associated production facilities, the abandonment of its flowline(s), and the remediation and reclamation of the wellsite.

PRODUCTION FACILITY means any storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with a well.

PRODUCTION PITS means pits used after drilling operations and initial completion of a well, including pits related to produced water flowlines or associated with E&P waste from gas gathering, processing and storage facilities, which constitute:

SKIMMING/SETTLING PITS used to provide retention time for settling of solids and separation of residual oil for the purposes of recovering the oil or fluid.

PRODUCED WATER PITS used to temporarily store produced water prior to injection for enhanced recovery or disposal, off-site transport, or surface-water discharge.

PERCOLATION PITS used to dispose of produced water by percolation and evaporation through the bottom or sides of the pits into surrounding soils.

EVAPORATION PITS used to contain produced waters which evaporate into the atmosphere by natural thermal forces.

SPECIAL PURPOSE PITS means pits used in oil and gas operations, including pits related to produced water flowlines or associated with E&P waste from gas gathering, processing and storage facilities, which constitute:

BLOWDOWN PITS used to collect material resulting from, including but not limited to, the emptying or depressurizing of wells, vessels, or flowlines, or E&P waste from gathering systems.

FLARE PITS used exclusively for flaring gas.

EMERGENCY PITS used to contain liquids during an initial phase of emergency response operations related to a spill/release or process upset conditions.

BASIC SEDIMENT/TANK BOTTOM PITS used to temporarily store or treat the extraneous materials in crude oil which may settle to the bottoms of tanks or production vessels and which may contain residual oil.

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WORKOVER PITS used to contain liquids during the performance of remedial operations on a producing well in an effort to increase production.

PLUGGING PITS used for containment of fluids encountered during the plugging process.

DRILLING, DEVELOPMENT, PRODUCTION AND ABANDONMENT (300 Series)

303. REQUIREMENTS FOR FORM 2, APPLICATION FOR PERMIT-TO-DRILL, DEEPEN, RE-ENTER, OR RECOMPLETE, AND OPERATE; FORM 2A, OIL AND GAS LOCATION ASSESSMENT.

303.b. FORM 2A, OIL AND GAS LOCATION ASSESSMENT.

(2) **Exemptions.** A new Form 2A shall not be required for the following:

- A. Surface disturbance, other than for purposes described in subsections 303.b.(1) B and C. above, at an existing Oil and Gas Location within the originally disturbed area, even if interim reclamation has been performed;
- B. For an Oil and Gas Location covered by an approved Comprehensive Drilling Plan and where such Comprehensive Drilling Plan contains information substantially equivalent to that which would be required for a Form 2A for the proposed Oil and Gas Location and the Comprehensive Drilling Plan has been subject to procedures substantially equivalent to those required for a Form 2A, including but not limited to consultation with Surface Owners, local governments, the Colorado Department of Public Health and Environment or Colorado Parks and Wildlife, where applicable, and public notice and opportunity to comment, and where the operator does not seek a variance from the Comprehensive Drilling Plan or a provision of these rules that is not addressed in the Plan;
- C. Seismic operations;
- D. Pipelines for oil, gas, or water; or
- E. Roads.

317B. PUBLIC WATER SYSTEM PROTECTION

a. **Definitions.** For purposes of this Rule 317B:

- (1) **Drilling, Completion, Production and Storage ("DCPS") Operations** means operations at (i) well sites for the drilling, completion, recompletion, workover, or stimulation of wells or chemical and production fluid storage, and (ii) any other oil and gas location at which production facilities are operated. DCPS Operations excludes roads, gathering lines, and routine operations and maintenance.
- (2) **Existing Oil and Gas Location** means an oil and gas location, excluding roads, and gathering lines, permitted or constructed prior to the later of May 1, 2009 for federal land or April 1, 2009 for all other land or the date that the oil and gas location becomes subject to Rule 317B by virtue of its proximity to a Classified Water Supply Segment.

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- (3) **New Oil and Gas Location** means an oil and gas location, excluding roads and gathering lines, that is not an existing oil and gas location.
- (4) **New Surface Disturbance** means surface disturbance that expands the area of surface covered by an oil and gas location beyond that initially disturbed in the construction of the oil and gas location.
- (5) **Non-Exempt Linear Feature** means a road or gathering line that is not necessary to cross a stream or connect or access a well or a gathering line.

E&P WASTE MANAGEMENT (900 Series)

907. MANAGEMENT OF E&P WASTE

- f. **Other E&P Waste.** Other E&P waste such as workover fluids, tank bottoms, pigging wastes from pipelines, and gas gathering, processing, and storage wastes may be treated or disposed of as follows:
 - (1) Disposal at a commercial solid waste disposal facility;
 - (2) Treatment at a centralized E&P waste management facility permitted in accordance with Rule 908;
 - (3) Injection into a Class II injection well permitted in accordance with Rule 325; or
 - (4) An alternative method proposed in a waste management plan in accordance with rule 907.a.(3) and approved by the Director.

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FLOWLINE RULEMAKING INITIAL DRAFT OF PROPOSED RULES

(Please note that the redline below may in some instances show current rule language as newly proposed language because it has been moved between sections.)

DEFINITIONS (100 Series)

BREAKOUT TANK means a tank used to either relieve surges in a liquid hydrocarbon pipeline system or receive and store liquid hydrocarbons transported by a pipeline for reinjection and continued transportation by pipeline.

DOMESTIC TAP means an individual gas service line directly connected to a flowline.

FLOWLINES means a segment of pipe transferring oil, gas, or condensate between the wellhead and the point of delivery to a U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration or Colorado Public Utilities Commission regulated gathering line or a segment of pipe transferring produced water between a wellhead and the point of disposal, discharge, or loading. ~~shall mean these segments of pipe from the wellhead downstream through the production facilities ending at: in the case of gas lines, the gas metering equipment; or in the case of oil lines the oil loading point or LACT unit; or in the case of water lines, the water loading point, the point of discharge to a pit, the injection wellhead, or the permitted surface water discharge point. The different types of flowlines are:~~

Wellhead Line means a flowline that transmits well production fluids from an oil or gas well to the process equipment (e.g., separator, production separator, tank, heater treater), which may include pre-conditioning equipment such as sand traps and line heaters that do not materially reduce line pressure.

Oil Transfer Line means a flowline transferring crude oil from one or more wells that is not regulated by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 C.F.R. § 195.2.

Production Piping means a segment of pipe that transfers well production fluids from the wellhead line through the production facility to a gathering line or storage vessel and includes the following:

Production Line means a flowline connecting a separator to a meter, LACT, or gathering line;

Dump Line means a flowline that transfers produced water, crude oil, or condensate to a storage tank, or process vessel and operates at atmospheric pressure at the flowline's outlet;

Manifold Piping means a flowline that transfers fluids from lines that have been joined together to comingle fluids into a piece of production facility equipment; and

Process Piping means all other piping that is integral to oil and gas exploration and production related to an individual piece or a set of production facility equipment pieces.

Peripheral Piping means a flowline transferring fluids between oil and gas facilities for lease use, that may include, but is not limited to, fuel gas, lift gas, instrument gas, and power fluids.

Produced Water Flowline means a flowline used to transfer produced water from one or more wells for treatment, storage, discharge, injection or reuse for oil and gas operations.

A segment of pipe transferring only freshwater is not a flowline. A line that would otherwise satisfy the above definition will not be considered a flowline if all of the following are satisfied:

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- the operator prospectively marks and tags the line as a support line;
- the line is not integral to production;
- the line is used infrequently to service or maintain production equipment;
- the line does not hold a constant pressure, and
- the line is isolated from a pressure source when not in use.

This definition does not include gathering lines.

GATHERING LINE means a gathering pipeline as defined by 4 C.C.R. § 723-4901 or a pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 C.F.R. §§ 195.2 or 192.8 shall mean a pipeline and equipment described below that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term "gathering line" includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

GRADE 1 GAS LEAK means a leak that represents an existing or probable hazard to persons or property and requires immediate repair or continuous action until the conditions are no longer hazardous.

LOCKOUT means installing a device, such as a blind plug, blank flange, or bolted slip blind, that prevents operation of an energy-isolating device, such as a valve, and ensures the equipment cannot be operated until the lockout device is removed.

MAXIMUM ANTICIPATED OPERATING PRESSURE means the highest operational pressure expected to be applied to a flowline when in service.

OFF-LOCATION FLOWLINE means a flowline transferring fluids between two or more different oil and gas locations.

PIPELINE means a flowline or gathering line as defined in these Rules.

RISER means the component of a flowline transitioning from below grade to above grade.

TAGOUT means securely fastening a tagout device to an energy-isolating device, such as a valve, to indicate that the energy-isolating device and the equipment being controlled may not be operated until the tagout device is removed.

TAGOUT DEVICE means a prominent warning device, such as a tag, that will not deteriorate or become illegible with exposure to weather conditions or wet and damp locations. The tagout device must: include an instruction to not operate the equipment; the date of the last successful integrity test; the reason for tagging out the equipment; and be color coded per ANSI/ASME A13.1.

PIPELINE-FLOWLINE REGULATIONS **(1100 Series)**

1101. Registration Requirements

- Reporting of Off-Location Flowlines.** An operator of an off-location flowline must submit a Flowline Form, Form 44, to the Director after completing construction and must include the following information about the flowline: GPS location points for the risers; pipe and bedding materials used

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in construction; diameter; fluids that will be transferred; the maximum anticipated operating pressure and initial pressure test results; a schematic drawing of the flowline, associated oil and gas locations, and existing and proposed pipelines related to the oil and gas locations; and the COGCC Facility ID assigned to the associated oil and gas locations.

- b. **Domestic Tap Registration.** Operators must report to the Director the GPS location for the point of flowline connection for a domestic tap and the address of the point of delivery for the domestic tap for all domestic taps the operator knows are connected to the operator's flowlines.
- c. **Oil Gathering Line Registration.** At least 30 days before beginning construction of an oil gathering line with segments subject to safety regulation by the Office of Pipeline Safety, U.S. Department of Transportation, an operator must submit a schematic showing the gathering line's route and its crossings of public by-ways and natural and manmade watercourses to the Director.

1102. INSTALLATION, OPERATIONS, MAINTENANCE, AND REPAIR AND RECLAMATION

- a. **Material.** Materials for pipe and ~~pipe~~ other components ~~of pipelines shall~~ must be:
 - (1)A. Able to maintain the structural integrity of the ~~pipeline-flowline~~ under temperature, pressure, and other conditions that may be anticipated;
 - (2)B. Compatible with the substances to be transported, ~~and~~
 - (3)C. Locatable by a tracer line or location device placed adjacent to or in the trench of all buried nonmetallic ~~pipelines-flowlines~~ to facilitate ~~locating the location of such pipelines-flowlines~~.
- b. **Design and Installation.**
 - (1) Each component of a flowline must meet one of the following standards:
 - A. American Society of Mechanical Engineers, Pipeline Transportation Systems for Liquids and Slurries, 2016 Edition (ASME B31.4-2016), and no later editions of the standard. ASME B31.4-2016 is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. Additionally, ASME B31.4-2016 may be examined at any state publications depository library and is available to purchase from the ASME. The ASME can be contacted at Two Park Avenue, New York, NY 10016-5990, 1-800-843-2763;
 - B. ASME Gas Transmission and Distribution Piping Systems, 2016 Edition (ASME B31.8-2016), and no later editions of the standard. ASME B31.8-2016 is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. Additionally, ASME B31.8-2016 may be examined at any state publications depository library and is available to purchase from the ASME. The ASME can be contacted at Two Park Avenue, New York, NY 10016-5990, 1-800-843-2763;
 - C. ASME Process Piping, 2016 Edition (ASME 31.3-2016), and no later editions of the standard. ASME 31.3-2016 is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. Additionally, ASME 31.3-2016 may be examined at any state publications depository library and is available to purchase from the ASME. The ASME can be contacted at Two Park Avenue, New York, NY 10016-5990, 1-800-843-2763;

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or

D. API Specification 15S, Spoolable Reinforced Plastic Line Pipe, Second Edition, March 2016 (API Specification 15S), and no later editions of the standard. API Specification 15S is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. In addition, API Specification 15S may be examined at any state publications depository library and is available from API at 1220 L Street, NW Washington, DC 20005-4070, 1-202-682-8000.

(2) Each component of a ~~pipeline-flowline must~~shall be designed and installed to:

A. ~~prevent~~ Prevent failure from ~~internal or external~~ corrosion;

B. ~~and to w~~Withstand ~~maximum~~ anticipated operating pressures and other ~~internal~~ loadings without impairment of its serviceability;

C. Have appropriate access for verifying integrity; and

~~The pipe shall~~D. ~~h~~ Have sufficient wall thickness or be installed with adequate protection to ~~w~~Withstand anticipated external pressures and loads that will be imposed on the pipe after installation.

c. Cover.

- (1) All installed ~~pipelines-flowlines must~~shall have cover sufficient to protect them from damage. On crop land, all ~~pipelines-flowlines shall must~~ have a minimum cover of three (3) feet.
- (2) Where an underground structure, geologic, economic or other uncontrollable condition prevents ~~pipelines-flowlines~~ from being installed with minimum cover, or when there is a written agreement between the surface owner and the operator, the ~~flowline line~~ may be installed with less than minimum cover or above ground.

d. Maintenance.

- (1) Each operator must take reasonable precautions to prevent failures, leakage and corrosion of ~~pipelinesflowlines~~.
- (2) Whenever an operator discovers any condition that could adversely affect the safe and proper operation of ~~its a pipelineflowline~~, it must correct it within a reasonable time. However, if the condition presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until the operator has corrected the condition.
- (3) Any flowline not actively in use must have all valves locked or tagged out.

d.e. Repair.

- (1) Each operator must, in repairing its ~~pipelinesflowlines~~, make repairs in a safe manner that prevents injury to persons and damage to equipment and property.
- (4)(2) An operator may not use any pipe, valve, or fitting to repair ~~pipelineflowline~~ facilities unless the components meet the installation requirements of this section. A flowline installed prior to

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February 14, 2018, that undergoes a major modification or change in service after February 14, 2018, must satisfy all requirements of this section before an operator can place the flowline in to service.

(2)(3) An operator must pressure test any repaired section of a flowline before returning the flowline to service.

f. Marking.

(1) In Designated Setback Locations, and where crossing public rights-of-way or utility easement, an operator must install and maintain a marker that identifies the location of ~~pipelines~~flowlines.

(2) The marker must include the following language:

"Warning", "Caution" or "Danger" followed by the words "gas (or name of natural gas or petroleum transported) ~~pipeline~~flowline" along with the name of the operator and the telephone number where the operator can be reached at all times. The letters must be legible, written on a background of sharply contrasting color and on each side with at least one (1) inch high with one-quarter (¼) inch stroke.

e.g. Excavation, backfill and reclamation.

- (1) When ~~pipelines-flowlines~~ cross crop lands, unless waived by the surface owner, the operator ~~shall~~ must segregate topsoil while trenching, and ~~trenches shall be~~ backfilled ~~trenches~~ so that the soils ~~can shall must~~ be returned to their original relative positions and contour. This requirement to segregate and backfill topsoil ~~shall does~~ not apply to trenches which are twelve (12) inches or less in width. ~~Operator must make R~~reasonable efforts ~~shall be made~~ to run ~~pipelines-flowlines~~ parallel to crop irrigation rows on flood irrigated land.
- (2) On crop lands and non-crop lands, ~~pipeline-flowline~~ trenches ~~must shall~~ be maintained in order to correct subsidence and reasonably minimize erosion. Interim and final reclamation, including revegetation, ~~must shall~~ be performed in accordance with the applicable 1000 Series rules.

h. Record Keeping. An operator must keep records of flowline size, route, materials, maximum anticipated operating pressure, pressure test results, and integrity management documentation for the life of the flowline. These records are available for inspection by the Director pursuant to Rule 205.

~~of~~

f.i. One Call participation. ~~As to any pipelines over which the Commission has jurisdiction, each~~ Every operator ~~shall must~~ become a Tier One member of the UNCC and participate in Colorado's One Call notification system, the requirements of which are established by §9-1.5-101., C.R.S. et seq.

- (1) An operator must include its UNCC member code when filing an Operator Registration, Form 1, Change of Operator, Form 10, or Gas Facility Registration, Form 12.
- (2) Upon completing a purchase of an asset or construction of an underground oil and gas facility, an operator must submit to UNCC such new or updated digital information regarding its underground oil and gas facilities as soon as reasonably practical.
- (3) An operator's registration with the Commission grants the Director permission to access information the operator submits to UNCC about its underground oil and gas facilities.

g. ~~Pressure testing of flowlines.~~

14021103. OPERATIONS, MAINTENANCE, AND REPAIR FLOWLINE INTEGRITY MANAGEMENT

- a. **Initial Pressure Test Requirements.** After installation or being taken out of service and ~~b~~Before operating a segment of flowline, ~~an operator must test the Flowline it shall be tested~~ to maximum anticipated operating pressure. In conducting tests, each operator ~~must~~shall ensure that reasonable precautions are taken to protect its employees and the general public. The ~~operator may conduct the test testing may be conducted~~ using well head pressure sources and well bore fluids, including ~~natural gas~~. ~~Such pressure tests shall be repeated once each calendar year to maximum anticipated operating pressure, and operators shall maintain records of such testing for Commission inspection for at least three (3) years.~~
- b. **Off-Location Flowlines.** All off-location flowlines must be subject to one of the following integrity management programs:
- (1) Annual pressure test;
 - (2) Continuous pressure monitoring; or
 - (3) For aboveground flowlines, annual visual inspection.
- c. **Belowground Dump Lines.** An operator must verify integrity of belowground dump lines by performing an annual static-head test.
- d. **Aboveground Dump Lines and Small Diameter Peripheral Piping.** An operator must verify integrity of aboveground dump lines or peripheral piping with an external cross sectional area of less than 0.8 square inches (1-inch nominal diameter) by performing an annual visual inspection.
- e. **Integrity Management for All Other Flowlines.** Any flowlines not subject to b. through d. above, must be subject to one of the following integrity management programs:
- (1) A pressure test every three years and annual visual inspection; or
 - (2) Continuous pressure monitoring.
- f. **Pressure Test Requirements.** A pressure test must subject the flowline to the maximum anticipated operating pressure and be conducted in accordance with API RP 1110, Recommended Practice for the Pressure Testing of Steel Pipelines for the Transportation of Gas, Petroleum Gas, Hazardous Liquids, Highly Volatile Liquids or Carbon Dioxide (6th Ed., February 1, 2013) (API RP 1110), and no later editions of the standard. API RP 1110 is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. In addition, API RP 1110 may be examined at any state publications depository library and is available from API at 1220 L Street, NW Washington, DC 20005-4070, 1-202-682-8000.
- g. **Continuous Pressure Monitoring Requirements.** An operator's continuous pressure monitoring program must ensure:
- (1) Pressure data are monitored continuously, i.e. 24 hours, 7 days a week, and the monitoring is sufficiently sophisticated to identify integrity or pressure anomalies;
 - (2) Systems are capable of being shut-in for repairs immediately upon discovery of an anomaly, either through automation or through a documented, manual process;

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(3) The operator documents the continuous monitoring program, including integrity anomalies and the documentation demonstrates how an operator will maintain flowlines and repair flowlines anomalies; and

(4) A map of the flowline system is available in ESRI shapefile format. The shapefile must show the flowline alignments, location of isolation valves, and pressure-monitoring points.

h. **Visual Inspection Requirements.** An operator must perform a visual, aerial, or other survey of the entire flowline length to detect integrity failures, leaks, spills, or releases, or signs of a leak, spill, or release like stressed vegetation or soil discoloration. An operator may use audio, visual, or olfactory or other detection technology, like optical gas imaging or LASERs, to detect integrity failures. An operator must document the employee conducting the inspection, detection methodology, and date and time of the inspection.

(1) Flowline segments operating at less than fifteen (15) psig are excepted from pressure testing requirements.

11034. ABANDONMENT

Each pipeline abandoned in place shall be disconnected from all sources and supplies of natural gas and petroleum, purged of liquid hydrocarbons, depleted to atmospheric pressure, and cut off three (3) feet below ground surface, or the depth of the pipeline, whichever is less and sealed at the ends. This requirement shall also apply to compressor or gas plant feeder pipelines upon decommissioning or closure of a portion or all of a compressor station or gas plant. Notice of such abandonment shall be filed with the Commission and with the local governmental designee or local government jurisdiction.

a. A flowline remains subject to all of the requirements in Rules 1101 through 1103 until the operator completes all flowline abandonment requirements set forth below.

b. For abandonment, operators must permanently remove a flowline from service by physically separating the Flowline from all sources of fluids or pressure and comply with one of the following:

(1) **Abandonment in place.** The operator must:

A. Purge the flowline of any liquids;

B. Deplete the flowline to atmospheric pressure;

C. Cut the flowline's risers to three (3) feet below grade or to the depth of the flowline, whichever is shallower;

D. Seal the ends of the flowline below grade; and

E. Remove cathodic protection and above-grade equipment associated with the riser.

(2) **Removal.** The operator must remove the flowline and risers, and cathodic protection and above-grade equipment associated with the riser.

c. Once an operator removes a flowline from service and is in the process of abandoning the flowline, the operator must lockout and tagout the risers associated with the flowline using appropriate devices.

d. Within 7 days of an operator completing abandonment requirements for a flowline, the operator must file a Notice of Flowline Abandonment, Form 44, with the Director. If the operator abandons an Off-Location Flowline and has not submitted GPS location points for the flowline's risers, the

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Notice of Flowline Abandonment must include this information.

- e. The Director will provide the filed Notice of Flowline Abandonment, Form 44 to the appropriate Local Governmental Designee and UNCC.
- f. These abandonment requirements apply to compressor or gas plant feeder pipelines upon decommissioning or closure of a portion or all of a compressor station or gas plant.

DRILLING, DEVELOPMENT, PRODUCTION AND ABANDONMENT (300 Series)

312. COGCC Form 10. CERTIFICATE OF CLEARANCE AND/OR CHANGE OF OPERATOR

- i. A completed Form 10 is ~~shall be~~ required for any change of operator for all oil and gas facilities, excluding produced water flowline transfer systems, gas gathering systems, gas processing plants, and underground gas storage facilities as those ~~shall must~~ be changed with a Form 12, Gas Facility Registration/Change of Operator.

313A. COGCC Form 11. MONTHLY REPORT OF GASOLINE OR OTHER EXTRACTION PLANT

All operators of gasoline or other extraction plants ~~shall must~~ make monthly reports to the Director on a Form 11. Such forms ~~shall must~~ contain all information required thereon and ~~shall must~~ be filed with the Director on or before the twenty-fifth (25th) day of each month covering the preceding month.

313B. COGCC Form 12. PRODUCED WATER FLOWLINE TRANSFER SYSTEM, AND GAS FACILITY REGISTRATION/CHANGE OF OPERATOR

- a. An operator must submit a Form 12 to register a new produced water flowline transfer system, gas gathering system, a new gas processing plant, or a new underground gas storage facility. The operator must attach a facility layout drawing and a topographic map to the Form 12.
- b. When an operator makes significant changes to an existing produced water flowline transfer system, gas gathering system, gas processing plant, or underground gas storage facility, the operator must submit a Form 12 to update the Commission's records regarding the facility. The operator must attach an updated facility layout drawing and an updated topographic map to the Form 12.
- c. An operator must submit a Form 12 to change the operator of a produced water flowline transfer system, gas gathering system, gas processing plant, or an underground gas storage facility. The operator must attach documentation confirming transfer of the asset(s) to the Form 12 for a change of operator.
- d. At least 30 days before beginning construction of a gas gathering line with segments subject to safety regulation by the Office of Pipeline Safety, U.S. Department of Transportation, an operator must submit a Form 12 to the Director. The operator must attach a schematic showing the gathering line's route and its crossings of public by-ways and natural and manmade watercourses to the Form 12.

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d. **Tank Gauging.** Measurement by tank gauging ~~shall~~must be completed in accordance with industry standards as specified in:

i. The API Manual of Petroleum Measurement Standards, Chapter 3.1A Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, (Second Edition, August 2005) and no later editions;

ii. The API Manual of Petroleum Measurement Standards, Chapter 3.1B Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, (Second Edition, June 2001) and no later editions;

iii. The API Manual of Petroleum Measurement Standards, Chapter 3.1A Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, (Second Edition, August 2005) and no later editions;

iv. The API Manual of Petroleum Measurement Standards Chapter 18.1 - Custody Transfer - Section 1-Measurement Procedures for Crude Oil Gathered from Small Tanks by Truck (Second Edition, April 1997) and no later editions, or

v. The API Manual of Petroleum Measurement Standards Chapter 18.2, Custody Transfer of Crude Oil from Lease Tanks Using Alternative Measurement Methods, (First Edition, July 2016) and no later editions.

The API Manuals identified in i. through v. above are available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. In addition, the API Manuals may be examined at any state publications depository library and is available from API at 1220 L Street, NW Washington, DC 20005-4070, 1-202-682-8000.

SAFETY REGULATIONS (600 Series)

605. OIL AND GAS FACILITIES.

605.d. **Mechanical Conditions.** All valves, pipes and fittings ~~shall~~must be securely fastened, inspected at regular intervals, and maintained in good mechanical condition. An operator must fully open and close all valves at least annually and repair or replace valves that are not fully operational. Any valve, flange, fitting or other component connected to a flowline must have a manufacturer's rating that is equal to or greater than the flowline's maximum anticipated operating pressure.

(1) A valve must be installed at each of the following locations:

A. On the suction end and the discharge end of a pump station in a manner that permits isolation of the pump station equipment in the event of an emergency;

B. On each flowline entering or leaving a breakout tank in a manner that permits isolation of the breakout tank from other facilities;

C. At locations along a flowline system that will minimize the likelihood of damage or pollution from accidental discharge of hydrocarbons or E&P Waste, as appropriate for the terrain in open country or for populated areas;

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D. On each flowline to allow integrity testing of the flowline without interrupting fluid flow of other connected pipelines;

E. On each side of a flowline crossing a waterbody that is more than 100 feet (30 meters) wide from high-water mark to high-water mark; and

F. On each side of a flowline crossing a reservoir holding water for human consumption.

(2) Check Valves Required.

A. Where an operator produces two or more wells through a common flowline, separator, or manifold, the operator must equip each flowline leading from a well to the common flowline, separator, or manifold with a check valve or other means of shut-off. The check valve or other means of shut-off must be in the flowline serving the well. The check valve must be located between the wellhead and the point where the flowline connects with any other Flowline, common separator, or common manifold.

i. For wells produced through a common flowline or separator, the operator must place the check valve or other means of shut-off in each flowline leading from a well as close to the wellhead connection as is practicable.

ii. For wells produced through a common manifold, the operator may place the check valve or other means of shut-off in each flowline from a well near a point where the flowline enters the manifold or as close to the wellhead connection as practicable.

B. The check valve or other means of shut-off must be installed to permit fluids moving from the well to the common flowline, separator, or manifold and to prevent any fluid from entering the well through the flowline.

C. The operator must keep the check valve or other means of shut-off in good working order.

D. Upon the Director's request, operators must test the operation of the check valve or other means of shut-off.

FINANCIAL ASSURANCE AND OIL AND GAS CONSERVATION AND ENVIRONMENTAL RESPONSE FUND (700 Series)

711. ~~Natural-g~~ Produced water flowline transfer systems, gas gathering, ~~natural-g~~ gas processing and underground ~~natural-g~~ gas storage facilities.

Operators of produced water flowline transfer systems, ~~natural-g~~ gas gathering, ~~natural-g~~ gas processing, or underground ~~natural-g~~ gas storage facilities ~~shall must be required to~~ provide statewide blanket financial assurance to ensure compliance with the 900 Series rules in the amount of fifty thousand dollars (\$50,000), or in an amount voluntarily agreed to with the Director, or in an amount ~~to be~~ determined by order of the Commission. Operators of small systems gathering or processing less than five (5) MMSCFD may provide individual financial assurance in the amount of five thousand dollars (\$5,000).

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E&P WASTE MANAGEMENT (900 Series)

906. SPILLS AND RELEASES

* * *

b. Reporting spills or releases of E&P Waste or produced fluids.

- (1) Report to the Director. Operators shall report a spill or release of E&P Waste or produced fluids that meet any of the following criteria to the Director verbally or in writing as soon as practicable, but no more than twenty-four (24) hours after discovery (the "Initial Report").
- A. A spill/release of any size that impacts or threatens to impact any waters of the state, a residence or occupied structure, livestock, or public byway;
 - B. A spill/release in which one (1) barrel or more of E&P Waste or produced fluids is spilled or released outside of berms or other secondary containment;
 - C. A spill/release of five (5) barrels or more regardless of whether the spill/release is completely contained within berms or other secondary containment ~~or~~ or
 - D. Any Grade 1 Gas Leak. Operators reporting a Grade 1 Gas Leak must use a Form 44 to submit the Initial Report or subsequent information required by this section.

The Initial Report to the Director shall include, at a minimum, the location of the spill/release and any information available to the Operator about the type and volume of waste involved.

If the Initial Report was not made by submitting a COGCC Spill/Release Report, Form 19 the Operator must submit a Form 19 with the Initial Report information as soon as practicable but not later than 72 hours after discovery of the spill/release unless extended by the Director.

In addition to the Initial Report to the Director, the Operator shall make a supplemental report on Form 19 not more than 10 calendar days after the spill/release is discovered that includes an 8 1/2 x 11 inch topographic map showing the governmental section and location of the spill or an aerial photograph showing the location of the spill; all pertinent information about the spill/release known to the Operator that has not been reported previously; and information relating to the initial mitigation, site investigation, and remediation measures conducted by the Operator.

The Director may require further supplemental reports or additional information.

* * *

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CONFORMING CHANGES

DEFINITIONS (100 Series)

OIL AND GAS FACILITY ~~shall mean~~ equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, ~~gathering~~, treatment, or processing of ~~crude oil, condensate, E&P waste, or natural gas.~~

OIL AND GAS OPERATIONS means exploring ~~for~~ oil and gas, including ~~the conducting of~~ seismic operations and the drilling of test bores; ~~the~~ siting, drilling, deepening, recompleting, reworking, or ~~abandonment~~ ~~abandoning of a well in oil and gas well, underground injection well, or gas storage well;~~ production operations related to any ~~such well~~, including ~~the installation of~~ flowlines ~~and gathering systems;~~ the generation, ~~transportation~~ ~~transporting~~, ~~storage~~ ~~storing~~, ~~treatment~~ ~~treating~~, or ~~disposal~~ ~~disposing of~~ exploration and production wastes; and any construction, site preparation, or reclamation activities associated with such operations.

PLUGGING AND ABANDONMENT ~~shall mean~~ the cementing of a well, the removal of its associated production facilities, the ~~removal or~~ abandonment ~~in place~~ of its flowline(s), and the remediation and reclamation of the wellsite.

PRODUCTION FACILITY ~~shall mean~~ any storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with ~~a well-oil wells, gas wells, or injection wells.~~

PRODUCTION PITS ~~shall mean~~ ~~these~~ pits used after drilling operations and initial completion of a well, including pits ~~related to produced water flowlines or associated with E&P waste from~~ ~~natural gas~~ gathering, processing and storage facilities, which constitute:

SKIMMING/SETTLING PITS used to provide retention time for settling of solids and separation of residual oil for the purposes of recovering the oil or fluid.

PRODUCED WATER PITS used to temporarily store produced water prior to injection for enhanced recovery or disposal, off-site transport, or surface-water discharge.

PERCOLATION PITS used to dispose of produced water by percolation and evaporation through the bottom or sides of the pits into surrounding soils.

EVAPORATION PITS used to contain produced waters which evaporate into the atmosphere by natural thermal forces.

SPECIAL PURPOSE PITS ~~shall mean~~ ~~these~~ pits used in oil and gas operations, including pits ~~related to produced water flowlines or associated with E&P waste at from~~ ~~natural gas~~ gathering, processing and storage facilities, which constitute:

BLOWDOWN PITS used to collect material resulting from, including but not limited to, the emptying or depressurizing of wells, vessels, ~~or flowlines, or E&P waste from~~ ~~gas~~ gathering systems.

FLARE PITS used exclusively for flaring gas.

EMERGENCY PITS used to contain liquids during an initial phase of emergency response operations related to a spill/release or process upset conditions.

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BASIC SEDIMENT/TANK BOTTOM PITS used to temporarily store or treat the extraneous materials in crude oil which may settle to the bottoms of tanks or production vessels and which may contain residual oil.

WORKOVER PITS used to contain liquids during the performance of remedial operations on a producing well in an effort to increase production.

PLUGGING PITS used for containment of fluids encountered during the plugging process.

DRILLING, DEVELOPMENT, PRODUCTION AND ABANDONMENT (300 Series)

303. REQUIREMENTS FOR FORM 2, APPLICATION FOR PERMIT-TO-DRILL, DEEPEN, RE-ENTER, OR RECOMPLETE, AND OPERATE; FORM 2A, OIL AND GAS LOCATION ASSESSMENT.

* * *

303.b. FORM 2A, OIL AND GAS LOCATION ASSESSMENT.

* * *

(2) **Exemptions.** A new Form 2A shall not be required for the following:

- A. Surface disturbance, other than for purposes described in subsections 303.b.(1) B and C. above, at an existing Oil and Gas Location within the originally disturbed area, even if interim reclamation has been performed;
- B. For an Oil and Gas Location covered by an approved Comprehensive Drilling Plan and where such Comprehensive Drilling Plan contains information substantially equivalent to that which would be required for a Form 2A for the proposed Oil and Gas Location and the Comprehensive Drilling Plan has been subject to procedures substantially equivalent to those required for a Form 2A, including but not limited to consultation with Surface Owners, local governments, the Colorado Department of Public Health and Environment or Colorado Parks and Wildlife, where applicable, and public notice and opportunity to comment, and where the operator does not seek a variance from the Comprehensive Drilling Plan or a provision of these rules that is not addressed in the Plan;

~~C. Gathering lines;~~

~~DC.~~ Seismic operations;

~~ED.~~ Pipelines for oil, gas, or water; or

~~FE.~~ Roads.

* * *

317B. PUBLIC WATER SYSTEM PROTECTION

a. **Definitions.** For purposes of this Rule 317B:

- (1) **Drilling, Completion, Production and Storage ("DCPS") Operations** ~~shall~~ means operations at (i) well sites for the drilling, completion, recompletion, workover, or stimulation of wells or chemical and production fluid storage, and (ii) any other oil and gas location at which production

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- facilities are operated. DCPS Operations ~~shall exclude~~ roads, gathering lines, ~~pipelines~~, and routine operations and maintenance.
- (2) **Existing Oil and Gas Location** ~~shall mean~~ s an oil and gas location, excluding roads, ~~pipelines~~, and gathering lines, permitted or constructed prior to the later of May 1, 2009 for federal land or April 1, 2009 for all other land or the date that the oil and gas location becomes subject to Rule 317B by virtue of its proximity to a Classified Water Supply Segment.
- (3) **New Oil and Gas Location** ~~shall mean~~ s an oil and gas location, excluding roads, ~~pipelines~~, and gathering lines, that is not an existing oil and gas location.
- (4) **New Surface Disturbance** ~~shall mean~~ s surface disturbance that expands the area of surface covered by an oil and gas location beyond that initially disturbed in the construction of the oil and gas location.
- (5) **Non-Exempt Linear Feature** ~~shall mean~~ s a road, or gathering line, ~~or pipeline~~ that is not necessary to cross a stream or connect or access a well or a gathering line.

* * *

E&P WASTE MANAGEMENT (900 Series)

907. MANAGEMENT OF E&P WASTE

* * *

- f. **Other E&P Waste.** Other E&P waste such as workover fluids, tank bottoms, pigging wastes from ~~pipelines gathering and flow lines~~, and ~~natural~~ gas gathering, processing, and storage wastes may be treated or disposed of as follows:
- (1) Disposal at a commercial solid waste disposal facility;
 - (2) Treatment at a centralized E&P waste management facility permitted in accordance with Rule 908;
 - (3) Injection into a Class II injection well permitted in accordance with Rule 325; or
 - (4) An alternative method proposed in a waste management plan in accordance with rule 907.a.(3) and approved by the Director.

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Statement of Basis, Specific Statutory Authority, and Purpose New Rules and Amendments to Current Rules of the Colorado Oil and Gas Conservation Commission, 2 CCR 404-1

Cause No. IR Docket No. 171200767 Flowline Rulemaking

This statement sets forth the basis, specific statutory authority, and purpose for new rules and amendments (“Flowline Rules”) to the Colorado Oil and Gas Conservation Commission (“Commission”) Rules of Practice and Procedure, 2 CCR 404-1 (“Rules”). The Commission promulgated the Flowline Rules on December 11 & 12, 2017.

In adopting amendments to the Rules, the Commission relied upon the entire administrative record for this Rulemaking proceeding, which formally began on October 15, 2017, when the Commission submitted its Notice of Rulemaking to the Colorado Secretary of State.

Background

On August 22, 2017, Governor John Hickenlooper announced the state’s seven policy initiatives following a review of oil and gas operations that included stakeholder meetings. The Commission’s swift review was in response to the tragic home explosion in Firestone, Colorado on April 17, 2017, that killed two people and injured a third. The Governor called for the review on May 2, 2017, after the Frederick Firestone Fire Protection District completed its investigation into the home explosion. The investigation identified an abandoned oil and gas flowline connected to an active well as the cause of the explosion. The Rulemaking implements changes to the Commission’s flowline and safety rules in accordance with the review and Governor’s announcement.

Stakeholder and Public Participation.

On September 8, 2017, the Commission issued a Rulemaking scoping document that identified proposed changes to existing flowline rules. The scoping document solicited stakeholders to submit comments regarding the scope of the proposed flowline Rulemaking on or before September 29, 2017. Comments to the scoping document were received in writing, and in person at two stakeholder meetings that were held on September 21 and 25, 2017. More than 50 persons or parties attended the stakeholder meetings and the Commission received written comments during the stakeholder process. Among those in attendance at the stakeholder meetings were citizens, representatives of local governments, and industry groups.

The Commission encouraged public participation in the Rulemaking by allowing the public to comment on the proposed rules in advance of or during the hearing. Persons or organizations desiring to do so could also participate in the Rulemaking as a party. Parties could submit prehearing statements and comments, including alternative

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rules or amendments, and respond to the prehearing statements and comments submitted by other parties.

Statutory Authority.

The Commission's authority to promulgate amendments to the Rules is derived from the following sections of the Colorado Oil and Gas Conservation Act ("Act"), §§ 34-60-101 - 130, C.R.S.:

- Section 34-60-105(1), C.R.S. (Commission has the power to make and enforce rules);
- Section 34-60-105(2)(a), C.R.S. (Commission has the authority to regulate the drilling, producing, and plugging of wells and all other operations for the production of oil or gas);
- Section 34-60-106(2)(d), C.R.S. (Commission has authority to regulate "Oil and gas operations so as to prevent and mitigate significant adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations to the extent necessary to protect public health, safety, and welfare, including protection of the environment and wildlife resources, taking into consideration cost-effectiveness and technical feasibility."); and
- Section 34-60-108, C.R.S. (Commission has authority and procedure to adopt rules).

Identification of New and Amended Rules.

In response to the Governor's directive to review its flowline regulations, consistent with its statutory authority and its legislative mandates, and in accord with the administrative record, the Commission added or amended the following Rules:

- 100-Series Rules: definitions of Breakout Tank, Domestic Tap, Flowline, Wellhead Line, Oil Transfer Line, Production Piping, Production Line, Dump Line, Manifold Piping, Process Piping, Peripheral Piping, Produced Water Flowline, Gathering Line, Grade 1 Gas Leak, Lockout, Maximum Anticipated Operating Pressure, Off-Location Flowline, Pipeline, Riser, Tagout and Tagout Device.
- 300-Series Rules: 312, 313A, 313B, and 328.d.;
- 600-Series Rules: 605.d.;
- 700-Series Rules: 711;
- 1100-Series Rules; and

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- The Commission also adopted conforming or clarifying changes to Rules affected by flowline or related changes. 100-Series (Blowdown Pits, Oil and Gas Facility, Oil and Gas Operations, Plugging and Abandonment, Production Facility, Production Pits, and Special Purpose Pits); 303.b.; 317B; 318A; 328; 325; 330; 602; 604; 706; 802; 907; 1002; 1004; 1203; 1204; and 1205.

Overview of Purpose and Intent.

On September 11, 2017, the Commissioners directed Staff to implement the two announced policy initiatives that require Commission rulemaking. The seven policy initiatives Governor Hickenlooper announced were:

- Strengthening the Commission's Flowline regulations;
- Enhancing the 8-1-1 "one-call" program;
- Creating a nonprofit orphan well fund to plug and abandon orphan wells and provide refunds for in-home methane monitors;
- Prohibiting future domestic gas taps;
- Creating a technical workgroup to improve safety training;
- Requesting peer-review of certain Commission regulations; and
- Exploring an ambient methane leak detection pilot program.

Of these seven policy initiatives, the Commission can address two through rulemaking: strengthening the flowline regulations and improving the uniformity of operator participation in the 8-1-1 "one-call" program. In addition, the Commission can complement the Governor's domestic tap initiative by improving safety oversight of oil and gas operations through the requirement of domestic tap reporting.

First, the Governor's call to update the Commission's flowline regulations stems from the information received by the Commission in response to its May 2, 2017 Notice to Operators (NTO) as well as the Commission's own review of its flowline rules. The NTO required operators to, over the course of two months: identify, locate, and pressure test certain flowlines and submit that information to the Commission; and identify, mark, and lock out/tag out risers for abandoned flowlines and then, consistent with abandonment requirements, cut those risers to three-feet below grade. The Commission received new data on approximately 120,000 flowlines and associated risers, which data was the first step for the Commission to develop a relational database that uses flowline riser location to interrelate oil and gas locations.

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While operators were working through the NTO requirements and submitting data about flowlines during the summer of 2017, the Commission continued - with an elevated priority - its review of the flowline regulatory regime. Beginning in 2015, the Commission started reviewing its flowline program based upon recommendations contained within its 2014 Risk Based Inspections report prepared for the Colorado General Assembly. In 2015, the Commission established a Flowline Integrity Group within the Engineering Unit dedicated to enforcing the Commission's flowline regulations. The Commission has also reviewed its own and other state and federal rules regulating pipelines to ascertain areas where Colorado's flowline regulations could be improved. During this review, Staff identified regulatory changes that the Commission adopted in Order 1R-103. However, not all of the changes identified in Order 1R-103 were incorporated into the Rules; this Rulemaking corrects that oversight. Thus, the changes adopted by the Commission in the Flowline Rules reflect the research and findings made since 2015, as well as input from the stakeholders received before and during the Rulemaking.

Second, the Commission intends to improve the uniformity of operator participation in the Utility Notification Center of Colorado (UNCC), Colorado's "one-call" or "8-1-1" program. This reflects an improved collaboration between the Commission, the UNCC, and operators. In the wake of the Firestone tragedy, many people asked that the Commission create a database that maps all flowlines in Colorado. During the course of stakeholder meetings, the opportunity to partner with UNCC became the Commission's preferred option for housing increased, more specific information about flowlines. Requiring operators to become Tier One members and to supply UNCC with digital information about an operator's belowground operations (i.e., vertical portions of wells and flowlines) provides an elegant, efficient, and effective option for a state-wide organization to host information about belowground oil and gas operations. UNCC has an existing database that citizens and businesses rely on every day when preparing to dig. The team at UNCC is uniquely prepared with the expertise, staff, and existing database to incorporate information from operators that may change week-to-week and provide the updated information to the people who most need it - property owners preparing to dig. Relying on UNCC to host this information also provides a centralized information source for all Colorado citizens, local governments, and businesses of all underground facilities-not just oil and gas exploration and production facilities. To enhance this collaboration, the Commission imposed increased requirements for operators' participation in the UNCC program.

In addition, the Commission also amended specific regulatory requirements in an effort to prevent fluid releases from pipelines and empower the Commission to respond in the event of an exploration and production fluid release. First, the Commission clarified and enhanced provisions related to its oversight of lines transporting produced water, and gas gathering lines to ensure the Commission can adequately respond to a release of exploration and production waste. Second, the Commission included an additional method to gauge tanks that provides accurate and reliable data, and does not require opening hatches, thus preventing the release of

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gases. Third, the Commission imposed specific requirements for check valves. Check valves operate to allow fluid flow in only one direction and serve an important purpose where reversing flow could cause damage.

The changes adopted by the Commission also require reviewing the entire set of Rules to make conforming changes, which are reflected in the amended rules.

Amendments and Additions to Rules.

100 Series Rules: Amended Definitions.

The definitions of “flowline” and “gathering line” were amended from a technical, narrative description to a description that reflects the different spheres of authority held by the Commission and the Colorado Public Utilities Commission (PUC) or the Pipeline and Hazardous Materials Safety Administration (PHMSA), a federal agency within the U.S. Department of Transportation. An additional source of guidance that assists in determining jurisdiction between the Commission and PUC or PHMSA is API RP 80, Guidelines for the Definition of Onshore Gas Gathering Lines, 1st Edition, April 1, 2000. The Commission also added a definition of “pipeline” to create a term that encompasses both flowlines and gathering lines as some provisions in the Rules need to apply to both categories of lines. The Commission also added descriptions of types of flowlines to assist in understanding the different installation or integrity management needs of these various lines. Focused, technical stakeholder comments from the Colorado Petroleum Council and Colorado Oil and Gas Association were integral to the Commission’s development of these definitions. The Commission’s amendments distinguish between flowlines that exist on a single oil and gas location and those flowlines that leave one location to transport fluids to a different location, what are defined as “Off-Location Flowlines”.

Notably, the Commission added a definition of a Grade 1 Gas Leak. This definition is included to assist in the reporting of gas leaks to the Commission. Additionally, the Commission added definitions to clarify terminology, such as riser, dump lines, and maximum anticipated operating pressure. These definitions are incorporated to assist the public understanding of oil and gas operations as well as operator compliance with the amended Rules.

1100 Series Rules: Revised Flowline Regulations.

The 1100 Series were revised and reorganized to clearly delineate the life cycle of a flowline, from its registration with the Commission, through construction and installation, to integrity management and finally abandonment. In revising the 1100 Series, the following section changes were made:

Rule 1101. Registration Requirements

Rule 1102. Installation, Operations, Maintenance, Repair and Reclamation

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Rule 1103. Flowline Integrity Management
Rule 1104. Abandonment

The details contained within each of these sections is discussed below.

1. Rule 1101.

The changes to Rule 1101 focused on gaining increased information about specific types of lines. The Commission imposed a registration requirement for flowlines that convey fluids away from an oil and gas location and to a different site. This regulation ensures the Commission continues to continually collect updated and new data gathered from operators responding to the NTO. Operators must now submit information about the off-location Flowlines, including GPS endpoints of risers, materials used to construct, related locations (by COGCC Facility Number), and fluid conveyed. This information will build into the relational database the Commission is creating to better inform staff, the public, and operators about the movement of exploration and production fluids.

The Commission also required the registration of all known domestic taps. In the furtherance of public safety associated with oil and gas operations, operators are required to report to the Director the GPS location of the point a domestic tap connects to a flowline and the address of the location of where the tap delivers gas. The safety and integrity of domestic taps are not regulated by the Commission. Rather, PHMSA requires the testing of all pressure regulating or similar devices on domestic taps every 3 calendar years. *See* 49 CFR § 192.740(a). This addresses some concerns raised to the Commission including Boulder County's stakeholder comments.

Third the Commission requires the registration before construction of an oil gathering line. This is to provide the Commission with an understanding of how fluids are moving and in the event of a release provide proper agency response. A similar registration provision for gas gathering lines is included in 313B.

2. Rule 1102.

Rule 1102 establishes the standards operators must follow and employ when designing and installing flowlines. As the Commission found during its review, having more specific installation and construction standards - that are tested and established by third-parties - would create a more uniform and improved regulatory regime as well as provide greater certainty for the regulated industry. The Commission included in the Flowline Rules industry standards that operators must follow when designing and installing their lines. Industry stakeholder comments supported using improved standards established by third parties.

Operators are also required to conduct repairs and maintenance on flowlines so as to

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prevent failures, leaks and corrosion of lines and injury to persons and property. In furtherance of the Commission's expectation that flowlines will be properly maintained so as to ensure safety to persons and property, the Commission required that all flowlines not in active use have all valves locked or tagged out. This requirement is integral to protecting public safety.

Operators are also now required to become Tier One members of the UNCC and to participate in Colorado's One Call notification system. Rule 1102 requires operators to include their UNCC member code on their Operator Registration, Form 1, Form 10 or Form 12 that are filed with the Commission. With the Commission registration, operators are granting the Director permission to access information the UNCC has on file for that operator, including the location of underground oil and gas facilities. Operators are also required to submit and update information with UNCC to ensure that the UNCC database is accurate.

Rule 1102 also requires operators to maintain accurate records relating to flowline maintenance, repairs, testing and other related data so operators have a living history of each flowline's management. In accordance with Rule 205, the Director has the authority to inspect these records. Maintaining these records is imperative to ensuring that operators are maintaining compliance with Section 1100. Boulder County's stakeholder comments encouraged and recognized the importance of this requirement.

3. *Rule 1103.*

The purpose of Rule 1103 was to establish a comprehensive Flowline Integrity Management program that requires testing of all flowlines both prior to being put into service and after. All new flowlines, including flowlines that have been repaired, are required to be tested to their maximum anticipated operating pressure in accordance with API RP 1110, Recommended Practice for the Pressure Testing of Steel Pipelines for the Transportation of Gas, Petroleum Gas, Hazardous Liquids, Highly Volatile Liquids or Carbon Dioxide (6th Ed., February 1, 2013). Consistent with the NTO, flowlines that must be tested to their maximum anticipated operating pressure include: Wellhead Lines, Oil Transfer Lines, all Production Piping except Dump Lines, Peripheral Piping and Produced Water Flowlines.

Once in service, Flowlines are required to be tested for integrity on a periodic basis. Rule 1103 allows operators to select from several testing options, such as continuous pressure monitoring and optical gas imaging to satisfy the testing requirements. These options include industry accepted technologies, some of which are used to comply with other regulatory programs such as the Colorado Department of Public Health and Environment, Air Quality Control Commission, Regulation No. 3 (5 C.C.R. 1001-5), and Regulation No. 7 Section XVII.B.1 (a-c) and Section XII.

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Because an operator likely does not have control over the surface lands, Rule 1103 provides for increased oversight of off-location flowlines that move produced fluids between two or more different oil and gas locations. Off-location flowlines must demonstrate integrity through annual pressure test, continuous pressure monitoring or annual visual inspection if it is an above ground off-location flowline.

The Commission recognizes that dump lines may not be suitable for a pressure test. These lines may not be designed or intended for internal pressure such as vacuum systems, or they may contain parts that cannot be isolated. Additionally, it may be impractical to conduct pressure testing on lines that cannot be temporarily closed to isolate the test section. Line systems that are not suitable for applied pressure testing, are nonetheless required to maintain mechanical integrity. For belowground dump lines, operators must conduct a static head test every three years. For above ground dump lines, operators must conduct an annual visual inspection. Inspections will include visual examination of joint appearance, mechanical checks of bolts and joint tightness, and such other relevant examinations and methods to verify integrity.

4. *Rule 1104.*

In the Flowline Rulemaking, the Commission moved the abandonment provisions of Rule 1103 to a new Rule 1104. The abandonment provisions were also revised by the Commission to clarify and specify that all flowlines are considered active, and thus subject to Rules 1102 and 1103, unless the line has been abandoned. This means that even if a flowline is not in active use, operators must still test the flowline, in accordance with Rule 1103, for integrity. Rule 1104 specifies the steps that must be taken to fully abandon a flowline, which now include lockout and tagout of all risers associated with the flowline, if the flowline is not being used, but not yet abandoned.

Additionally, the Commission required in Rule 1104, that upon abandonment of a flowline, operators must notify the Director by filing a Form 44. The Notice of Flowline Abandonment on Form 44 will be provided to the local government designee and the UNCC.

Other Rule Additions and Amendments

The Commission made the following additions and amendments to the below-listed rules. These changes were primarily designed to clarify specific details of these rules or to conform them to the amendments to the 1100 Series Rules.

100 Series Rules: Definitions

The 100 Series definitions were amended to make conforming changes to defined terms.

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200 Series Rules: Revised Comprehensive Drilling Plans

Rule 216 was amended to make conforming changes to defined terms.

300 Series Rules: Revised Registration and Fluid Management Requirements

Rule 313B was added by the Commission to require the registration of all produced water flowline transfer systems. In registering a produced water flowline transfer system, the operator must provide a facility layout drawing and topographic map. The registration requirements for produced water flowline transfer systems also apply to new gas processing plants and new underground gas storage facilities. In furtherance of public health, safety and welfare the Commission believed it was imperative to have the registration information called for in Rule 313B for these facilities. Additionally, in furtherance of public health, safety and welfare the Commission believed it was imperative to have the registration information for gas gathering lines.

As amended, Rule 328 incorporates an alternate method of tank gauging that requires the volume of oil produced to be measured before removal. This requirement is more protective of public health, safety, and the environment because it does not require opening a hatch, and thus prevents gas emissions. In addition, the Commission has historically approved variances allowing for operators to use this methodology, thus demonstrating its efficacy. This amendment allows operators to use an equally effective gauging method that is safer without seeking a variance.

The Commission made conforming changes to Rules 303, 312, 313 and 317B.

600 Series: Required Annual Valve Checks and Installation of Check Valves.

Rule 605.d. has been revised to require annual valve checks and to require the installation of valves on flowlines at certain locations, including certain water crossing areas. Additionally, Rule 605.d., now requires check valves on flowlines when two or more wells produce through that flowline. This requirement is more protective of public health, safety, and the environment because it allows for the shutting down of a flowline in the event of a failure, thus significantly decreasing the volume of produced fluids that may have otherwise escaped from the flowline.

700 Series: Revised Bonding for E&P Waste from Water or Gas Gathering.

Rule 711 was amended to make conforming changes to defined terms. Additionally, an operator of a produced water flowline transfer systems must provide a financial assurance. The Commission determined that it was necessary to require a bond for produced water flowline transfer systems due to the potential health and safety

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hazards associated with a failure of a produced water flowline transfer system and release of E&P Waste.

900 Series Rules: Addition of Grade 1 Gas Leak Reporting.

Rule 906 was amended to include the mandatory reporting of any Grade 1 Gas Leak.

Rule 907 was amended to make conforming changes to defined terms.

Effective Date.

The Commission adopted the proposed amendments in accordance with the Governor's announced initiatives, which amended Rule 100 Series, revised the 1100 Series [INSERT], at its hearing on December 11-12, 2017, in Cause No. IR, Docket No. 171200767. These amendments will become effective, per Section 24-4-103, C.R.S., twenty days after publication in the Colorado Register.

Notice of Proposed Rulemaking

Tracking number

2017-00487

Department

700 - Department of Regulatory Agencies

Agency

702 - Division of Insurance

CCR number

3 CCR 702-6

Rule title

CONSUMER PROTECTION (GENERAL)

Rulemaking Hearing

Date

11/14/2017

Time

10:00 AM

Location

1560 Broadway, Ste 1250 C, Denver CO 8202

Subjects and issues involved

This regulation governs the treatment of nonpublic personal health information and nonpublic personal financial information about individuals by all licensees of the Colorado Division of Insurance. This regulation:

A.Requires a licensee to provide notice to individuals about its privacy policies and practices;

B.Describes the conditions under which a licensee may disclose nonpublic personal health information and nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties; and

C.Provides methods for individuals to prevent a licensee from disclosing that information.

Statutory authority

§10-1-108,10-1-109,10-5-117, 10-16-109and §10-16-401(4)(o), C.R.S.

Contact information

Name

Christine Gonzales-Ferrer

Title

Rulemaking Coordinator

Telephone

3038942157

Email

christine.gonzales-ferrer@state.co.us

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-6

LIFE, ACCIDENT AND HEALTH

Proposed Amended Regulation 6-4-1

PRIVACY OF CONSUMER FINANCIAL AND HEALTH INFORMATION

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Appendix B Federal Model Privacy Form

Article I. General Provisions

Section 1 Authority

This regulation is promulgated pursuant to the authority granted by and adopted by the Commissioner of Insurance under the authority of §§ 10-1-108 C.R.S., § 10-1-109, C.R.S.; § 10-5-117, C.R.S.; § 10-16-109 C.R.S.; and § 10-16-401(4)(o), C.R.S.

Section 2 BasisScope and Purpose

~~A.~~ **Purpose.** This regulation governs the treatment of nonpublic personal health information and nonpublic personal financial information about individuals by all licensees of the Colorado Division of Insurance. This regulation:

~~(1)A.~~ Requires a licensee to provide notice to individuals about its privacy policies and practices;

~~(2)B.~~ Describes the conditions under which a licensee may disclose nonpublic personal health information and nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties; and

~~(3)C.~~ Provides methods for individuals to prevent a licensee from disclosing that information.

Section 3 Applicability and Scope

~~A.~~ This regulation applies to:

~~(1).~~ Nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. This regulation does not apply to information about companies or about individuals who obtain products or services for business, commercial or agricultural purposes; and

~~(2).~~ All nonpublic personal health information.

~~AB.~~ **Compliance.** A licensee domiciled in Colorado that is in compliance with this regulation in a state that has not enacted laws or regulations that meet the requirements of Title V of the Gramm-Leach-Bliley Act (PL 102-106) may nonetheless be deemed to be in compliance with Title V of the Gramm-Leach-Bliley Act in ~~such the~~ other state.

~~BC.~~ Rules of Construction.

The examples in this regulation, ~~and~~ the sample clauses in Appendix A ~~of the regulation, and the Federal Model Privacy Form in Appendix B of this regulation~~ are not exclusive. Compliance with an example or use of a sample clause, ~~or the Federal Privacy Model Form,~~ to the extent applicable, constitutes compliance with this regulation. ~~Licensees may rely on use of the Federal Model Privacy Form in Appendix B, consistent with the attached instructions, as a safe harbor of compliance with the privacy notice content requirements of this regulation. Use of the Federal Model Privacy Form is not required. Licensees may continue to use other types of privacy notices, including notices that contain the examples in this regulation and/or the sample clauses~~

in Appendix A, provided that such notices accurately describe the licensee's privacy practices and otherwise meet the notice content requirements of this regulation. However, while licensees may continue to use privacy notices that contain the examples in this regulation and/or the sample clauses in Appendix A, licensees may not rely on use of privacy notices with the sample clauses in Appendix A as a safe harbor of compliance with the notice content requirements of this regulation after July 1, 2019.

Section 4 Definitions

~~For purposes of this regulation, unless the context requires otherwise:~~

A. "Affiliate" means, for the purpose of this regulation, any company that controls, is controlled by, or is under common control with another company.

B. "Carrier" shall have the same meaning as found at § 10-16-102(8) C.R.S.

~~BC.~~ (1) "Clear and conspicuous" means, for the purpose of this regulation, that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice. ~~(2) Examples:~~

(a)1. Reasonably understandable. A licensee makes its notice reasonably understandable if it:

(i)a. Presents the information in the notice in clear, concise sentences, paragraphs, and sections;

(ii)b. Uses short explanatory sentences or bullet lists whenever possible;

(iii)c. Uses definite, concrete, everyday words and active voice whenever possible;

(iv)d. Avoids multiple negatives;

(v)e. Avoids legal and highly technical business terminology whenever possible; and

(vi)f. Avoids explanations that are imprecise and readily subject to different interpretations.

~~(b)2.~~ Designed to call attention. A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee:

(i)a. Uses a plain-language heading to call attention to the notice;

(ii)b. Uses a typeface and type size that are easy to read;

(iii)c. Provides wide margins and ample line spacing;

(iv)d. Uses boldface or italics for key words; and

(v)e. In a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

~~(c)3.~~ Notices on web sites. If a licensee provides a notice on a web page, the licensee designs its notice to call attention to the nature and significance of the information in it. ~~For~~

~~example, if~~ the licensee uses text or visual cues to encourage scrolling down the page, if necessary, to view the entire notice. ~~The licensee must and~~ ensures that other elements on the web site (such as text, graphics, hyperlinks or sound) do not distract attention from the notice, and the licensee either:

~~(i)a.~~ Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

~~(ii)b.~~ Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

~~GD.~~ “Collect” means ~~for the purpose of this regulation,~~ to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

~~DE.~~ “Commissioner” means ~~for the purpose of this regulation,~~ the insurance commissioner of the state of Colorado.

~~EF.~~ “Company” means ~~for the purpose of this regulation,~~ a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

~~FG.~~ ~~(4)~~ “Consumer” means ~~for the purpose of this regulation,~~ an individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal information, or that individual’s legal representative. ~~(2)~~ Examples:

~~(a)1.~~ An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

~~(b)2.~~ An applicant for insurance prior to the inception of insurance coverage is a licensee’s consumer.

~~(c)3.~~ An individual who is a consumer of another financial institution is not a licensee’s consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

~~(d)4.~~ An individual is a licensee’s consumer if:

~~(i)a.(i)~~ —The individual is a beneficiary of a life insurance policy underwritten by the licensee;

~~(ii)b.~~ The individual is a claimant under an insurance policy issued by the licensee;

~~(iii)c.~~ The individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

~~(IV)~~d. The individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and

~~(ii)~~e. The licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under Sections ~~14~~, ~~15~~, ~~and 16~~ ~~and 17~~ of this regulation.

~~(e)~~5. Provided that the licensee provides the initial, annual and revised notices under Sections ~~5, 6 and 9-10~~ of this regulation to the plan sponsor, group or blanket insurance policyholder or group annuity contractholder, workers' compensation ~~plan participant policyholder~~, and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about ~~such~~ an ~~individual described in subparagraphs a., b. or c. below~~, other than as permitted under Sections ~~14~~, ~~15~~, ~~and 16~~, ~~and 17~~ of this regulation, ~~such~~ an individual is not the consumer of the licensee solely because he or she is:

~~(i)~~a. A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary;

~~(ii)~~b. Covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or

~~(iii)~~c. A ~~beneficiary in claimant covered by~~ a workers' compensation plan.

~~(f)~~6. ~~(i)~~The individuals described in ~~Subparagraph (e)(i) through (iii) Section 4.G.5 of this Paragraph~~ are consumers of a licensee if the licensee does not meet all the conditions of ~~Subparagraph (e)Section 4.G.5~~.

~~(ii)~~7. In no event shall the individuals, solely by virtue of the status described in ~~Subparagraph (e)(i) through (iii) Section 4.G.5 above~~, be deemed to be customers for purposes of this regulation.

~~(g)~~8. An individual is not a licensee's consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee.

~~(h)~~9. An individual is not a licensee's consumer solely because he or she has designated the licensee as trustee for a trust.

~~GH~~. "Consumer reporting agency" has the same meaning as in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

~~HI~~. "Control" means ~~for the purpose of this regulation~~:

~~(1)~~. Ownership, control or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

~~(2)~~. Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

~~(3)~~ The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

~~IJ.~~ "Customer" means for the purpose of this regulation, a consumer who has a customer relationship with a licensee.

~~JK.~~ ~~(1)~~ "Customer relationship" means for the purpose of this regulation, a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes. ~~(2)~~ Examples:

~~(a)~~1. A consumer has a continuing relationship with a licensee if:

~~(i)~~a. The consumer is a current policyholder of an insurance product issued by or through the licensee; or

~~(ii)~~b. The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

~~(b)~~2. A consumer does not have a continuing relationship with a licensee if:

~~(i)~~a. The consumer applies for insurance but does not purchase the insurance;

~~(ii)~~b. The licensee sells the consumer airline travel insurance in an isolated transaction;

~~(iii)~~c. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

~~(iv)~~d. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

~~(v)~~e. The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

~~(vi)~~f. The customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;

~~(vii)~~g. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

~~(viii)~~h. For the purposes of this regulation, the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

KL. ~~(1)~~ “Financial institution” means for the purpose of this regulation, any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). ~~(2)~~ Financial institution does not include:

~~(i)~~1. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*);

~~(ii)~~2. The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*); or

~~(iii)~~3. Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

LM. ~~(1)~~ “Financial product or service” means for the purpose of this regulation, any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). ~~(2)~~ Financial service includes a financial institution’s evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

MN. “Health care” means, for the purposes of this regulation means:

~~(1)~~ Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that:

~~(a)~~ Relates to the physical, mental or behavioral condition of an individual; or

~~(b)~~ Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs or any other tissue; or

~~(2)~~ Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

NO. “Health care provider” means for the purpose of this regulation, a physician or other health care practitioner licensed, accredited, or certified, registered or regulated to perform specified health services consistent with Colorado state law, or a health care facility.

OP. “Health information” means for the purpose of this regulation, any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

~~(1)~~ The past, present or future physical, mental or behavioral health or condition of an individual;

~~(2)~~ The provision of health care to an individual; or

~~(3)~~ Payment for the provision of health care to an individual.

PQ. **(4)** “Insurance product or service” means, **for the purpose of this regulation**, any product or service that is offered by a licensee pursuant to the insurance laws of Colorado, including a Health Maintenance Organization or a Nonprofit Hospital, Medical-Surgical, and Health Service Corporation. **(2)** Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

R. “Insurer” shall have the same meaning as found at § 10-1-102(13), C.R.S.

QS. **(4)** “Licensee” means, **for the purpose of this regulation**, all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the insurance laws of Colorado. **(1)(a)** A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in **Articles I, II, III, and IV Sections 1 through 17** of this regulation if the licensee is an employee, agent or other representative of another licensee (“the principal”) and:

(i)a. The principal otherwise complies with, and provides the notices required by, the provisions of this regulation; and

(ii)b. The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this regulation.

(b)2. Examples of employee, agent or other representative of a principal:

(i)a. An insurance producer, public adjuster or other licensee who is employed by another insurance producer, public adjuster or other licensee;

(ii)b. An insurance producer of an insurer;

(iii)c. An insurance producer that has binding authority for an insurer; or

(iv)d. A sublicensee of a licensee, whether or not the sublicensee is licensed in any other capacity.

(3). **(a)** Subject to **Subparagraph (b) Section 4.Q.2.**, “licensee” as defined in this regulation shall also include an unauthorized insurer that accepts business placed through a licensed surplus lines broker in Colorado, but only in regard to the surplus lines placements placed pursuant to **Section § 10-5-108, of Colorado's laws C.R.S.**

(b)4. A surplus lines broker or surplus lines insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in **Articles I, II, III, and IV Sections 1 through 17** of this regulation provided:

(i)a. The broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Section **145** of this regulation, except as permitted by Section **145 or 16, or 17** of this regulation; and

(ii)b. The broker or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following **clear and conspicuous notice is set forth in 16-point type**:

Privacy Notice

“Neither the U.S. brokers that handled this insurance nor the insurers that have underwritten this insurance will disclose nonpublic personal information concerning the buyer to nonaffiliates of the brokers or insurers except as permitted by law.”

- RT.** **(4)** “Nonaffiliated third party” means **for the purpose of this regulation**, any person except:
- (a)1.** A licensee’s affiliate; or
 - (b)2.** A person employed jointly by a licensee and any company that is not the licensee’s affiliate (but nonaffiliated third party includes the other company that jointly employs the person).
 - (2)** Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).
- SU.** “Nonpublic personal information” means **for the purpose of this regulation**, nonpublic personal financial information and nonpublic personal health information.
- TV.** **(4)** “Nonpublic personal financial information” means **for the purpose of this regulation**:
- (a)1.** Personally identifiable financial information; and
 - (b)2.** Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.
 - (2)3.** Nonpublic personal financial information does not include:
 - (a.)** Health information;
 - (b.)** Publicly available information, except as included on a list described in **Subsection T(1)(b) of this section** **Section 4.T.2.**; or
 - (c.)** Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.
 - (3)4.** Examples of lists.
 - (a.)** Nonpublic personal financial information includes any list of individuals’ names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

(b.) Nonpublic personal financial information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

UW. "Nonpublic personal health information" means **for the purpose of this regulation,** health information:

(1) That identifies an individual who is the subject of the information; or

(2) With respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

VX. (+) "Personally identifiable financial information" means **for the purpose of this regulation,** any information:

(a)1. A consumer provides to a licensee to obtain an insurance product or service from the licensee;

(b)2. About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

(c)3. The licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

(2)4. Examples.

(a.) **Information included.** Personally identifiable financial information includes:

(i)1. Information a consumer provides to a licensee on an application to obtain an insurance product or service;

(ii)2. Account balance information and payment history;

(iii)3. The fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee;

(iv)4. Any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer;

(v)5. Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

(vi)6. Any information the licensee collects through an internet cookie (an information-collecting device from a web server); and

(vii)7. Information from a consumer report.

~~(b.)~~ ~~Information not included.~~ Personally identifiable financial information does not include:

- ~~(1)~~ Health information;
- ~~(2)~~ A list of names and addresses of customers of an entity that is not a financial institution; and
- ~~(3)~~ Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

~~WY.~~ ~~Publicly available information~~

~~(4)~~ “Publicly available information” means ~~for the purpose of this regulation~~ any information that a licensee has a reasonable basis to believe is lawfully made available to the general public.

~~1.~~ ~~That publically available information can be from:~~

- ~~(a.)~~ Federal, state or local government records;
- ~~(b.)~~ Widely distributed media; or
- ~~(c.)~~ Disclosures to the general public that are required to be made by federal, state or local law.

~~(2)~~ ~~Reasonable basis.~~ A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

- ~~(a.)~~ That the information is of the type that is available to the general public; and
- ~~(b.)~~ Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee’s consumer has not done so.

~~(3)~~ Examples.

- ~~(a.)~~ ~~Government records.~~ Publicly available information in government records includes information in government real estate records and security interest filings.
- ~~(b.)~~ ~~Widely distributed media.~~ Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.
- ~~(c.)~~ ~~Reasonable basis.~~ ~~(l)~~ A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

- ~~(d.)~~ A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed you that the telephone number is ~~not un~~listed.

Article II. Privacy And Opt Out Notices For Financial Information

Section 5 Initial Privacy Notice to Consumers Required

- A. ~~Initial notice requirement.~~ A licensee shall provide a clear and conspicuous **initial** notice that accurately reflects its privacy policies and practices to:
- ~~(1)~~ Customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in ~~Subs~~Section **5.E.** of this section; and
 - ~~(2)~~ Consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections ~~15 and 16~~ **and 17.**
- B. ~~When initial notice to a consumer is not required.~~ A licensee is not required to provide an initial notice to a consumer under ~~Subs~~Section **5.A.(2).** ~~of this section~~ if:
- ~~(1)~~ The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Sections ~~156~~ **and 167,** and the licensee does not have a customer relationship with the consumer; or
 - ~~(2)~~ A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.
- C. ~~When the licensee establishes a customer relationship.~~
- ~~(1)~~ ~~General rule.~~ A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.
 - ~~(2)~~ ~~Examples of establishing customer relationship.~~ A licensee establishes a customer relationship when the consumer:
 - ~~(a1.)~~ Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or surplus line broker, obtains insurance through that licensee; or
 - ~~(b2.)~~ Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.
- D. ~~Existing customers.~~ When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of ~~Subs~~Section **5. A.** ~~of this section~~ as follows:
- ~~(1)~~ The licensee may provide a revised policy notice, under Section 9, that covers the customer's new insurance product or service; or

~~(2.)~~ If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under ~~Subs~~Section 5. A. ~~of this section.~~

E. Exceptions to allow subsequent delivery of notice.

~~(1.)~~ A licensee may provide the initial notice required by ~~Subs~~Section 5. A. ~~(1.)~~ of this section within a reasonable time after the licensee establishes a customer relationship if:

~~(a.)~~ Establishing the customer relationship is not at the customer's election; or

~~(b.)~~ Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

~~(2.)~~ Examples of exceptions.

~~(a.)~~ ~~Not at customer's election.~~ Establishing a customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment.

~~(b.)~~ ~~Substantial delay of customer's transaction.~~ Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.

~~(c.)~~ ~~No substantial delay of customer's transaction.~~ Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a web site.

F. ~~Delivery.~~ When a licensee is required to deliver an initial privacy notice by this section, the licensee shall deliver it according to Section 101. If the licensee uses a short-form initial notice for non-customers according to Section 7.D, the licensee may deliver its privacy notice according to Section 7.D. ~~(3.)~~

Section 6 Annual Privacy Notice to Customers Required

A. General rule.

~~(1.)~~ A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve (12) consecutive months during which that relationship exists. A licensee may define the twelve-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.

~~(2.)~~ Example. A licensee provides a notice annually if it defines the twelve-consecutive-month period as a calendar year and provides the annual notice to the customer once in each

calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year 1, the licensee shall provide an annual notice to that customer by December 31 of year 2.

B. **Exception to general rule.** A licensee that provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections 15, 16, or 17 and has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section or Section 5 shall not be required to provide an annual disclosure under this section until such time as the licensee fails to comply with any criteria described in this paragraph.

BC. **(+) Termination of customer relationship.** A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship. **(2) Examples:**

(a)1. A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

(b)2. A licensee no longer has a continuing relationship with an individual if the individual's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.

(c)3. For the purposes of this regulation, a licensee no longer has a continuing relationship with an individual if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(d)4. A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

CD. **Delivery.** When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to Section 1**01**.

Section 7. Information to be Included in Privacy Notices

A. **General rule.** The initial, annual and revised privacy notices that a licensee provides under Sections 5, 6 and 9 shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:

(1). The categories of nonpublic personal financial information that the licensee collects;

(2). The categories of nonpublic personal financial information that the licensee discloses;

- (3) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections ~~15 and 16~~ and 17;
- (4) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under Sections ~~15 and 16~~ and 17;
- (5) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 145 (and no other exception in Sections ~~15 and 16~~ and 17 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted;
- (6) An explanation of the consumer's right under Section 142.A. to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;
- (7) Any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);
- (8) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and
- (9) Any disclosure that the licensee makes under ~~Subs~~Section 6.B. of this section.

B. Description of parties subject to exceptions. If a licensee discloses nonpublic personal financial information as authorized under Sections 156 and 167, the licensee is not required to list those exceptions in the initial or annual privacy notices required by Sections 5 and 6. When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

C. Examples.

- (1) Categories of nonpublic personal financial information that the licensee collects.

 - a. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information.
 - b. A licensee shall categorize nonpublic personal information into the following categories, as applicable:

 - (a1) Information from the consumer;
 - (b2) Information about the consumer's transactions with the licensee or its affiliates;

(e3) Information about the consumer's transactions with nonaffiliated third parties; and

(d4) Information from a consumer reporting agency.

(2) Categories of nonpublic personal financial information a licensee discloses.

(a) A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in Paragraph Section 6.C.(1), as applicable, and provides a few examples to illustrate the types of information in each category. These might include:

(i1) Information from the consumer, including application information, such as assets and income and identifying information, such as name, address and social security number;

(ii2) Transaction information, such as information about balances, payment history and parties to the transaction; and

(iii3) Information from consumer reports, such as a consumer's creditworthiness and credit history.

(b) A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer.

(c) If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

(3) Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.

(a) A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

(b) Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term financial products or services if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.

(c) A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

(4) Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic personal financial information under the exception in Section 145 to a nonaffiliated third party to market products or services that it offers alone or jointly with

another financial institution, the licensee satisfies the disclosure requirement of ~~Subs~~Section 6.A.(5.) of this section if it:

(a.) Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of ~~Subs~~Section 6.A.(2.) of this section, as applicable; and

(b.) States whether the third party is:

(1) A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or

(2) A financial institution with whom the licensee has a joint marketing agreement.

(5.) ~~Simplified notices.~~ If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under Sections 156 and 167, the licensee may simply state that fact, in addition to the information it shall provide under ~~Subs~~Section 6.A.(1.), 6.A.(8.), 6.A.(9.), and ~~Subs~~Section 6.B. of this section.

(6.) ~~Confidentiality and security.~~ A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

(a.) Describes in general terms who is authorized to have access to the information; and

(b.) States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards it uses.

D. Short-form initial notice with opt out notice for non-customers.

(1.) A licensee may satisfy the initial notice requirements in Sections 5.A.(2.) and 8.C. for a consumer who is not a customer by providing a short-form initial notice at the same time ~~as~~ the licensee delivers an opt out notice as required in Section 8.

(2.) A short-form initial notice shall:

(a.) Be clear and conspicuous;

(b.) State that the licensee's privacy notice is available upon request; and

(c.) Explain a reasonable means by which the consumer may obtain that notice.

(3.) The licensee shall deliver its short-form initial notice according to Section 101. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the

licensee's privacy notice, the licensee shall deliver its privacy notice according to Section 101.

(4). **Examples of obtaining privacy notice.** The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee:

(a.) Provides a toll-free telephone number that the consumer may call to request the notice; or

(b.) For a consumer who conducts business in person at the licensee's office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

E. **Future disclosures.** The licensee's **future disclosure** notice may include:

(1). Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and

(2). Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

F. **Sample clauses.** Sample clauses illustrating some of the notice content required by this section and the Federal Model Privacy Form are included in Appendix A and Appendix B, respectively, of this regulation.

Section 8 Form of Opt Out Notice to Consumers and Opt Out Methods

A. Form of opt out notice.

(1). If a licensee is required to provide an opt out notice under Section 142.A., it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice shall state:

(a.) That the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

(b.) That the consumer has the right to opt out of that disclosure; and

(c.) A reasonable means by which the consumer may exercise the opt out right.

(2). Examples.

(a.) **Adequate opt out notice.** A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

(i) Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in Section 7.A. (2) and (3), and states that the consumer can opt out of the disclosure of that information; and

(i2) Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

(b.) **Reasonable opt out means.** A licensee provides a reasonable means to exercise an opt out right if it:

(i1) Designates check-off boxes in a prominent position on the relevant forms with the opt out notice;

(i2) Includes a reply form together with the opt out notice;

(i3) Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's web site, if the consumer agrees to the electronic delivery of information; or

(i4) Provides a toll-free telephone number that consumers may call to opt out.

(c.) **Unreasonable opt out means.** A licensee does not provide a reasonable means of opting out if:

(i1) The only means of opting out is for the consumer to write his or her own letter to exercise that opt out right; or

(i2) The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

(d.) **Specific opt out means.** A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

B. **Same form as initial notice permitted.** A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with Section 5.

C. **Initial notice required when opt out notice delivered subsequent to initial notice.** If a licensee provides the opt out notice later than required for the initial notice in accordance with Section 5, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

D. Joint relationships.

(1) If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer (as explained in **Paragraph (5) of this subsection**) **Section 8.D.5.**

(2) Any of the joint consumers may exercise the right to opt out. The licensee may either:

(a.) Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

(b.) Permit each joint consumer to opt out separately.

(3.) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one of the joint consumers to opt out on behalf of all of the joint consumers.

(4.) A licensee may not require all joint consumers to opt out before it implements any opt out direction.

(5.) Example. If John and Mary are both named policyholders on a homeowner's insurance policy issued by a licensee and the licensee sends policy statements to John's address, the licensee may do any of the following, but it shall explain in its opt out notice which opt out policy the licensee will follow:

(a.) Send a single opt out notice to John's address, but the licensee shall accept an opt out direction from either John or Mary.

(b.) Treat an opt out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John's opt out direction.

(c.) Permit John and Mary to make different opt out directions. If the licensee does so:

(1) It shall permit John and Mary to opt out for each other;

(2) If both opt out, the licensee shall permit both of them to notify it in a single response (such as on a form or through a telephone call); and

(3) If John opts out and Mary does not, the licensee may only disclose nonpublic personal financial information about Mary, but not about John and not about John and Mary jointly.

E. ~~Time to comply with opt out.~~ A licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it.

F. ~~Continuing right to opt out.~~ A consumer may exercise the right to opt out at any time.

G. Duration of consumer's opt out direction.

(1.) A consumer's direction to opt out under this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

(2.) When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.

- H. **Delivery.** When a licensee is required to deliver an opt out notice by this section, the licensee shall deliver it according to Section 101.

Section 9 Revised Privacy Notices

- A. **General rule.** Except as otherwise authorized in this regulation, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under Section 5, unless:

- (1) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;
- (2) The licensee has provided to the consumer a new opt out notice;
- (3) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
- (4) The consumer does not opt out.

- B. Examples.

- (1) Except as otherwise permitted by Sections 14, 15 and 16, and 17, a licensee shall provide a revised notice before it:
 - (a) Discloses a new category of nonpublic personal financial information to any nonaffiliated third party;
 - (b) Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or
 - (c) Discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.
- (2) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

- C. **Delivery.** When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to Section 101.

Section 10 Privacy Notices to Group Policyholders

Unless a licensee is providing privacy notices directly to covered individuals described in Section 4.G.5.a., b. or c., a licensee shall provide initial, annual and revised notices to the plan sponsor, group or blanket insurance policyholder or group annuity contractholder, or workers' compensation policyholder, in the manner described in Sections 5 through 9 of this regulation, describing the licensee's privacy practices with respect to nonpublic personal information about individuals covered under the policies, contracts or plans.

Section 11 Delivery

A. ~~How to provide notices.~~ A licensee shall provide any notices that this regulation requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

B. ~~Examples of reasonable expectation of actual notice.~~

~~(1)~~ A licensee may reasonably expect that a consumer will receive actual notice if the licensee:

~~(a1.)~~ Hand-delivers a printed copy of the notice to the consumer;

~~(b2.)~~ Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication;

~~(c3.)~~ For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service;

~~(d4.)~~ For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

~~(2)C.~~ ~~Examples of unreasonable expectation of actual notice.~~ A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it:

~~(a1.)~~ Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or

~~(b2.)~~ Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

~~CD.~~ ~~Annual notices only.~~ A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

~~(1)~~ The customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or

~~(2)~~ The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

~~DE.~~ ~~Oral description of notice insufficient.~~ A licensee may not provide any notice required by this regulation solely by orally explaining the notice, either in person or over the telephone.

~~EF.~~ Retention or accessibility of notices for customers.

~~(1)~~ For customers only, a licensee shall provide the initial notice required by Section 5.A. ~~(1)~~, the annual notice required by Section 6.A., and the revised notice required by Section 9 so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

~~(2).~~ ~~Examples of retention or accessibility.~~ A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:

- ~~(a.)~~ Hand-delivers a printed copy of the notice to the customer;
- ~~(b.)~~ Mails a printed copy of the notice to the last known address of the customer; or
- ~~(c.)~~ Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site.

~~FG.~~ ~~Joint notice with other financial institutions.~~ A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

~~GH.~~ ~~Joint relationships.~~ If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of Sections 5.A., 6.A. and 9.A., respectively, by providing one notice to those consumers jointly.

~~Article III. Limits On Disclosures Of Financial Information~~

~~Section 142~~ **Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties**

A. Conditions for disclosure.

~~(1).~~ Except as otherwise authorized in this regulation, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

- ~~(a.)~~ The licensee has provided to the consumer an initial notice as required under Section 5;
- ~~(b.)~~ The licensee has provided to the consumer an opt out notice as required in Section 8;
- ~~(c.)~~ The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
- ~~(d.)~~ The consumer does not opt out.

~~(2).~~ Opt out definition. Opt out means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections ~~14.~~ 15, 16 and ~~17.~~

~~(3).~~ ~~Examples of reasonable opportunity to opt out.~~ A licensee provides a consumer with a reasonable opportunity to opt out if:

- ~~(a.)~~ ~~By mail.~~ The licensee mails the notices required in ~~Paragraph Section 12.A.(1), of this subsection~~ to the consumer and allows the consumer to opt out by mailing

a form, calling a toll-free telephone number or any other reasonable means within thirty (30) days from the date the licensee mailed the notices.

(b.) **By electronic means.** A customer opens an on-line account with a licensee and agrees to receive the notices required in **Paragraph Section 12.A.(1), of this subsection** electronically, and the licensee allows the customer to opt out by any reasonable means within thirty (30) days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(c.) **Isolated transaction with consumer.** For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in **Paragraph Section 12.A.(1), of this subsection** at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

B. Application of opt out to all consumers and all nonpublic personal financial information.

(1.) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

(2.) Unless a licensee complies with this section, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

C. **Partial opt out.** A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

Section 123 Limits on Redisclosure and Reuse of Nonpublic Personal Financial Information

A. Information the licensee receives under an exception.

(1.) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in Sections **15 or 16 or 17** of this regulation, the licensee's disclosure and use of that information is limited as follows:

(a.) The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

(b.) The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

(c.) The licensee may disclose and use the information pursuant to an exception in Sections **15 or 16 or 17** of this regulation, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(2.) Example. If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud

prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

B. Information a licensee receives outside of an exception.

- ~~(1.)~~ If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in Sections ~~15 or 16~~ **or 17** of this regulation, the licensee may disclose the information only:
 - ~~(a.)~~ To the affiliates of the financial institution from which the licensee received the information;
 - ~~(b.)~~ To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and
 - ~~(c.)~~ To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.
- ~~(2.)~~ Example. If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in Sections ~~15 or 16~~ **or 17**:
 - ~~(a.)~~ The licensee may use that list for its own purposes; and
 - ~~(b.)~~ The licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in Sections ~~15 or 16~~ **or 17**, such as to the licensee's attorneys or accountants.

C. ~~Information a licensee discloses under an exception.~~ If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in Sections ~~15 or 16~~ **or 17** of this regulation, the third party may disclose and use that information only as follows:

- ~~(1.)~~ The third party may disclose the information to the licensee's affiliates;
- ~~(2.)~~ The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and
- ~~(3.)~~ The third party may disclose and use the information pursuant to an exception in Sections ~~15 or 16~~ **or 17** in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

D. ~~Information a licensee discloses outside of an exception.~~ If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in Sections ~~15 or 16~~ **or 17** of this regulation, the third party may disclose the information only:

- (1.) To the licensee's affiliates;
- (2.) To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and
- (3.) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

Section 134 Limits on Sharing Account Number Information for Marketing Purposes

- A. **General prohibition on disclosure of account numbers.** A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.
- B. **Exceptions.** Subsection 14.A of this section does not apply if a licensee discloses a policy number or similar form of access number or access code:
 - (1.) To the licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;
 - (2.) To a licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or
 - (3.) To a participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.
- C. Examples.
 - (1.) **Policy number.** A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.
 - (2.) **Policy or transaction account.** For the purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

Article IV. — Exceptions To Limits On Disclosures Of Financial Information

Section 145 Exception to Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing

- A. General rule.
 - (1.) The opt out requirements in Sections 8 and 142 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:
 - (a.) Provides the initial notice in accordance with Section 5; and

(b) Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in Sections 15 or 16 or 17 in the ordinary course of business to carry out those purposes.

(2) Example. If a licensee discloses nonpublic personal financial information under this section to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of Paragraph (1)(b) of this subsection Section 15.A.1.b. if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in Sections 15 or 16 or 17 in the ordinary course of business to carry out that joint marketing.

- B. ~~Service may include joint marketing.~~ The services a nonaffiliated third party performs for a licensee under ~~Subsection 15.A. of this section~~ may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.
- C. Definition of "joint agreement." For purposes of this section, "joint agreement" means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

Section 156 Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions

- A. ~~Exceptions for processing transactions at consumer's request.~~ The requirements for initial notice in Section 5.A. (2), the opt out in Sections 8 and 142, and service providers and joint marketing in Section 145 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:

(1) Servicing or processing an insurance product or service that a consumer requests or authorizes;

(2) Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;

(3) A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or

(4) Reinsurance or stop loss or excess loss insurance.

- B. "Necessary to effect, administer or enforce a transaction" means that the disclosure is:

(1) Required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) Required, or is a usual, appropriate or acceptable method:

- (a.) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service;
- (b.) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;
- (c.) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or **producerbroker**;
- (d.) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;
- (e.) To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects or as otherwise required or specifically permitted by federal or state law; or
- (f.) In connection with:
 - (1) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;
 - (2) The transfer of receivables, accounts or interests therein; or
 - (3) The audit of debit, credit or other payment information.

Section 167 Other Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information

- A. **Exceptions to opt out requirements.** The requirements for initial notice to consumers in Section 5.A. (2.), the opt out in Sections 8 and 142, and service providers and joint marketing in Section 145 do not apply when a licensee discloses nonpublic personal financial information:
- (1.) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;
 - (2.) **For licensee and consumer protection.**
 - (a.) To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction;
 - (b.) To protect against or prevent actual or potential fraud or unauthorized transactions;

- (c.) For required institutional risk control or for resolving consumer disputes or inquiries;
 - (d.) To persons holding a legal or beneficial interest relating to the consumer; or
 - (e.) To persons acting in a fiduciary or representative capacity on behalf of the consumer;
- (3.) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors;
- (4.) To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, and the Federal Trade Commission), self-regulatory organizations or for an investigation on a matter related to public safety;
- (5.) To a consumer reporting agency.
 - (a.) To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*); or
 - (b.) From a consumer report reported by a consumer reporting agency;
- (6.) In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit;
- (7.) For compliance purposes.
 - (a.) To comply with federal, state or local laws, rules and other applicable legal requirements;
 - (b.) To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities; or
 - (c.) To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law; or
- (8.) For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan.

- B. ~~Example of revocation of consent.~~ A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under Section 8.F.
- C. Licensees placed into receivership or liquidation are exempt from the notice requirements in this Regulation. During the receivership or liquidation the licensee shall not disclose any nonpublic personal information about its customers or former customers except as permitted by law.

Article V. Rules For Health Information

Section 178 When Authorization is Required for Disclosure of Nonpublic Personal Health Information

- A. A licensee shall not disclose nonpublic personal health information about a consumer or customer unless an authorization is obtained from the consumer or customer whose nonpublic personal health information is sought to be disclosed.
- B. Nothing in this section shall prohibit, restrict or require an authorization for the disclosure of nonpublic personal health information by a licensee for the performance of the following insurance functions by or on behalf of the licensee: claims administration; claims adjustment and management; detection, investigation or reporting of actual or potential fraud, misrepresentation or criminal activity, underwriting; **policy placement or issuance**; loss control; ratemaking and guaranty fund functions; reinsurance and excess loss insurance; risk management; case management; disease management; quality assurance; quality improvement; performance evaluation; provider credentialing verification; utilization review; peer review activities; actuarial, scientific, medical or public policy research; grievance procedures; internal administration of compliance, managerial, and information systems; policyholder service functions; auditing; reporting; database security; administration of consumer disputes and inquiries; external accreditation standards; the replacement of a group benefit plan or workers' compensation policy or program; activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit; any activity that permits disclosure without authorization pursuant to the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the U.S. Department of Health and Human Services; disclosure that is required, or is one of the lawful or appropriate methods, to enforce licensee's rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a **customer consumer** requests or authorizes; and any activity otherwise permitted by law, required pursuant to governmental reporting authority, or to comply with legal process. Additional insurance functions may be added with the approval of the commissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers.

Section 189 Authorizations

- A. A valid authorization to disclose nonpublic personal health information pursuant to **this Article V Sections 18 through 22** shall be in written or electronic form and shall contain all of the following:
 - (1)** The identity of the consumer or customer who is the subject of the nonpublic personal health information;
 - (2)** A general description of the types of nonpublic personal health information to be disclosed;

- ~~(3.)~~ General descriptions of the parties to whom the licensee discloses nonpublic personal health information, the purpose of the disclosure, ~~and~~ how the information will be used ~~and a prohibition against redisclosure or reuse of the disclosed information.~~
 - ~~(4.)~~ The signature of the consumer or customer who is the subject of the nonpublic personal health information or the individual who is legally empowered to grant authority and the date signed; and
 - ~~(5.)~~ Notice of the length of time for which the authorization is valid and that the consumer or customer may revoke the authorization at any time and the procedure for making a revocation.
- B. An authorization for the purposes of ~~this Article V Sections 18 through 22~~ shall specify a length of time for which the authorization shall remain valid, which in no event shall be for more than twenty-four (24) months.
 - C. A consumer or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to ~~this Article V Sections 18 through 22~~ at any time, subject to the rights of an individual who acted in reliance on the authorization prior to notice of the revocation.
 - D. A licensee shall retain the authorization or a copy thereof in the record of the individual who is the subject of nonpublic personal health information.

Section ~~19~~20 Authorization Request Delivery

A request for authorization and an authorization form may be delivered to a consumer or a customer as part of an opt out notice pursuant to Section ~~19~~1, provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or customer or included in any other notices unless the licensee intends to disclose protected health information pursuant to Section ~~17~~8.A.

Section ~~20~~1 Application of Federal Statutes and Regulations

Application of federal regulations concerning privacy of personal health information.

- ~~(A.)~~ Irrespective of whether a licensee is subject to the federal Health Insurance Portability and Accountability Act privacy rule as promulgated by the U.S. Department of Health and Human Services, "Standards for the Privacy of Individually Identifiable Health Information," if a licensee complies with all requirements of the federal rule except for its effective date provision, the licensee shall not be subject to the provisions of ~~this Article V Sections 18 through 22~~.
 - ~~(B.)~~ Nothing in this regulation is intended to require a carrier that is not subject to the federal Health Insurance Portability and Accountability Act privacy rule as promulgated by the U.S. Department of Health and Human Services, "Standards for the Privacy of Individually Identifiable Health Information" to comply with the federal regulation.
- ~~B. — The statutes and regulations referenced in this regulation are on file and may be examined at any state publications depository library.~~

Section ~~21~~2 Relationship to Colorado Laws

Nothing in this regulation shall preempt or supercede existing Colorado law related to medical records, health or insurance information privacy.

Article VI. Additional Provisions

Section 223 Protection of Fair Credit Reporting Act

Nothing in this regulation shall be construed to modify, limit or supersede the operation of the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), and no inference shall be drawn on the basis of the provisions of this regulation regarding whether information is transaction or experience information under Section 603 of that Act.

Section 234 Nondiscrimination

- A. A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of his or her nonpublic personal financial information pursuant to the provisions of this regulation.
- B. A licensee shall not unfairly discriminate against a consumer or customer because that consumer or customer has not granted authorization for the disclosure of his or her nonpublic personal health information pursuant to the provisions of this regulation.

Section 25 Incorporation by Reference

The federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), published by the Government Publishing Office shall mean the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as published on the effective date of this regulation and does not include later amendments to or editions of the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.). A copy of the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202. A certified copy of the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) may be requested from the Colorado Division of Insurance for a fee. A copy may also be obtained online at www.uscode.house.gov.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.) published by the Government Publishing Office shall mean The Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.), as published on the effective date of this regulation and does not include later amendments to or editions of The Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.). A copy of The Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.) may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202. A certified copy of The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) may be requested from the Colorado Division of Insurance for a fee. A copy may also be obtained online at www.uscode.house.gov.

The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) published by the Government Publishing Office shall mean The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), as published on the effective date of this regulation and does not include later amendments to or editions of The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.). A copy of The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202. A certified copy of The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) may be requested from the Colorado Division of Insurance for a fee. A copy may also be obtained online at www.uscode.house.gov.

Section 246 Severability

If any ~~section or portion of a section~~provision of this regulation or ~~its applica~~tionability of it to any person or circumstance is ~~for any reason~~ held ~~to be~~ invalid by a court, the remainder of the~~is~~ regulation ~~or the applicability of the provision to other persons or circumstances~~ shall not be affected.

Section 27 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 2~~6~~8 Effective Date

- A. ~~Effective date.~~ This regulation is effective ~~July 1, 2001~~ ~~January 14, 2018~~. In order to provide sufficient time for licensees to establish policies and procedures to comply with the requirements of this regulation, the commissioner will not pursue enforcement of these provisions prior to ~~October 1, 2001~~ ~~April 1, 2018~~.
- B. ~~Notice requirements for consumers who are the licensee's customers on the compliance date.~~ By ~~October 1, 2001~~ ~~April 1, 2018~~, a licensee shall provide an initial notice, as required by Section 5, to consumers who are the licensee's customers on or before ~~October 1, 2001~~ ~~April 1, 2018~~. If the licensee will not disclose any nonpublic personal financial information about the customer to any nonaffiliated third party, such initial notice may be delayed until the earlier of the renewal date of the policy or ~~October 1, 2002~~ ~~April 1, 2019~~.
- C. ~~Two-year grandfathering of service agreements. Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of Section 14A(1) (b) of this regulation, even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as the licensee entered into the agreement on or before July 1, 2000.~~

Section 2~~7~~9 History

Emergency Regulation 00-E-1, effective September 5, 2000.

New Regulation 6-4-1, effective December 1, 2000.

Amended Regulation, effective July 1, 2001.

~~Amended Regulation effective January 14, 2018.~~

APPENDIX A – Sample Clauses

The safe harbor of compliance for use of these sample clauses expires on July 1, 2019.

Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A-1: Categories of information a licensee collects (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of Section 7 ~~A(1)~~ to describe the categories of nonpublic personal ~~financial~~ information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal ~~financial~~ information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

A-2: Categories of information a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use one of these clauses, as applicable, to meet the requirement of Section 7 ~~A(2)~~ to describe the categories of nonpublic personal ~~financial~~ information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal ~~financial~~ information other than as permitted by the exceptions in Sections ~~14~~, 15, ~~and~~ 16 ~~and~~ 17.

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal ~~financial~~ information about you:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premiums, and payment history”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A-2, Alternative 2:

We may disclose all of the information that we collect, as described [describe location in the notice, such as “above” or “below”].

A-3: Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirements of Sections 7A(2), (3), and (4) to describe the categories of nonpublic personal **financial** information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal financial information to any party, other than as permitted by the exceptions in Sections 156 and 167.

Sample Clause A-3:

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

A-4: Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of Section 7A(3) to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal **financial** information. This clause may be used if the licensee discloses nonpublic personal **financial** information other than as permitted by the exceptions in Sections 14, 15, and 16 and 17, as well as when permitted by the exceptions in Sections 156 and 167.

Sample Clause A-4:

We may disclose nonpublic personal **financial** information about you to the following types of third parties:

- Financial service providers, such as [provide illustrative examples, such as “life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance **producersagents**”];
- Non-financial companies, such as [provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”]; and
- Others, such as [provide illustrative examples, such as “non-profit organizations”].

We may also disclose nonpublic personal **financial** information about you to nonaffiliated third parties as permitted by law.

A-5: Service provider/joint marketing exception

A licensee may use one of these clauses, as applicable, to meet the requirements of Section 7A(5) related to the exception for service providers and joint marketers in Section 145. If a licensee discloses nonpublic personal **financial** information under this exception, the licensee shall describe the categories of nonpublic personal **financial** information the licensee discloses and the categories of third parties with which the licensee has contracted.

Sample Clause A-5, Alternative 1:

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premium, and payment history”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described [describe location in the notice, such as “above” or “below”] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

A-6: Explanation of opt out right (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of Section 7 ~~A.(6.)~~ to provide an explanation of the consumer’s right to opt out of the disclosure of nonpublic personal ~~financial~~ information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in Sections ~~14,~~ 15, ~~and~~ 16 and 17.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal ~~financial~~ information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)"].

A-7: Confidentiality and security (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of Section 7 ~~A.(8.)~~ to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal ~~financial~~ information.

Sample Clause A-7:

We restrict access to nonpublic personal ~~financial~~ information about you to [provide an appropriate description, such as “those employees who need to know that information to provide products or services to you”]. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

APPENDIX B – FEDERAL MODEL PRIVACY FORM

Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the Federal Model Privacy Form, if the Form is accurate for each institution that uses the Form. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A. General Instructions

1. How the Model Privacy Form is used.

- (a) The Model Form may be used, at the option of a “licensee”), including a group of licensees or other financial institutions that use a common privacy notice, to meet the content requirements of the privacy notice and opt out notice set forth in Colorado Insurance Regulation 6-4-1.
- (b) The Model Form is a standardized form, including page layout, content, format, style, pagination, and shading. Licensees seeking to obtain the safe harbor through use of the Model Form may modify it only as described in these Instructions.
- (c) Note that disclosure of certain information, such as assets, income, and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act (FCRA), codified at 15 U.S.C. §§ 1681-1681x, such as a requirement to permit a consumer to opt out of disclosures to affiliates, or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.
- (d) The word “customer” may be replaced by the word “member,” whenever it appears in the Model Form, as appropriate.

2. The Contents of the Model Privacy Form

The Model Form consists of two (2) pages, which may be printed on both sides of a single sheet of paper or may appear on two (2) separate pages. Where a licensee provides a long list of licensees or financial institutions at the end of the Model Form in accordance with Instruction Section B.3.a.i., or provides additional information in accordance with Instruction Section B.3.c. and such list or additional information exceeds the space available on page two of the Model Form, such list or additional information may extend to a third page.

- (a) Page One. The first page consists of the following components:
 - (1) Date last revised (upper right-hand corner);
 - (2) Title;
 - (3) Key frame (Why? What? How?);
 - (4) Disclosure table (“Reasons we can share your personal information”);

(5) "To limit our sharing" box, as needed, for the licensee's opt out information;

(6) "Questions" box, for customer service contact information; and

(7) Mail-in opt out form, as needed.

(b) Page Two. The second page consists of the following components:

(1) Heading (Page 2);

(2) Frequently Asked Questions ("Who we are" and "What we do");

(3) Definitions; and

(4) "Other important information" box, as needed.

3. The Format of the Model Privacy Form.

The format of the Model Form may be modified only as described below.

(a) Easily readable type font. Licensees that use the Model Form must use an easily readable type font. While a number of factors together produce easily readable font, licensees are required to use a minimum of 10-point font (unless otherwise expressly permitted in these Instructions) and sufficient spacing between lines.

(b) Logo. A licensee may include a corporate logo on any page of the notice, so long as it does not interfere with the readability of the Model Form or the space constraints of each page.

(c) Page size and orientation. Each page of the Model Form must be printed in portrait orientation, the size of which must be sufficient to meet the layout and minimum font size requirements, with sufficient white space on the top, bottom, and sides of the content.

(d) Color. The Model Form must be printed on white or light color paper (such as cream) with black or other contrasting ink color. Spot color may be used to achieve visual interest, so long as the color contrast is distinctive and the color does not detract from the readability of the Model Form. Logos may also be printed in color.

(e) Languages. The Model Form may be translated into languages other than English.

B. Information Required in the Model Privacy Form

The information in the Model Form may be modified only as described below:

1. Insert the name of the licensee providing the notice, or a common identity of the affiliated licensees or financial institutions jointly providing the notice on the form, wherever name of licensee appears.

2. Page One

(a) Last revised date. The licensee must insert in the upper right-hand corner the date on which the notice was last revised. The information shall appear in minimum 8-point font as "rev. [month/year]" using either the name or number of the month, such as "rev. July 2016" or "rev. 7/16."

(b) General instructions for the "What?" box.

(i) The bulleted list identifies the types of personal information that the licensee collects and shares. All licensees must use the term "Social Security number" in the first bullet.

(ii) A licensee must use five (5) of the following terms, to complete the bulleted list: income; account balances; payment history; transaction history; transaction or loss history; credit history; credit scores; assets; investment experience; credit-based insurance scores; insurance claim history; medical information; overdraft history; purchase history; account transactions; risk tolerance; medical-related debts; credit card or other debt; mortgage rates and payments; retirement assets; checking account information; employment information; wire transfer instructions.

(c) General instructions for the disclosure table. The left column lists reasons for sharing or using personal information. Each reason correlates to a specific legal provision described in Section B.2.d. of this Instruction. In the middle column, each licensee must provide a "Yes" or "No" response that accurately reflects its information-sharing policies and practices with respect to the reason listed on the left. In the right column, each licensee must provide in each box one of the following three (3) responses, as applicable, that reflects whether a consumer can limit such sharing:

"Yes," if it is required to or voluntarily provides an opt out; "No," if it does not provide an opt out; or

"We don't share," if it answers "No" in the middle column.

Only the sixth row ("For our affiliates to market to you") may be omitted at the option of the licensee. See Section B.2.d.vi. of this Instruction.

(d) Specific disclosures and corresponding legal provisions.

(i) For our everyday business purposes. This reason incorporates sharing information under [Sections 16 and 17 of Colorado Insurance Regulation 6-4-1 and with service providers pursuant to Colorado Insurance Regulation 6-4-1] other than the disclosures described in Section B.2.d.ii. or Section B.2.d.iii. of this Instruction.

(ii) For our marketing purposes. This reason incorporates sharing information with service providers by a licensee for its own marketing pursuant to Colorado Insurance Regulation 6-4-1. A licensee that shares for this reason may choose to provide an opt out.

(iii) For joint marketing with other financial companies. This reason incorporates sharing information under joint marketing agreements

between two (2) or more licensees or financial institutions and with any service provider used in conjunction with such agreement pursuant to [Section 15 of Colorado Insurance Regulation 6-4-1. A licensee that shares for this reason may choose to provide an opt out.

(iv) For our affiliates' everyday business purposes – information about transactions and experiences. This reason incorporates sharing information specified in Sections 603(d)(2)(A)(i) and (ii) of the FCRA. A licensee that shares information for this reason may choose to provide an opt out.

(v) For our affiliates' everyday business purposes – information about creditworthiness. This reason incorporates sharing information pursuant to Section 603(d)(2)(A)(iii) of the FCRA. A licensee that shares information for this reason must provide an opt out.

(vi) For our affiliates to market to you. This reason incorporates sharing information specified in Section 624 of the FCRA. This reason may be omitted from the disclosure table when: the licensee does not have affiliates (or does not disclose personal information to its affiliates); the licensee's affiliates do not use personal information in a manner that requires an opt out; or the licensee provides the affiliate marketing notice separately. Licensees that include this reason must provide an opt out of indefinite duration. A licensee that is required to provide an affiliate marketing opt out, but does not include that opt out in the Model Form under this part, must comply with section 624 of the FCRA and Colorado Insurance Regulation 6-4-1, with respect to the initial notice and opt out and any subsequent renewal notice and opt out. A licensee not required to provide an opt out under this subparagraph may elect to include this reason in the Model Form.

(vii) For nonaffiliates to market to you. This reason incorporates sharing described in Sections 8 and 12.A. of Colorado Insurance Regulation 6-4-1. A licensee that shares personal information for this reason must provide an opt out.

(e) To limit our sharing. A licensee must include this section of the Model Form only if it provides an opt out. The word "choice" may be written in either the singular or plural, as appropriate. Licensees must select one or more of the applicable opt out methods described: telephone, such as by a toll-free number; a web site; or use of a mail-in opt out form. Licensees may include the word "toll-free" before telephone, as appropriate. A licensee that allows consumers to opt out online must provide either a specific web address that takes consumers directly to the opt out page or a general web address that provides a clear and conspicuous direct link to the opt out page. The opt out choices made available to the consumer who contacts the licensee through these methods must correspond accurately to the "Yes" responses in the third column of the disclosure table. In the part entitled "Please note," licensees may insert a number that is 30 days or greater in the space marked "[30]." Instructions on voluntary or state privacy law opt out information are in Section B.2.g.v. of these Instructions.

(f) Questions box. Customer service contact information must be inserted as appropriate where [phone number] or [web site] appear. Licensees may elect to provide either a phone number, such as a toll-free number, or a web address, or both. Licensees may include the words "toll-free" before the telephone number, as appropriate.

(g) Mail-in opt out form. Licensees must include this mail-in form only if they state in the "To limit our sharing" box that consumers can opt out by mail. The mail-in form must provide opt out options that correspond accurately to the "Yes" responses in the third column of the disclosure table. Licensees that require consumers to provide only name and address may omit the section identified as "[account #]." Licensees that require additional or different information, such as a random opt out number or a truncated account number to implement an opt out election should modify the "[account #]" reference accordingly. This includes licensees that require customers with multiple accounts to identify each account to which the opt out should apply. A licensee must enter its opt out mailing address in the far right of this form (see version 3); or below the form (see version 4). The reverse side of the mail-in opt out form must not include any content of the model form.

(i) Joint accountholder. Only licensees that provide their joint accountholders the choice to opt out for only one accountholder, in accordance with Section B.3.a.5. of these Instructions, must include in the far left column of the mail-in form the following statement:

If you have a joint account, your choice(s) will apply to everyone on your account unless you mark below.

☐ Apply my choice(s) only to me.

The word "choice" may be written in either the singular or plural, as appropriate. Licensees that provide insurance products or services, provide this option, and elect to use the Model Form may substitute the word "policy" for "account" in this statement. Licensees that do not provide this option may eliminate this left column from the mail-in form.

(ii) FCRA Section 603(d)(2)(A)(iii) opt out. If the licensee shares personal information pursuant to Section 603(d)(2)(A)(iii) of the FCRA, it must include in the mail-in opt out form the following statement:

☐ Do not share information about my creditworthiness with your affiliates for their everyday business purposes.

(iii) FCRA Section 624 opt out. If the licensee uses Section 624 of the FCRA, in accord with Section B.2.d.6. of these Instructions, it must include in the mail-in opt out form the following statement:

☐ Do not allow your affiliates to use my personal information to market to me.

(iv) Nonaffiliate opt out. If the licensee shares personal information pursuant to Section 12.A. of Colorado Insurance Regulation 6-4-1, it must include in the mail-in opt out form the following statement:

☐ Do not share my personal information with nonaffiliates to market their products and services to me.

(v) Additional opt outs. Licensees that use the disclosure table to provide opt out options beyond those required by federal law must provide those opt outs in this section of the Model Form. A licensee that chooses to offer an opt out for its own marketing in the mail-in opt out form must include one of the two following statements:

☐ Do not share my personal information to market to me; or

☐ Do not use my personal information to market to me.

A licensee that chooses to offer an opt out for joint marketing must include the following statement:

☐ Do not share my personal information with other financial institutions to jointly market to me.

(h) Barcodes. A licensee may elect to include a barcode and/or "tagline" (an internal identifier) in 6-point type at the bottom of page one, as needed for information internal to the licensee, so long as these do not interfere with the clarity or text of the form.

3. Page Two

(a) General Instructions for the Questions. Certain questions on the Model Form may be customized as follows:

(i) "Who is providing this notice?" This question may be omitted where only one licensee provides the Model Form and that licensee is clearly identified in the title on Page One. Two (2) or more licensees or financial institutions that jointly provide the Model Form must use this question to identify themselves as required by Section 11.F. Colorado Insurance Regulation 6-4-1. Where the list of licensees or financial institutions exceeds four (4) lines, the licensee must describe in the response to this question the general types of licensees or financial institutions jointly providing the notice and must separately identify those licensees or financial institutions, in minimum 8-point font, directly following the "Other important information" box, or, if that box is not included in the licensee's form, directly following the "Definitions." The list may appear in a multi-column format.

(ii) "How does [name of licensee] protect my personal information?" The licensee may only provide additional information pertaining to its safeguards practices following the designated response to this question. Such information may include information about the licensee's use of

cookies or other measures it uses to safeguard personal information. Licensees are limited to a maximum of thirty (30) additional words.

- (iii) “How does [name of licensee] collect my personal information?” Licensees must use five (5) of the following terms to complete the bulleted list for this question: open an account; deposit money; pay your bills; apply for a loan; use your credit or debit card; seek financial or tax advice; apply for insurance; pay insurance premiums; file an insurance claim; seek advice about your investments; buy securities from us; sell securities to us; direct us to buy securities; direct us to sell your securities; make deposits or withdrawals from your account; enter into an investment advisory contract; give us your income information; provide employment information; give us your employment history; tell us about your investment or retirement portfolio; tell us about your investment or retirement earnings; apply for financing; apply for a lease; provide account information; give us your contact information; pay us by check; give us your wage statements; provide your mortgage information; make a wire transfer; tell us who receives the money; tell us where to send the money; show your government-issued ID; show your driver’s license; order a commodity futures or option trade.

Licensees that collect personal information from their affiliates and/or credit bureaus must include the following statement after the bulleted list: “We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.” Licensees that do not collect personal information from their affiliates or credit bureaus but do collect information from other companies must include the following statement instead: “We also collect your personal information from other companies.” Only licensees that do not collect any personal information from affiliates, credit bureaus, or other companies can omit both statements.

- (iv) “Why can’t I limit all sharing?” Licensees that describe state privacy law provisions in the “Other important information” box must use the bracketed sentence: “See below for more on your rights under state law.” Other licensees must omit this sentence.

- (v) “What happens when I limit sharing for an account I hold jointly with someone else?” Only licensees that provide opt out options must use this question. Other licensees must omit this question. Licensees must choose one of the following two statements to respond to this question: “Your choices will apply to everyone on your account.” Or “Your choices will apply to everyone on your account—unless you tell us otherwise.” Licensees may substitute the word “policy” for “account” in these statements.

- (b) General Instructions for the Definitions. The licensee must customize the space below the responses to the three (3) definitions in this section. This specific information must be in italicized lettering to set off the information from the standardized definitions.

(i) Affiliates. As required by Section 7.A.3. of Colorado Insurance Regulation 6-4-1, where [affiliate information] appears, the licensee must:

(a) If it has no affiliates, state: "[name of licensee] has no affiliates";

(b) If it has affiliates but does not share personal information with them, state: "[name of licensee] does not share with our affiliates"; or

(c) If it shares with its affiliates, state, as applicable: "Our affiliates include companies with a [common corporate identity of licensee] name; financial companies such as [insert illustrative list of companies]; nonfinancial companies, such as [insert illustrative list of companies]; and others, such as [insert illustrative list]."

(ii) Nonaffiliates. As required by Section 7.C.3. of Colorado Insurance Regulation 6-4-1, where [nonaffiliate information] appears, the licensee must:

(a) If it does not share with nonaffiliated third parties, state: "[name of licensee] does not share with nonaffiliates so they can market to you"; or

(b) If it shares with nonaffiliated third parties, state, as applicable: "Nonaffiliates we share with can include [list categories of companies such as mortgage companies, insurance companies, direct marketing companies, and nonprofit organizations]."

(iii) Joint Marketing. As required by Section 15. of Colorado Insurance Regulation 6-4-1, where [joint marketing] appears, the licensee must:

(a) If it does not engage in joint marketing, state: "[name of licensee] doesn't jointly market"; or

(b) If it shares personal information for joint marketing, state, as applicable: "Our joint marketing partners include [list categories of companies such as credit card companies]."

(c) General instructions for the "Other important information" box. This box is optional. The space provided for information in this box is not limited, and an additional page may be used if necessary. Only the following types of information can appear in this box:

(i) State and/or international privacy law information; and/or

(ii) A form by which the consumer may acknowledge receipt of the notice.

Notice of Proposed Rulemaking

Tracking number

2017-00488

Department

700 - Department of Regulatory Agencies

Agency

702 - Division of Insurance

CCR number

3 CCR 702-6

Rule title

CONSUMER PROTECTION (GENERAL)

Rulemaking Hearing

Date

11/14/2017

Time

10:00 AM

Location

1560 Broadway, Ste 1250 C, Denver CO 8202

Subjects and issues involved

A.This regulation establishes standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505(b), and 507 of the Gramm-Leach-Bliley Act, codified at 15 U.S.C. 6801, 6805(b) and 6807.

B.Section 501(a) provides that it is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers nonpublic personal information. Section 501(b) requires the state insurance regulatory authorities to establish appropriate standards relating to administrative, technical and physical safeguards:

1. To ensure the security and confidentiality of customer records and information;
2. To protect against any anticipated threats or hazards to the security or integrity of such records; and
3. To protect against unauthorized access to or use of records or information that could result in substantial harm or inconvenience to a customer.

Statutory authority

§§ 10-1-109(1),and 10-16-109, C.R.S.

Contact information

Name

Christine Gonzales-Ferrer

Title

Rulemaking Coordinator

Telephone

3038942157

Email

christine.gonzales-ferrer@state.co.us

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-6

LIFE, ACCIDENT AND HEALTH

Proposed Amended Regulation 6-4-2

STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION

Section 1	Authority
Section 2	Basis and Scope and Purpose
Section 3	Applicability and Scope
Section 4	Definitions
Section 5	Information Security Program
Section 6	Objectives of Information Security Program
Section 7	Examples of Methods of Development and Implementation
Section 8	Incorporated Materials
Section 89	Enforcement Severability
Section 910	Severability Enforcement
Section 101	Effective Date
Section 142	History

Section 1 Authority

This regulation is promulgated ~~pursuant to the authority granted by~~ and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109(1), ~~C.R.S.~~ and 10-16-109, ~~C.R.S.~~ and 10-16-401(4)(e), C.R.S.

Section 2 ~~Basis~~Scope and Purpose

- A. This regulation establishes standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505(b), and 507 of the Gramm-Leach-Bliley Act, codified at 15 U.S.C. 6801, 6805(b) and 6807.
- B. Section 501(a) provides that it is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information. Section 501(b) requires the state insurance regulatory authorities to establish appropriate standards relating to administrative, technical and physical safeguards:
- ~~{1}~~ ~~To~~ ensure the security and confidentiality of customer records and information;
 - ~~{2}~~ ~~To~~ protect against any anticipated threats or hazards to the security or integrity of such records; and
 - ~~{3}~~ ~~To~~ protect against unauthorized access to or use of records or information that could result in substantial harm or inconvenience to a customer.

- C. Section 505(b)(2) calls on state insurance regulatory authorities to implement the standards prescribed under Section 501(b) by regulation with respect to persons engaged in providing insurance.
- D. Section 507 provides, among other things, that a state regulation may afford persons greater privacy protections than those provided by subtitle A of Title V of the Gramm-Leach-Bliley Act. This regulation requires that the safeguards established pursuant to this regulation shall apply to nonpublic personal information, including nonpublic personal financial information and nonpublic personal health information.

Section 3 Applicability and Scope

This regulation applies to all licensees operating in the state of Colorado.

A licensee domiciled in Colorado that is in compliance with this regulation in a state that has not enacted laws or regulations that meet the requirements of Title V of the Gramm-Leach-Bliley Act (PL 102-106) may nonetheless be deemed to be in compliance with Title V of the Gramm-Leach-Bliley Act in such other state.

Section 4 Definitions

For purposes of this regulation, the following definitions apply:

- A. "Customer" means a customer of the licensee as the term customer is defined in Section 4 of Colorado Insurance Regulation 6-4-1 regarding Privacy of Consumer Financial and Health Information, for the purpose of this regulation, a consumer who has a customer relationship with a licensee.
- B. "Customer information" means, for the purpose of this regulation, nonpublic personal financial information and nonpublic personal health information as defined in Section 4 of Colorado Insurance Regulation 6-4-1 regarding Privacy of Consumer Financial and Health Information about a customer, whether in paper, electronic or other form, that is maintained by or on behalf of the licensee.
- C. "Customer information systems" means, for the purpose of this regulation, the electronic or physical methods used to access, collect, store, use, transmit, protect or dispose of customer information.
- D. "Licensee" means, for the purpose of this regulation, a licensee as that term is defined in Section 4 of Colorado Insurance Regulation 6-4-1 regarding Privacy of Consumer Financial and Health Information, all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized pursuant to the insurance laws of Colorado, except that "licensee" shall not include: a purchasing group; or a nonadmitted insurer in regard to the surplus lines business conducted pursuant to Title 10, Article 5, C.R.S. E. "Nonpublic personal financial information" means, for the purpose of this regulation:

1. Personally identifiable financial information; and

2. Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

3. Nonpublic personal financial information does not include:

- a. Health information;
- b. Publicly available information
- c. Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.

4. Examples of lists.

- a. Nonpublic personal financial information includes any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.
- b. Nonpublic personal financial information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

F. "Nonpublic personal health information" means, for the purpose of this regulation, health information:

- 1. That identifies an individual who is the subject of the information; or
- 2. With respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

EG. "Service provider" means, **for the purpose of this regulation,** a person that maintains, processes or otherwise is permitted access to customer information through its provision of services directly to the licensee.

Section 5 Information Security Program

Each licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. The administrative, technical and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

Section 6 Objectives of Information Security Program

A licensee's information security program shall be designed to:

- A. Ensure the security and confidentiality of customer information;
- B. Protect against any anticipated threats or hazards to the security or integrity of the information; and

- C. Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

Section 7 Examples of Methods of Development and Implementation

The actions and procedures described in this section are examples of methods of implementation of the requirements of Sections 5 and 6 of this regulation. These examples are non-exclusive illustrations of actions and procedures that licensees may follow to implement Sections 5 and 6 of this regulation.

- A. Assess Risk. The licensee:
 - 1. Identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems;
 - 2. Assesses the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and
 - 3. Assesses the sufficiency of policies, procedures, customer information systems and other safeguards in place to control risks.
- B. Manage and Control Risk. The licensee:
 - 1. Designs its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities;
 - 2. Trains staff, as appropriate, to implement the licensee's information security program; and
 - 3. Regularly tests or otherwise regularly monitors the key controls, systems and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.
- C. Oversee Service Provider Arrangements. The licensee:
 - 1. Exercises appropriate due diligence in selecting its service providers; and
 - 2. Requires its service providers to implement appropriate measures designed to meet the objectives of this regulation and, where indicated by the licensee's risk assessment, takes appropriate steps to confirm that its service providers have satisfied these obligations.
- D. Adjust the Program

The licensee monitors, evaluates and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.

Section 8 Incorporated Materials

Colorado Insurance Regulation 6-4-1, 3 CCR 702-6 published by the Colorado Division of Insurance shall mean Colorado Insurance Regulation 6-4-1, 3 CCR 702-6 as published on the effective date of this regulation and does not include later amendments to or editions of Colorado Insurance Regulation 6-4-1, 3 CCR 702-6. Colorado Insurance Regulation 6-4-1, 3 CCR 702-6 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202 or by visiting the Colorado Division of Insurance Website at www.dora.state.co.us/insurance/. Certified copies of Colorado Insurance Regulation 6-4-1, 3 CCR 702-6 are available from the Division of Insurance for a fee.

Section 8 Enforcement

~~Noncompliance with this regulation may result, after notice and opportunity for hearing, 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 fines and/or suspension or revocation of license.~~

Section 89 Severability

If any ~~section or portion of a section~~provision of this regulation or ~~its~~ applica~~tion~~ability of it to any person or circumstance is ~~for any reason~~ held ~~to be~~ invalid, the remainder of the ~~is~~ regulation ~~or the applicability of the provision to other persons or circumstances~~ shall not be affected.

Section 910 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 101 Effective Date

~~This regulation shall be effective November 1, 2002. Each licensee shall establish and implement an information security program, including appropriate policies and systems pursuant to this regulation by June 1, 2003.~~ This amended regulation shall become effective on January 14, 2018.

Section 112 History

~~Hearing date September 04, 2002.~~

New Regulation 6-4-2 effective November 1, 2002.

Amended regulation effective January 14, 2018.

Notice of Proposed Rulemaking

Tracking number

2017-00492

Department

1200 - Department of Agriculture

Agency

1205 - State Board of Stock Inspection Commissioners

CCR number

8 CCR 1205-4

Rule title

RULES PERTAINING TO THE FEEDLOT CERTIFICATION ACT

Rulemaking Hearing**Date**

11/16/2017

Time

09:00 AM

Location

Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield, CO 80021

Subjects and issues involved

The purpose of this rule change is to remove language from the rule regarding per-head, direct-to-slaughter fees. The current language conflicts with statutory provisions that are codified within the Act itself.

Statutory authority

§ 35-53.5-103(1)(a) C.R.S.

Contact information**Name**

Karen Lover

Title

Executive Assistant

Telephone

3038699004

Email

karen.lover@state.co.us

DEPARTMENT OF AGRICULTURE

State Board of Stock Inspection Commissioners

RULES PERTAINING TO THE FEEDLOT CERTIFICATION ACT

8 CCR 1205-4

Part 3. Fees

3.1. The fee for application and annual renewal of certification shall be \$1000.00 per year, or such lesser sum as the Board may direct.

~~3.2. The per head direct to slaughter fee for certified feedlots shall be \$0.15 less than the usual direct to slaughter fee established pursuant to § 35-53.5-107, C.R.S.~~

~~3.3. All per head fees and direct to slaughter movement permits must be received by the Board not later than the 5th day of the month following the month in which the permits are written. Any payment received after the 15th day of the month shall be subject to a late fee in the amount of 10% of the amount originally due (inspection fee plus Beef Council Fee), not to exceed \$50.00 plus interest, pursuant to § 35-53.5-107(2), C.R.S. The late fee must be paid with the subsequent month's payment.~~

Part 10. Statement of Basis, Specific Statutory Authority and Purpose

10.1. Adopted July 8, 1998 – Effective August 30, 1998

These rules are adopted pursuant to § 35-53.5-103(1), HB 98-1101.

The purposes of these rules are to: establish definitions for relevant terminology; define requirements for certification; set fees to fund all direct and indirect costs of the administration and enforcement; define methods for separation of cattle; set standards for inspections; establish recordkeeping requirements; define standards for movement of cattle from a certified feedlot; and establish standards and procedures for renewal of certifications and disciplinary actions.

10.2. Adopted December 13, 2016- Effective January 30, 2017

Statutory Authority

The statutory authority for the changes to this rule is found at § 35-53.5-103(1)(a) through (f), C.R.S.

Purpose of These Rules

The purposes of the changes to this rule are to clarify terminology; remove redundant or unnecessary language and terminology; make the rule more readable and user-friendly where any confusion previously existed; move the statement of basis, specific statutory authority and purpose to Part 10; and to update the rule to reflect changes to Board policies and practices related to the Feedlot Certification Act in conformity with the Departments Regulatory Review Process.

Factual Basis and Policy Issues

During its review the Board encountered the following factual issues. First, between the date of the last rule-making and the date of this rule-making, the Board has moved its physical office to Broomfield to be part of the Colorado Department of Agriculture's main campus. As such, the Board changed references where the previous rule had used "Denver Office" to "Broomfield Office." In making those changes, the Board recognized that the term "Denver Office" had formerly been used in a way that made it appear as though the office itself was the regulatory authority. In those places, the Board changed "Denver Office" to "the Board," rather than "Broomfield Office."

Second, throughout the rule, the Board cleaned up statutory citations, removed or changed mis-leading uses of "must" and "shall," and brought clarity to the variety of terms used throughout the rule when referencing movement certifications, condensing them all into one phrase, "Direct to Slaughter Movement Permits," which term the Board then defined. The Board also added language to Part 5 to specify that audits and inspections will occur quarterly rather than "on a routine basis," providing further clarity for those holding feedlot certifications.

Finally, where sentences or ideas lacked clarity, the Board re-worked the sentences to make them more clear and precise.

10.3. ADOPTED NOVEMBER 16, 2017 – EFFECTIVE DECEMBER 30, 2017

STATUTORY AUTHORITY

THESE RULES ARE ADOPTED PURSUANT TO § 35-53.5-103(1)(A)

PURPOSE OF THESE RULES

THE PURPOSE OF THIS RULE CHANGE IS TO REMOVE LANGUAGE FROM THE RULE REGARDING PER-HEAD, DIRECT-TO-SLAUGHTER FEES. THE CURRENT LANGUAGE CONFLICTS WITH STATUTORY PROVISIONS THAT ARE CODIFIED WITHIN THE ACT ITSELF.

FACTUAL AND POLICY ISSUES

THE OFFICE OF LEGISLATIVE LEGAL SERVICES ALERTED THE STATE BOARD OF STOCK INSPECTION COMMISSIONERS OF A POTENTIAL CONFLICT BETWEEN LANGUAGE WITHIN THE RULE REGARDING THE DIRECT-TO-SLAUGHTER FEES AND LANGUAGE THAT IS CODIFIED WITHIN THE FEEDLOT CERTIFICATION ACT. UPON REVIEW OF THE RULE, THE BOARD DETERMINED THAT LANGUAGE ADOPTED DURING THE INITIAL FORMATION OF THIS RULE SET HAD MIS-QUOTED THE STATUTE AND WAS CONFUSING TO THE REGULATED COMMUNITY. THE BOARD FURTHER DETERMINED THAT SETTING THESE FEES IN RULE WAS REDUNDANT TO THE STATUTE AND, THEREFORE, UNNECESSARY. THE BOARD DECIDED TO REMOVE THE LANGUAGE THAT WAS DISSIMILAR TO THE STATUTE AND TO RELY INSTEAD UPON THE STATUTE ITSELF WHILE MAINTAINING RULE 3.1 REGARDING THE APPLICATION AND ANNUAL RENEWAL FEES FOR CERTIFICATION.



COLORADO
Department of Agriculture

NOTICE OF PUBLIC RULEMAKING HEARING

FOR AMENDMENTS TO

“RULES PERTAINING TO THE FEEDLOT CERTIFICATION ACT”

8 CCR 1205-4, Parts 3 and 10

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the State Board of Stock Inspection Commissioners will hold a public rulemaking hearing:

DATE: November 16, 2017
TIME: 9:00 a.m.
LOCATION: Colorado Department of Agriculture
Big Thompson Conference Room
305 Interlocken Parkway
Broomfield, Colorado 80021

The purpose of this rule change is to remove language from the rule regarding per-head, direct-to-slaughter fees. The current language conflicts with statutory provisions that are codified within the Act itself.

The statutory authority for these rules is § 35-53.5-103(1)(a) C.R.S.

Any interested party may file written comment with the Commissioner's office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. A copy of the proposed rule is available on the Department of Agriculture's website at www.colorado.gov/ag or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



Notice of Proposed Rulemaking

Tracking number

2017-00491

Department

1502 - Public Employees' Retirement Board

Agency

1502 - Public Employees' Retirement Association

CCR number

8 CCR 1502-1

Rule title

COLORADO PERA RULES

Rulemaking Hearing**Date**

11/17/2017

Time

01:00 PM

Location

PERA office - 1301 Pennsylvania Street, Denver, CO 80203

Subjects and issues involved

Amendments to the Colorado PERA Rules

Statutory authority

C.R.S. 24-51-204(5)

Contact information**Name**

Kevin Gallaway

Title

Staff Attorney

Telephone

303-837-6271

Email

kgallaway@copera.org

PUBLIC EMPLOYEES' RETIREMENT BOARD

Public Employees' Retirement Association

COLORADO PERA RULES

8 CCR 1502-1

Authority

The statutory authority for rulemaking by the Public Employees' Retirement Association is section 24-51-204(5), Colorado Revised Statutes, as amended.

Scope and Purpose

The purpose of this rulemaking is to amend the Colorado PERA Rules as follows:

1. Rule 1.20F is being amended to treat cash payments in lieu of fringe benefits paid by employers to be treated as PERA salary pursuant to section 24-51-101(42), C.R.S.
2. Rule 2.15 is being amended to reflect name changes and affiliations of PERA employers.
3. Rule 2.20F is being amended to clarify the deadline for a party to request consolidation of administrative appeals and to accurately retitle subsection F of the Rule.
4. Rule 11.10E is being added to clarify that instructors at state colleges and universities may determine hours worked for purposes of Section 24-51-1101(1), C.R.S. by deeming each one credit hour taught as equal to three hours worked.
5. Rule 11.15D is being added to require retirees working after retirement for a PERA employer that fail to timely report exceeding the working after retirement limits will be required to pay interest at PERA's actuarial investment assumption rate.
6. Rule 14.30 is being amended to clarify the charges for delinquent 401(k) Plan reports and contributions.

1.20 Terms Used in Rules

F. Salary

(1) Accrued Leave Payments

- (a) Payments by an employer in satisfaction of amounts owed for accrued but unused leave, other than sick leave shall be treated as PERA salary pursuant to 24-51-

101(42), C.R.S., if the following criteria are met:

- » The payment by the employer of the accrued leave is made in a lump sum at the termination of the member's employment or in periodic payments after severing employment not at the election of the member. Periodic payments must be made over consecutive pay periods and for a period not to exceed the amount of service credit awarded in association with the payment. In the event that periodic payments are made, a single benefit adjustment will be made at the end of the payment period;
 - » The accrued leave payments are paid at a rate not to exceed the member's most recent rate of pay; and
 - » The payment is for accrued leave earned by the member pursuant to an established employer policy or employment contract and not as a result of a retroactive grant or an award by the employer.
- (b) If each of the above criteria are met, consistent with longstanding PERA practice, the accrued leave payment will be treated as salary in calculating service credit and Highest Average Salary for retirement by applying the payment over the number of months as determined by the member's most recent monthly rate of pay. Additional service credit for these months will be included in the retirement benefit calculation. These months may also be used in the highest average salary calculation.
- (c) Salary includes an annual lump sum payment of accrued leave, not at the election of the member, other than sick, paid because the individual has accrued in excess of the maximum accumulation allowed by the employer's established leave policy.
- (d) If an accrued leave payment pursuant to an established employer policy or employment contract includes unused leave for any type of leave in addition to sick leave, the payment shall be treated as PERA salary pursuant to 24-51-101(42), C.R.S., provided each of the criteria in (1)(a) or (1)(c) above, whichever is applicable, are met.

(2) Cash Payments in lieu of Fringe Benefits

~~Salary does not include employer provided fringe benefits converted to cash payments in lieu of employer payment for the fringe benefits.~~

Effective with the employer's fiscal year beginning on or after January 1, 2018, cash payments in lieu of fringe benefits paid by an employer will be treated as PERA salary pursuant to section 24-51-101(42), C.R.S., if the Association determines that the following criteria have been met:

» The payment is in lieu of an otherwise non-monetary fringe benefit and is available to

all employees in a particular class without regard to length of service; and
» The payment amount does not exceed market value of the fringe benefit; and
» The payment is in no way designed to manipulate Highest Average Salary.
In addition to the above criteria, the payments must be made in equal periodic payments or must be spread over the period for which the fringe benefit would otherwise be available.

(3) Performance or Merit Payments

Performance or merit payments are payments made pursuant to a written plan or policy which are in addition to regular salary or which replace regular salary increases in recognition of sustained employee performance over the evaluation period. In order for performance or merit payments to be treated as PERA salary pursuant to 24-51-101(42), C.R.S., the Association must have determined that the following criteria have been met:

- » The payment must be for performance and is made pursuant to a written plan adopted by the employer which identifies which employees are covered by the plan;
- » The written plan specifies objective criteria under which employees may participate in the plan and receive payments pursuant to the plan; and
- » The written plan specifies the payments to be made under the plan or the method for determining the payments made under the plan.

All payments meeting the above criteria that are paid to DPS members who were eligible to retire as of January 1, 2011, shall be considered earned in the months for which the performance payment was based. All other payments meeting the above criteria shall be considered earned in the month in which the performance payment is made.

(4) Contributions Under Internal Revenue Code Section 125 and 132 Salary shall not include amounts excluded from gross income under a cafeteria plan defined in Internal Revenue Code Section 125, or under a qualified transportation fringe benefit program defined in Internal Revenue Code Section 132(f)(4), so long as such deductions are made in equal periodic deductions through the year.

(5) Payments made by an employer for differential pay, as defined in section 414(u)(12) of the Internal Revenue Code of 1986, as amended, shall be treated as PERA salary pursuant to 24-51-101(42), C.R.S.

(6) Tips

Tips received by a member for services rendered in connection with his or her employment by an employer shall be salary pursuant to section 24-51-101(42), C.R.S.

(7) One-time payments

PERA employers pay one-time, non-base building payments to their employees as compensation for services rendered. Under section 24-51-101(42), C.R.S., payments made to employees that are actually for services rendered can be PERA salary, but honorariums, cash awards, bonuses, and other payments enumerated in section 24-51-101(42)(b), C.R.S., are not PERA salary. This Rule sets forth the criteria that must be met in order for one-time payments to be PERA salary. One-time, non- performance and non-merit based payments paid by an employer shall be treated as PERA salary pursuant to section 24-51-101(42), C.R.S. if the Association determines that the following criteria have been met:

- » The payment is a flat dollar amount or flat percentage to all employees in a particular class without regard to length of service. The class of employees must be a class that the employer regularly uses for purposes of setting base compensation; and
- » The payment was pre-approved by the employer prior to the fiscal/ academic year (the amount of the payment does not have to be approved at that time); and
- » The payment is in no way designed to manipulate Highest Average Salary; and
- » The employer provides the Association with documentation demonstrating its intent that the payment is a salary payment rather than a bonus.

If the Association determines that the above criteria have been met, then the payment shall be considered earned in the month in which the payment is made.

2.15 Employer Assignments

A. State Division

- (1) Within the State Division, one group shall be designated Institutions of Higher Education, and the other shall be designated Agencies and Instrumentalities.
 - (A) The Institutions of Higher Education group of the State Division shall consist of the following employers and their employees and any other institutions of higher education established subsequent to the adoption of the Rules:
 - Adams State College
 - Aims Community College
 - Arapahoe Community College
 - Auraria Higher Education Center
 - Aurora Community College
 - Colorado Mesa University
 - Colorado Mountain College
 - Colorado Northwestern Community College
 - Colorado School of Mines

Colorado State University
Colorado State University at Pueblo
Commission on Higher Education
Denver Community College
Fort Lewis College
Front Range Community College
Lamar Community College
Metropolitan State
University of Denver
Morgan Community College
Northeastern Junior College
Otero Junior College
Pikes Peak Community College
Pueblo Vocational Community College
Red Rocks Community College
State Board for Community Colleges and Occupational Education
Trinidad State Junior College
University of Colorado
University of Northern Colorado
Western State Colorado University

- (B) The Agencies and Instrumentalities group of the State Division shall consist of the following employers and their employees and any other state agency or instrumentality established subsequent to the adoption of the Rules:

CollegeInvest
College Assist
Colorado Association of School Boards
Colorado Association of School Executives
Colorado Council on the Arts
Colorado High School Activities Association
Colorado Water Resources & Power Development Authority
Colorado Community College System
CoverColorado
Department of Agriculture
Department of Corrections
Department of Education
Department of Health Care Policy and Financing
Department of Human Services
Department of Labor and Employment

Department of Law
Department of Local Affairs
Department of Military and Veterans Affairs
Department of Natural Resources
Department of Personnel and Administration
Department of Public Health and Environment
Department of Public Safety
Department of Regulatory Agencies
Department of Revenue
Department of State
Department of the Treasury
Department of Transportation
Fire and Police Pension Association
General Assembly
Joint Budget Committee
Judicial Department
Legislative Council
Office of the District Attorneys
Office of the Governor
Office of Legislative Legal Services
Office of the Lieutenant Governor
Office of the State Auditor
Pinnacol Assurance
Public Employees' Retirement Association
School for the Deaf and the Blind
Special District Association of Colorado
State Historical Society

B. The School Division shall consist of the following affiliated employers and their employees and any other school district established and affiliated subsequent to the adoption of the Rules:

Adams County

Adams 12 Five Star Schools

Adams County School District 14

Bennett School District 29J

Brighton School District 27J

Mapleton School District 1

Strasburg School District 31J

~~Westminster School District 50~~ Westminster Public Schools

Alamosa County

Alamosa County School District Re-11J

Sangre de Cristo School District Re-22J

Arapahoe County

Adams-Arapahoe School District 28J

Byers School District 32J

Cherry Creek School District 5

Deer Trail School District 26J

Englewood School District 1

Littleton School District 6

Sheridan School District 2

Archuleta County

Archuleta County School District 50 Jt

Baca County

Campo School District RE-6

Pritchett School District RE-3

Springfield School District RE-4

Vilas School District RE-5

Walsh School District RE-1

Bent County

Las Animas School District RE-1

McClave School District RE-2

Boulder County

Boulder Valley School District RE2

St. Vrain Valley School District RE1J

Chaffee County

Buena Vista School District R-31

Salida School District R-32(J)

Cheyenne County

Cheyenne County School District Re-5

Kit Carson School District R-1

Clear Creek County

Clear Creek School District RE-1

Conejos County

North Conejos School District RE1J Sanford School District 6J

South Conejos School District RE 10

Costilla County

Centennial School District R-1 Sierra Grande School District

R-30

Crowley County

Crowley County School District RE-1

Custer County

Custer County Consolidated School District C-1

Delta County

Delta County School District 50(J)

Dolores County

Dolores County School District Re No. 2

Douglas County

Douglas County School District Re 1

Eagle County

Eagle County School District Re 50

Elbert County

Agate School District 300

Big Sandy School District 100J

Elbert School District 200

Elizabeth School District C-1

Kiowa School District C-2

El Paso County

Academy School District #20

Calhan School District RJ1

Cheyenne Mountain School District 12

Colorado Springs School District 11

Edison School District 54 Jt

Ellicott School District 22

Falcon School District 49

Fountain School District 8

Hanover School District 28

Harrison School District 2

Lewis-Palmer School District 38

Manitou Springs School District 14

Miami/Yoder School District 60 Jt

Peyton School District 23 Jt

Widefield School District 3

Fremont County

Canon City School District Re-1 Cotopaxi School District Re-3 Florence School District Re-2

Garfield County

Garfield School District 16 Garfield School District Re-2 Roaring Fork School District Re-1

Gilpin County

Gilpin County School District Re-1

Grand County

East Grand School District 2 West Grand School District 1

Gunnison County

Gunnison Watershed School District Re1J

Hinsdale County

Hinsdale County School District Re-1

Huerfano County

Huerfano School District Re-1

La Veta School District Re-2

Jackson County

North Park School District R-1

Jefferson County

Jefferson County School District R-1

Kiowa County

Kiowa County School District RE-1

Plainview School District Re-2

Kit Carson County

Arriba-Flagler Consolidated School District No. 20

Bethune School District R-5

Burlington School District Re-6J

Hi-Plains School District R-23

Stratton School District R-4

Lake County

Lake County School District R-1

La Plata County

Bayfield School District 10Jt-R

Durango School District 9-R

Ignacio School District 11 Jt

Larimer County

Estes Park School District R-3

Poudre School District R-1

Thompson School District R-2J

Las Animas County

Aguilar Reorganized School District 6
Branson Reorganized School District 82
Hoehne Reorganized School District 3
Kim Reorganized School District 88
Primero Reorganized School District 2
Trinidad School District 1

Lincoln County

Genoa/Hugo School District C-113
Karval School District Re 23
Limon School District Re 4J

Logan County

Buffalo School District Re-4
Frenchman School District Re-3
Plateau School District Re-5
Valley School District Re-1

Mesa County

De Beque School District 49 Jt
Mesa County Valley School District 51
Plateau Valley School District 50

Mineral County

Creede Consolidated School District 1

Moffat County

Moffat County School District Re No.1

Montezuma County

Dolores School District RE 4A
Mancos School District Re-6
Montezuma-Cortez School District Re 1

Montrose County

Montrose County School District Re-1J
West End School District Re-2

Morgan County

Brush School District Re-2 (J)
Fort Morgan School District Re-3
Weldon Valley School District Re-20 (J)
Wiggins School District Re-50 (J)

Otero County

Cheraw School District 31

East Otero School District R1

Fowler School District R4J

Manzanola School District 3J

Rocky Ford School District R2

Swink School District 33

Ouray County

Ouray School District R-1

Ridgway School District R-2

Park County

Park County School District Re-2

Platte Canyon School District 1

Phillips County

Haxtun School District Re-2J

Holyoke School District Re-1J

Pitkin County

Aspen School District 1

Prowers County

Granada School District Re-1

Holly School District Re-3

Lamar School District Re-2

Wiley School District Re-13 Jt

Pueblo County

Pueblo City School District 60

Pueblo County Rural School District 70

Rio Blanco County

Meeker School District RE1

Rangely School District RE4

Rio Grande County

Del Norte School District C-7

Monte Vista School District C-8

Sargent School District Re-33J

Routt County

Hayden School District Re 1

South Routt School District Re 3

Steamboat Springs School District Re 2

Saguache County

Center Consolidated School District 26 Jt

Moffat School District 2

Mountain Valley School District Re 1

San Juan County

Silverton School District 1

San Miguel County

Norwood School District R-2J

Telluride School District R-1

Sedgwick County

Julesburg School District Re 1

Revere School District

Summit County

Summit School District Re 1

Teller County

Cripple Creek-Victor School District Re-1

Woodland Park School District RE-2

Washington County

Akron School District R-1

Arickaree School District R-2

Lone Star School District 101

Otis School District R-3

Woodlin School District R-104

Weld County

Ault-Highland School District Re-9

Briggsdale School District Re-10

Eaton School District Re-2

Gilcrest School District Re-1

Greeley School District 6

Johnstown-Milliken School District Re-5J

Keenesburg School District Re-3

Pawnee School District Re-12

Platte Valley School District Re-7

Prairie School District Re-11

Weld County School District Re-8

Windsor School District Re-4

Yuma County

Idalia School District RJ-3

Liberty School District J-4

Wray School District RD-2

Yuma School District 1

Boards of Cooperative Educational Services (BOCES)

Adams County Board of Cooperative Educational Services

Centennial Board of Cooperative Educational Services

East Central Board of Cooperative Educational Services

Expeditionary Learning School Board of Cooperative Educational Services

Grand Valley Board of Cooperative Educational Services

Mount Evans Board of Cooperative Educational Services

Mountain Board of Cooperative Educational Services

Northeast Board of Cooperative Educational Services

Northwest Colorado Board of Cooperative Educational Services

Pikes Peak Board of Cooperative Educational Services

Rio Blanco Board of Cooperative Educational Services

San Juan Board of Cooperative Educational Services

San Luis Valley Board of Cooperative Educational Services

Santa Fe Trail Board of Cooperative Educational Services

South Central Board of Cooperative Educational Services

Southeastern Board of Cooperative Educational Services

Uncompaghre Board of Cooperative Educational Services

Ute Pass Board of Cooperative Educational Services

Vocational Schools

Delta-Montrose Area Vocational School

Other

Colorado Consortium for Earth and Space Science Education

C. Local Government Division

The Local Government Division shall consist of the following affiliated employers and their employees and any other entity of local government or public agency other than state that elect to affiliate with the Association:

Adams and Jefferson County Hazardous Response Authority

Alamosa Housing Authority

Arapahoe Park and Recreation District

Aurora Housing Authority

Baca Grande Water & Sanitation District

Beulah Water Works District

Black Hawk-Central City Sanitation District

Blanca-Fort Garland Metropolitan District

Boulder County

Boulder County Public Trustee's Office

Boxelder Sanitation District
Brush Housing Authority
Carbon Valley Park & Recreation District
Castle Pines Metropolitan District
Castle Pines North Metropolitan District Center Housing Authority
Central Colorado Water Conservancy District
City of Alamosa
City of Boulder
City of Castle Pines
City of Colorado Springs
City of Fort Morgan
City of Las Animas
City of Lone Tree
City of Manitou Springs
City of Pueblo
City of Wray
City of Yuma
Clearview Library District
Collbran Conservancy District
Colorado District Attorneys' Council
Colorado First Conservation District
Colorado Health Facilities Authority
Colorado Housing and Finance Authority
Colorado Library Consortium
Colorado River Fire Protection District
Colorado School District Self-Insurance Pool
Colorado Springs Utilities
Columbine Knolls-Grove Metropolitan Recreation District
Costilla Housing Authority
County Technical Services
Cucharas Sanitation and Water District
Cunningham Fire Protection District
Douglas County Housing Partnership
Douglas County Libraries
Durango Fire Protection District
East Cheyenne Groundwater Management District
East Larimer County Water District
Eastern Rio Blanco Metropolitan Recreation & Park District
Eaton Housing Authority

Elbert County Library District
Elizabeth Park and Recreation District
El Paso – Teller County
Emergency Telephone Service Authority
Estes Park Housing Authority
Estes Park Local Marketing District
Estes Valley Fire Protection District
Estes Valley Public Library District
Forest Lakes Metropolitan District
Fremont Conservation District
Fremont Sanitation District
Garfield County Housing Authority
Grand Junction Regional Airport Authority
Grand Valley Fire Protection District
Green Mountain Water and Sanitation District
GVR Metropolitan District
Housing Authority of Arriba
Housing Authority of the City of Boulder
Housing Authority of the City of Colorado Springs
Housing Authority of the County of Adams
Housing Authority of the Town of Limon
Lamar Housing Authority
Lamar Utilities Board
Left Hand Water District
Longmont Housing Authority
Longs Peak Water District
Louisville Fire Protection District
Meeker Cemetery District
Meeker Regional Library District
Meeker Sanitation District
Montrose Fire Protection District
Montrose Recreation District
Monument Sanitation District
Morgan Conservation District
Morgan County Quality Water District
Mountain View Fire Protection District
Mountain Water and Sanitation District
Niwot Sanitation District
North Carter
Lake Water District

North Chaffee County Regional Library
Northeast Colorado Health Department
Northeastern Colorado Association of Local Governments
Park Center Water District
Pine Drive Water District
Pikes Peak Regional Building Department

~~Plains Ground Water Management District~~

[Plum Creek Water Reclamation Authority](#)

Pueblo City-County Health Department

Pueblo Library District

Pueblo Transit Authority

Pueblo Urban Renewal Authority

Rampart Regional Library District

Rangely Regional Library District

Red Feather Mountain Library District

Red, White & Blue Fire Protection District

Republican River Water Conservation District

Rifle Fire Protection District

Rio Blanco Fire Protection District

Rio Blanco Water Conservancy District

Routt County Conservation District

Sable-Altura Fire Protection District

San Luis Valley Development Resources Group

San Luis Valley Water Conservancy District

San Miguel County Public Library District

San Miguel Regional and Telluride Housing Authority

Scientific and Cultural Facilities District

Sheridan Sanitation District #1

~~Soldier Canyon Filter Plant~~ [Soldier Canyon Water Authority](#)

Statewide Internet Portal Authority

Steamboat II Water and Sanitation District

Strasburg Metropolitan Parks & Recreation District

St. Vrain Sanitation District

Tabernash Meadows Water and Sanitation District

Town of Alma

Town of Bayfield

Town of Crawford

Town of Dinosaur
Town of Eckley
Town of Estes Park
Town of Firestone
Town of Lake City
Town of Lochbuie
Town of Mountain Village
Town of Platteville
Town of Rico
Town of Rye
Town of Seibert
Town of Silver Plume
Town of Timnath
Tri-County Health Department
Tri-Lakes Wasterwater Treatment Facility
Upper Colorado Environmental Plant Center
Upper Thompson Sanitation District
Washington-Yuma Counties Combined Communications Center
Weld County Department of Public Health and Environment
West Greeley Conservation District
Western Rio Blanco Metropolitan Recreation and Park District
White River Conservation District
Wray Housing Authority
Yuma Housing Authority

D. Judicial Division

The Judicial Division shall consist of judges elected or appointed to positions in the following courts and any court established subsequent to the adoption of the Rules:

1st-22nd District Court
Adams County Court
Alamosa County Court
Arapahoe County Court
Archuleta County Court
Baca County Court
Bent County Court
Boulder County Court
Broomfield County Court
Chaffee County Court
Cheyenne County Court
Clear Creek County Court

Conejos County Court
Costilla County Court
Court of Appeals
Crowley County Court
Custer County Court
Delta County Court
Denver County Court
Denver Juvenile Court
Denver Probate Court
Dolores County Court
Douglas County Court
Eagle County Court
Elbert County Court
El Paso County Court
Fremont County Court
Garfield County Court
Gilpin County Court
Grand County Court
Gunnison County Court
Hinsdale County Court
Huerfano County Court
Jackson County Court
Jefferson County Court
Kiowa County Court
Kit Carson County Court
Lake County Court
La Plata County Court
Larimer County Court
Las Animas County Court
Lincoln County Court
Logan County Court
Mesa County Court
Mineral County Court
Moffat County Court
Montezuma County Court
Montrose County Court
Morgan County Court
Otero County Court
Ouray County Court

Park County Court
Phillips County Court
Pitkin County Court
Prowers County Court
Pueblo County Court
Rio Blanco County Court
Rio Grande County Court
Routt County Court
Saguache County Court
San Juan County Court
San Miguel County Court
Sedgwick County Court
Summit County Court
Supreme Court
Teller County Court
Washington County Court
Weld County Court
Yuma County Court

E. Denver Public Schools Division Denver Public School District No. 1

2.20 Administrative Review

A. Request for Executive Director Initial Decision

A written request for an initial decision by the Executive Director must be received by the Association within 90 days after the date on which the staff decision is mailed. The staff decision shall be sent by certified mail.

B. Request for Administrative Hearing

A written request for administrative hearing, including specifics, must be received by the Association within 45 days after the date on which the notice of the initial decision is mailed. The initial decision shall be made by PERA's Executive Director or the Executive Director's designee, and written notice of the initial decision shall be sent by certified mail.

C. Notification of Scheduled Administrative Hearing

The person for whom the hearing is being conducted or their attorney, if represented, and the person representing the PERA administration will be notified by certified mail and first class mail of the time, date and place of the hearing no less than 45 days prior to the date of the hearing.

D. Submission of Information Prior to the Hearing

- (1) No less than 30 days prior to the date for which the hearing is scheduled, the person who requested the hearing and the person representing the PERA administration each shall submit: (a) a statement which includes the issues presented, a brief analysis of those issues, the names of all witnesses to appear, a brief description of their expected testimony, and (b) the written information to be considered at the hearing.
- (2) No less than 20 days prior to the date for which the hearing is scheduled, the person who requested the hearing and the person representing the PERA administration each shall submit: a responsive statement including, to the extent appropriate, the same elements set forth in Rule 2.20 D (1) (a), and (b) and any additional written information to be considered at the hearing. After this submission, no further written information is to be submitted unless good cause is shown for the late submission.

E. Burden of Proof

The person who requested the hearing shall bear the burden of proof by a preponderance of the evidence at the hearing.

F. Consolidation of Administrative [Hearings](#)[Appeals](#)

Upon request of either party, the Board Chair at his or her discretion may direct consolidation of executive director initial decisions and/or administrative hearings in appropriate circumstances. The party requesting consolidation must make such request in writing no later than 30 days ~~after~~[after the deadline for](#) a written request for executive director initial decision or administrative hearing is ~~filed~~[due](#) pursuant to Rule 2.20A or B. Within 10 days of such a request, the other party may submit a written response stating that party's position regarding consolidation.

G. Administrative Hearing

(1) Appointment of Panel Members

The Panel shall consist of three Board members appointed by the Chair.

(2) Responsibilities of Panel

The Panel shall hear and consider the evidence and then shall issue written findings of fact, conclusions of law, and the decision. The Panel's decision shall constitute final administrative action appealable under Colorado Rule of Civil Procedure 106(a)(4) unless either party chooses to appeal the decision to the PERA Board pursuant to subparagraph (3) below. Written notice of the Panel's decision shall be sent by certified mail to each person who requested the hearing or to their attorney, if represented, and to the person representing the PERA administration.

(3) Review by the Board

- (a) Any party may choose to appeal the Panel's decision to the PERA Board. If any party chooses to appeal, it must submit a written request for review to the PERA Board, which

must be received by the Association within 30 days after the date on which the Panel's decision is mailed. If no appeal is made to the PERA Board within the 30 days, the Panel's decision shall become final administrative action at the expiration of the 30 days to appeal to the PERA Board.

- (b) If a request for review to the PERA Board is filed prior to the deadline, the PERA Board shall review the matter based on the existing evidentiary record. The Board's review of the matter shall be limited to issues of law and shall not include review of the factual findings by the Panel. The record for Board review shall include the written materials considered by the Panel, the findings of fact, conclusions of law, and the Panel's decision. The Board may permit briefs and oral argument, if requested by a party at the time of appeal. The three Board members who served on the Panel shall not participate in the Board's review. After review, the Board shall issue a written decision affirming, reversing, or modifying the Panel's decision. Alternatively, the Board may remand the matter to the Panel with instructions to make further factual findings on specific issues that will assist the Board in determining issues of law; however, the Board may not alter any factual findings made by the Panel. Once the Panel has conducted its additional factual findings, the matter shall be re-submitted to the Board to issue its written decision. Written notice of the Board's final decision shall be sent by certified mail to the parties or to their attorney, if represented, within 10 days of the date on which the written decision was made.
- (4) If the PERA Board reviews the Panel's decision pursuant to subsection (3) of section (G) of this Rule, the Board's decision after its review shall constitute final administrative action appealable under Colorado Rule of Civil Procedure 106(a)(4).

11.10 Employment After Service Retirement

A retiree receiving a service retirement or reduced service retirement benefit may be employed, under certain conditions, without reduction in benefits.

A. Employment with an Affiliated Employer

- (1) For a service retiree employed in a position subject to limits on employment after service retirement, employment of more than four hours per day shall be considered one day.
- (2) Employment after service retirement shall include all of the time during which a retiree renders any paid service.

B. Employment with a Non-Affiliated Employer

A retiree receiving a service retirement or reduced service retirement benefit may be employed with a non-affiliated employer without a reduction in or suspension of benefits.

C. Employment of Benefit Recipients Other Than Retirees

Cobeneficiaries and survivors are not subject to employment limitations.

D. Employment Pursuant to Section 24-51-1101(1.8), C.R.S.

- (1) For the purposes of Section 24-51-1101(1.8), C.R.S., an “employer” is defined to be an entire school district and the charter schools of the district. Charter schools are not separate employers for purposes of Section 24-51-1101(1.8), C.R.S.
- (2) A service retiree who is working for an employer pursuant to Section 24-51-1101(1.8), C.R.S., may also work for one or more employers during the calendar year. Once the service retiree reaches one hundred ten days or seven hundred twenty hours in a calendar year, whichever is applicable, the retiree may only work the remaining thirty days or one hundred ninety six hours, without a reduction in benefits, for the employer that designated that service retiree pursuant to Section 24-51-1101(1.8), C.R.S. Any employment with another employer will subject the retiree to a reduction in benefits pursuant to Section 24-51-1102, C.R.S.
- (3) For purposes of Section 24-51-1101(1.8), on January 1 of each year, the employer must provide the Association with a list of any and all service retirees employed by the employer. The list must be updated with each service retiree who is hired that year.
- (4) For purposes of Section 24-51-1101(1.8), C.R.S., an employer is not required to designate all ten service retirees at the beginning of each year. However, once ten service retirees have been designated during a calendar year, no additional service retirees may be designated even if one or more of the designated service retirees ceases work for that employer.

E. Employment as an Instructor at a State College or University

- (1) An instructor at a state college or university may, but is not required to, determine hours worked for purposes of the limit in Section 24-51-1101(1) or (1.8), C.R.S., as applicable, by deeming each one credit hour taught per semester to equal three hours worked per week in that semester. An instructor who determines hours worked using this method may not exceed seven hundred twenty or nine hundred sixteen hours worked in the calendar year, or the daily equivalent if combining the hourly employment limit with other daily employment.
- (2) For the purposes of this Rule, “state college or university” has the same definition as 24-51-1101(1.8)(e)(I), C.R.S.

11.15 Reduction/Offset in Benefits

- A. Any reduction in benefits due to working in the month of effective date of retirement or due to exceeding the working after retirement limits for an affiliated employer shall take

place in the month immediately following the month such work occurs or is reported to PERA. If such benefit reduction cannot completely occur in this month, it shall be applied to future months until the amount due is recovered.

- B. For disability retirees who exceed the earnings limit for employment after disability retirement, the benefit offset shall take place in the month immediately following the month such work occurs or is reported to PERA. If such benefit offset cannot completely occur in this month, it shall be applied to future month's benefits. In no case shall the benefit offset exceed the total benefit paid on the retiree account. This paragraph (B) shall not apply to DPS disability retirees whose application was received prior to January 1, 2010.
- C. For retirees who have multiple benefit segments pursuant to Section 24- 51-1103 or 24-51-1726.5, C.R.S., all benefit segments shall be offset by any reduction in benefits due to working in the month of effective date of retirement or due to exceeding the working after retirement limits for an affiliated employer.
- D. Retirees who exceed the working after retirement limits shall report the excess hours or days worked to PERA no later than March 31st of the following year. If the retiree fails to timely report the excess hours or days, interest at PERA's actuarial investment assumption rate shall be applied to the amount owed pursuant to Section 24-51-1102, C.R.S. Interest shall be calculated retroactively to April 1st of the year in which the reporting was due. The reduction in benefit and any interest due under this subsection D. shall be collected via an offset of the retirement benefit of the retiree.

14.30 Contribution Report

- A. The employer shall deliver all 401(k) Plan contributions, along with the required report, to the service provider designated by the Plan Administrator within five days of the date contributions were deducted from the employee's salary. If either the report or contributions are delinquent, interest shall be assessed and paid as specified in Rule 4.10 to participants as determined by the Plan Administrator in a manner consistent with the Employee Plans Compliance Resolution System, Rev. Proc. 2016-51, as updated and superseded by future IRS guidance.
- B. The Plan Administrator shall prescribe the form in which 401(k) Plan contributions shall be reported. Fees associated with the collection of delinquent reports or contributions shall be assessed and paid to the Plan Administrator computed on a daily interest rate on the contribution amount from the due date to the day that both the required report and contributions are received. The Plan Administrator, in its sole discretion, may waive the fee so computed.

Notice of Proposed Rulemaking

Tracking number

2017-00494

Department

1505 - Department of State

Agency

1505 - Secretary of State

CCR number

8 CCR 1505-1

Rule title

ELECTIONS

Rulemaking Hearing**Date**

11/17/2017

Time

01:00 PM

Location

Aspen Conference Room on the 3rd floor of the Secretary of States Office at 1700 Broadway, Denver, Colorado 80290

Subjects and issues involved

The Secretary is considering rule revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly; establish uniformity in the administration of current law; organize existing rules for clarity; eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute; and ensure consistency with Department rulemaking standards. The Secretary may consider additional rule amendments. Please see the attached Notice of Rulemaking (includes a draft statement of basis and preliminary draft proposed rules).

Statutory authority

Sections 1-1-107(2)(a), 1-1.5-104(1)(b), 1-1.5-104(1)(e), 1-4-101(2)(b), 1-4-1203(6), 1-4-908(1.5)(b)(III), 1-4-912(3), 1-7-515(4), 1-7.5-104, 1-7.5-105, 1-7.5-106

Contact information**Name**

Andrea Gyger

Title

Department Rulemaking Manager

Telephone

303-894-2200 x6329

Email

sos.rulemaking@sos.state.co.us

Preliminary Draft of Proposed Rules

Office of the Colorado Secretary of State Election Rules 8 CCR 1505-1

October 13, 2017

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the November 17, 2017 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **November 9, 2017**.²

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>Italic blue font text</i>	Annotations

1 *Amendments to 8 CCR 1505-1 follow:*

2 *Amendments to Rule 2.5.3 concerning changes to an elector's existing voter registration record:*

3 2.5.3 If an elector submits a change to his or her voter registration record and leaves the
4 affiliation OR BALLOT PREFERENCE section blank, the county clerk ~~must make no~~ MAY
5 NOT change ~~to~~ the voter's EXISTING affiliation OR BALLOT PREFERENCE in the registration
6 record.

7 *Technical amendments to Rule 2.10 concerning new voter notifications:*

8 2.10 ~~New voter notification under section 1-2-509(3), C.R.S.~~ During the 22 days before an election,
9 the county clerk must defer processing undeliverable new voter notifications. After the election is
10 closed, the clerk must determine an applicant "not registered" under section 1-2-509(3), C.R.S.,
11 only if the applicant did not vote in the election.

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2017). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2017). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

Amendments to Rule 2.14.4 concerning voter registration records and data:

2.14.4 Without written authorization from the Secretary of State, the county clerk may not run or schedule to run SCORE reports or exports that include voter or election detail during regular business hours beginning 22 days before election day and from 7:00 am to 7:00 pm on election day. A COUNTY THAT USES AN AUTOMATED SIGNATURE VERIFICATION DEVICE MAY RUN THE EXP-004 REPORT DURING THIS TIME.

Amendments to Rule 3.4.1 concerning qualified political organizations:

3.4.1 Files proof of organization with the Secretary of State BY MARCH 1 IN AN EVEN NUMBERED YEAR;

Amendments to Rule 4.5.2(e)(3) regarding order of ballot issues:

4.5.2 Each political subdivision must determine the order of the ballot issues for their political subdivision in accordance with the requirements of Colorado Constitution Article X, Section 20 and Title 1.

(e) Ballot issues from the various political subdivisions must be ordered on the ballot as provided in section 1-5-407(5), C.R.S:

(3) Each category of local referred ballot issues and questions must be designated by a letter or a number and a letter in the following series:

1A-1Z	County Issues MEASURES
2A-2Z	Municipal Issues MEASURES WHOLLY WITHIN A COUNTY
3A-3Z	MUNICIPAL MEASURES GREATER THAN A COUNTY
3A-3Z 4A-4Z	School District Issues MEASURES WHOLLY WITHIN A COUNTY
5A-5Z	SCHOOL DISTRICT MEASURES GREATER THAN A COUNTY
4A-4Z 6A-6Z	Ballot Issues and Questions MEASURES for other political subdivisions greater than a county WHOLLY WITHIN A COUNTY
5A-5Z 7A-7Z	Ballot Issues and Questions MEASURES for other political subdivisions which are wholly within a county GREATER THAN A COUNTY

New Rules 7.2.10 through 7.2.14 concerning ballots and ballot packets:

7.2.10 THE MAIL BALLOT PACKET REQUIRED UNDER SECTIONS 1-4-101(2)(B) AND 1-4-1203(4)(C), C.R.S. MUST CONTAIN ONLY THE BALLOTS OF EACH PARTICIPATING MAJOR POLITICAL PARTY.

7.2.11 AN UNAFFILIATED VOTER WHO WANTS TO RECEIVE THE MAIL BALLOT OF A PARTICIPATING MINOR POLITICAL PARTY IN THE MAIL MUST DECLARE A MAIL BALLOT PREFERENCE FOR THAT PARTY IN ACCORDANCE WITH SECTION 1-2-204(2)(J.5), C.R.S.

7.2.12 IF AN UNAFFILIATED VOTER SELECTS A MAIL BALLOT PREFERENCE FOR A MAJOR OR MINOR POLITICAL PARTY THAT IS NOT PARTICIPATING OR THAT PROHIBITS UNAFFILIATED

VOTERS FROM VOTING IN ITS PRIMARY ELECTION, THE COUNTY CLERK MUST SEND THE VOTER THE MAIL BALLOT PACKET DESCRIBED IN RULE 7.2.10.

7.2.13 A VOTER AFFILIATED WITH A QUALIFIED POLITICAL ORGANIZATION IS CONSIDERED AN UNAFFILIATED VOTER FOR THE PURPOSES OF THIS RULE 7.2.

7.2.14 A VOTER AFFILIATED WITH A POLITICAL PARTY THAT IS NOT PARTICIPATING IN THE PRIMARY ELECTION WILL NOT RECEIVE A MAIL BALLOT.

Renumbering Current Rules 7.2.10 through 7.2.12 to Rules 7.2.15 through 7.2.17:

~~7.2.10~~ 7.2.15 The mail ballot return envelope for each unaffiliated voter in a primary election may provide a means for the county to determine, before opening the envelope, which party's primary election ballot the elector returned. If the mail ballot return envelope does not provide such a means, or the county cannot determine which party's ballot the elector returned before opening the envelope, the county must follow the process outlined in Rule 7.5.13. The county's determination under this Rule may not rely solely on a voter's self-reported selection (for example, a checkbox).

~~7.2.11~~ 7.2.16 Each mail ballot return envelope and mail ballot instruction for an unaffiliated voter in a primary election must include a statement instructing the voter to return only one ballot.

~~7.2.12~~ 7.2.17 The county clerk must issue a replacement mail ballot packet to an unaffiliated elector in a primary election as follows:

- (a) If the elector has not declared a mail ballot preference, the county clerk must issue a packet containing the ballots of all participating major political parties.
- (b) If the Elector has timely declared a mail ballot preference, the county clerk must issue the elector's preferred political party's ballot; or upon the elector's request, a packet containing the ballots of all participating major political parties.

Technical amendments to Rule 7.5.1 concerning receipt and processing of ballots:

7.5.1 The county clerk must adequately light all stand-alone drop-off locations and use either an election official or a video security surveillance recording system as defined in Rule ~~1.1.43~~ 1.1.45 to monitor each location.

Amendments to Rule 7.17 concerning scanning elector's signatures:

7.17 Within ~~90~~ 120 days after each election DAY, OR BEFORE THE FIRST DAY TO CONDUCT SIGNATURE VERIFICATION AT THE NEXT COUNTY OR MUNICIPAL MAIL BALLOT ELECTION, WHICHEVER IS SOONER, the county clerk must scan into SCORE the elector's signature and signature date on each accepted mail ballot return envelope and on any cure letter returned by the elector. IN A PRESIDENTIAL PRIMARY YEAR, THE DEADLINE FOR SCANNING SIGNATURES AND SIGNATURE DATES FROM ALL PRIOR ELECTIONS THAT YEAR IS EXTENDED TO 120 DAYS AFTER THE STATE PRIMARY ELECTION. A COUNTY THAT IS UNABLE TO SCAN THE SIGNATURE AND/OR SIGNATURE DATE INTO SCORE MAY APPLY TO THE SECRETARY OF STATE FOR A WAIVER FROM THESE REQUIREMENTS.

Amendments to Rule 10.4 concerning canvass:

10.4 No canvass board may certify official results until authorized to do so by the Secretary of State. The Secretary of State may extend the canvass deadline for one or more counties in order to complete the risk-limiting audit in accordance with Rule 25.2. Before certifying official results, a county that conducts a comparison audit as defined in Rule ~~25.1.4~~-25.1.5 must manually adjust the preliminary results to ~~reflect all~~ ACCOUNT FOR discrepancies identified in the risk-limiting audit IF DIRECTED BY THE SECRETARY OF STATE.

Amendments to Rule 11.3.2(c) and (d) concerning logic and accuracy testing:

11.3.2 Logic and Accuracy Test

(c) Preparing for the Logic and Accuracy Test

(2) The county must convene a Testing Board of one registered elector from each of the major political parties. Testing Board members must be registered to vote in the county AND BE SWORN IN AS ELECTION JUDGES.

(d) Conducting the Test

(4) The Testing Board and designated election official must count the test ballots as follows, if applicable:

(C) Ballot Marking Devices (BMDs):

(i) The Testing Board must RANDOMLY SELECT AND test at least one BMD.

Amendments to Rule 15.1.1 through 15.1.4 concerning preparation, filing, and verification of petitions:

15.1 The following requirements apply to candidate, statewide initiative, recall, and referendum petitions, unless otherwise specified.

15.1.1 PETITION TEMPLATE FOR STATE PETITIONS

(A) PETITION PROPONENTS MUST USE THE SECRETARY OF STATE'S FILLABLE .PDF PETITION TEMPLATE TO CREATE THEIR PETITION FORMAT.

(B) AFTER APPROVAL OF THE PETITION FORMAT AS TO FORM, PROPONENTS MUST PRINT ALL PETITION SECTIONS IN ACCORDANCE WITH THE SECRETARY OF STATE'S PETITION-PRINTING GUIDELINES.

(C) ANY SIGNATURE AFFIXED TO A PETITION SECTION THAT DOES NOT CONFORM TO THE REQUIREMENTS OF THIS RULE 15.1.1 IS NOT VALID.

~~15.1.1~~-15.1.2 The Secretary of State or DEO will not accept or count additional signatures after proponents file the original petition or addendum.

~~15.1.2~~-15.1.3 Circulator affidavit

(a) If a petition section does not have a completed circulator affidavit, the Secretary of State or DEO will reject the entire section.

(b) If a petition section does not have a completed notary clause, or if the date of the notary clause differs from the date the circulator signed the affidavit, the Secretary of State or DEO will reject the entire section.

(c) IF A STATE CANDIDATE IS CURING A CIRCULATOR AFFIDAVIT UNDER SECTION 1-4-912(2), C.R.S., THE CANDIDATE MUST USE THE CURE AFFIDAVIT PROVIDED BY THE SECRETARY OF STATE.

~~15.1.3~~ 15.1.4 Verifying individual entries

(d) Secretary of State or DEO staff will reject the entry if:

(13) THE SIGNER'S INFORMATION APPEARS OUTSIDE OF A NUMBERED SIGNATURE BLOCK ON A PETITION SECTION.

Amendments to Rule 15.5 concerning initiative petition verification:

15.5 Statewide initiative petition verification

15.5.1 Verification by random sample.

~~15.5.2 Preliminary count and random number generation.~~

~~(a) After counting the entries on each petition section, Secretary of State staff will enter the petition identification number, the petition section number, the page number, and the number of entries on the page into the database.~~

~~(b)-(A) Staff will then create a record for each entry ON THE PETITION that contains the petition identification number, petition section number, page number, and the entry number. Staff will AND tally the total number of entries.~~

~~(c) If the number of entries is less than the total number of signatures required to certify the measure to the ballot, the Secretary of State will issue a statement of insufficiency.~~

~~15.5.3(B) Random sample.~~ The database will generate a series of random numbers equal to 4,000 signatures or five percent of the total number of signatures, whichever is greater. Staff will check the validity of the random signatures in accordance with this Rule. Staff will maintain a master record of each accepted and rejected entry, along with the reason code for each rejected entry.

New Rule 15.7 concerning signature verification of petitions:

15.7 SIGNATURE VERIFICATION ON STATE CANDIDATE PETITIONS

15.7.1 THE SECRETARY OF STATE WILL COMPARE THE SIGNATURE ON EACH PETITION ENTRY WITH THE ELECTOR'S SIGNATURE IN SCORE IN ACCORDANCE WITH THE SECRETARY OF STATE'S SIGNATURE VERIFICATION GUIDE. THE SECRETARY OF STATE MAY USE AN AUTOMATED SIGNATURE VERIFICATION DEVICE.

(A) IF THE SIGNATURES MATCH AND THE ENTRY IS OTHERWISE VALID, THE SECRETARY OF STATE MUST ACCEPT THE ENTRY.

(B) IF UPON INITIAL REVIEW THE SIGNATURES DO NOT MATCH, THE SECRETARY OF STATE MUST CONDUCT FURTHER REVIEW OF THE ENTRY. A TEAM OF TWO STAFF MEMBERS WHO ARE NOT AFFILIATED WITH THE SAME POLITICAL PARTY MUST REVIEW THE SIGNATURES, CONDUCT ADDITIONAL RESEARCH IN SCORE IF NECESSARY, AND, UNLESS BOTH STAFF MEMBERS AGREE THAT THE SIGNATURES DO NOT MATCH, ACCEPT THE ENTRY IF IT IS OTHERWISE VALID.

[Not shown: renumbering of Rule 15.7 to 15.8]

Amendments to Rule 16.1.6 concerning military and overseas electors:

16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days before the ~~Primary Election or Presidential Primary Election, if applicable,~~ FIRST PRIMARY ELECTION IN AN EVEN NUMBERED YEAR to each elector whose record is marked "Inactive." The correspondence may be sent by email or mail and, at a minimum, must notify the electors of:

- (a) The status of the elector's record and ballot request;
- (b) The upcoming federal elections;
- (c) How to update the elector's mailing information and request a ballot; and
- (d) Any other information the county clerk deems appropriate.

Amendments to Rule 16.1.7 concerning military and overseas electors:

16.1.7 No later than 45 days before an election, the county clerk must report to the Secretary of State the number OF ballots transmitted to military and overseas electors by the 45-day deadline.

Amendments to Rule 16.2.3 concerning correction of citation:

16.2.3 The self-affirmation must include the standard oath required by the Uniformed and Overseas Citizen Voting Act (42 U.S.C. sec. ~~1973ff(b)(7) and 1(a)(5)~~ 52 U.S.C. SEC. 20301(B)(7) AND 20302(A)(5)), the elector's name, date of birth, signature, and the following statement: I also understand that by returning my voted ballot by electronic transmission, I am voluntarily waiving my right to a secret ballot and that Colorado law requires that I return this ballot by a more secure method, such as mail, if available and feasible. (Sections 1-8.3-113 and 1-8.3-114, C.R.S.)

Amendments to Rule 16.2.4 concerning electronic transmission to military and overseas electors:

16.2.4 If the county clerk transmits a ballot packet to an elector by fax OR EMAIL and the transmission is unsuccessful, the county clerk must attempt to fax OR EMAIL the ballot at least two more times. IF ELECTRONIC TRANSMISSION IS UNSUCCESSFUL, THE COUNTY CLERK MUST MAIL THE BALLOT AND REMOVE THE ELECTRONIC TRANSMISSION FLAG IN SCORE UNDER RULE 16.2.1(E).

1 *Amendments to Rule 25.2.2(g) concerning conducting the risk limiting audit:*

2 25.2.2 Preparing for the audit

3 (g) Ballot polling audit uploads. No later than 11:59 p.m. MT on the ninth day after
4 election day, each county conducting a ballot polling audit must submit or
5 upload:

6 (1) Its verified and hashed ballot manifest, and the ballot manifest's hash
7 value, by email to the Secretary of State's office; ~~and~~

8 (2) ITS CUMULATIVE TABULATION REPORT, BY EMAIL TO THE SECRETARY
9 OF STATE'S OFFICE; AND

10 ~~(2)~~(3) Its RLA tabulation results export to the Secretary of State's election
11 night reporting system.

12 *Amendments to Rule 25.2.4 concerning conducting the risk limiting audit:*

13 25.2.4 Concluding the audit. No later than the third business day following the expiration of the
14 deadline to request a recount under section 1-10.5-107(2), C.R.S. or the completion of
15 any recount, whichever is later, a county that conducted a comparison audit must review
16 its CVR file and redact voter choices corresponding to any ballot card susceptible to
17 being personally identified with an individual voter BEFORE SENDING IT TO THE
18 SECRETARY OF STATE, as required by section 24-72-205.5(4)(b)(iii), C.R.S.



Notice of Proposed Rulemaking

Office of the Secretary of State
Election Rules
8 CCR 1505-1

October 13, 2017

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for **November 17, 2017 from 1:00 p.m. - 3:00 p.m.** in the Aspen Conference Room on the 3rd floor of the Secretary of State's Office at 1700 Broadway, Denver, Colorado 80290.

II. Subject

The Secretary is considering amendments to the election rules² to improve the administration and enforcement of Colorado election law.³

Specifically, the Secretary is considering rule revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly; establish uniformity in the administration of current law; organize existing rules for clarity; eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute; and ensure consistency with Department rulemaking standards. The Secretary may consider additional rule amendments.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statutory authority

The Secretary proposes the rule revisions and amendments in accordance with the following statutory provisions:

¹ Section 24-4-103(3)(a), C.R.S. (2017).

² 8 CCR 1505-CCR 1.

³ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

- Section 1-1-107(2)(a), C.R.S., (2017), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-1.5-104(1)(b), C.R.S., (2017), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
- Section 1-1.5-104(1)(e), C.R.S., (2017), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. §§ 15301-15545] of [Article 1.5 of Title 1].”
- Section 1-4-101(2)(b), C.R.S., (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in primary elections.
- Section 1-4-1203(6), C.R.S. (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in presidential primary elections.”
- Section 1-4-908(1.5)(b)(III), C.R.S. (2017), which authorizes the Secretary of State to “promulgate rules, in accordance with article 4 of title 24, to implement” candidate petition signature verification.
- Section 1-4-912(3), C.R.S. (2017), which authorizes the Secretary of State to “promulgate rules, in accordance with article 4 of title 24, to implement” a cure process for candidate petitions.
- Section 1-7-515(4), C.R.S. (2017), which requires the Secretary of State to promulgate rules necessary to implement and administer risk-limiting audits.
- Section 1-7.5-104, C.R.S. (2017), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
- Section 1-7.5-105, C.R.S. (2017), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in accordance with “rules promulgated by the secretary of state as provided in section 1-7.5-106(2).”
- Section 1-7.5-106, C.R.S., (2017), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting “rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.]”

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State's rules and notices of rulemaking website at:

www.sos.state.co.us/pubs/rule_making/hearings/2017/ElectionsRulesHearing20171117.html.

You may also contact our office to request a paper or editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by November 9, 2017.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

Everyone will have the opportunity to testify and provide written comment concerning the rule amendments. To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

You may submit written comments by mail, email, or in person to our office any time before the hearing. If you attend the hearing, you may submit written comments to the hearing panel as well. Additional opportunity to comment in writing may be announced at the conclusion of the hearing.

All written comments will be posted online at the Secretary of State website: www.sos.state.co.us/pubs/rule_making/hearings/2017/ElectionsRulesHearing20171117.html.

We will redact contact information, including home address, email address, and telephone number(s), from submissions before posting the information online, unless otherwise directed by the contributor.

VI. Broadcast and audio recording of hearing

If you are unable to attend the hearing, you may listen to the live broadcast from the Aspen Conference Room online at www.sos.state.co.us/pubs/info_center/audioBroadcasts.html. After the hearing, visit the same website and click on "archived recordings" to access an audio recording of the hearing.

VII. Office contact

If you have any questions or would like to submit written comments, please contact Andrea Gyger with the Administration Division at SoS.Rulemaking@sos.state.co.us or (303) 894-2200 ext. 6329.

⁴ Section 24-4-103(3)(a), C.R.S. (2017). "Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

Dated this 13th Day of October, 2017.



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Election Rules 8 CCR 1505-1

October 13, 2017

I. Basis and Purpose

This statement explains proposed amendments to the Colorado Secretary of State Election Rules. The Secretary is considering other amendments to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws,¹ improve elections administration in Colorado, and increase the transparency and security of the election process.

On September 29, 2017, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/ruleComments.html and are incorporated into the official rulemaking record.

Specific proposed changes include:

- Amendments to Rule 2.5.3 to ensure proper administration of Propositions 107 and 108 and SB 17-305.
- Amendments to Rule 2.10 to delete superfluous language.
- Amendments to Rule 2.14.4 to ensure proper administration of the statewide voter registration database.
- Amendments to Rule 3.4.1 to provide clarity regarding filing deadlines.
- Amendments to Rule 4.5.2(e)(3) to establish uniformity in the order and numbering of ballot measures.
- New Rules 7.2.10 through 7.2.14 to ensure proper administration of Propositions 107 and 108 and SB 17-305.

¹ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

- Renumber of current Rules 7.2.10 through 7.2.12 to 7.2.15 through 7.2.17.
- Amendment to Rule 7.5.1 to correct an incorrect cross-reference.
- Amendments to Rule 7.17 to establish uniformity in the administration of current law.
- Amendments to Rule 10.4 to correct an incorrect cross-reference and ensure proper administration of risk-limiting audits.
- Amendments to Rule 11.3.2 to establish uniformity in the administration of current law.
- New Rules 15.1.1, 15.1.3(c), and 15.1.4(d)(13) to ensure proper administration HB 17-1088.
- Amendments to Rule 15.5.2 to establish uniformity in the administration of current law.
- New Rule 15.7 to ensure proper administration of HB 17-1088.
- Amendments to Rule 16.1.6 to organize existing rules for clarity.
- Amendments to Rule 16.2.3 to update a statutory citation.
- Amendments to Rule 16.2.4 to establish uniformity in the administration of current law.
- Amendments to Rule 25.2.2(g) to ensure proper administration of risk-limiting audits.
- Amendments to Rule 25.2.4 to ensure proper administration of post-election audits.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2017), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1.5-104(1)(b), C.R.S., (2017), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
3. Section 1-1.5-104(1)(e), C.R.S., (2017), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds

necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. §§ 15301-15545] of [Article 1.5 of Title 1].”

4. Section 1-4-101(2)(b), C.R.S., (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in primary elections.”
5. Section 1-4-1203(6), C.R.S. (2017), which authorizes the Secretary of State to “by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in presidential primary elections.”
6. Section 1-4-908(1.5)(b)(III), C.R.S. (2017), which authorizes the Secretary of State to “promulgate rules, in accordance with article 4 of title 24, to implement” candidate petition signature verification.
7. Section 1-4-912(3), C.R.S. (2017), which authorizes the Secretary of State to “promulgate rules, in accordance with article 4 of title 24, to implement” a cure process for candidate petitions.
8. Section 1-7-515(4), C.R.S. (2017), which requires the Secretary of State to promulgate rules necessary to implement and administer risk-limiting audits.
9. Section 1-7.5-104, C.R.S. (2017), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
10. Section 1-7.5-105, C.R.S. (2017), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in accordance with “rules promulgated by the secretary of state as provided in section 1-7.5-106(2).”
11. Section 1-7.5-106, C.R.S., (2017), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting “rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.].”

Preliminary Draft of Proposed Rules

Office of the Colorado Secretary of State Election Rules 8 CCR 1505-1

October 13, 2017

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the November 17, 2017 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **November 9, 2017**.²

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>Italic blue font text</i>	Annotations

1 *Amendments to 8 CCR 1505-1 follow:*

2 *Amendments to Rule 2.5.3 concerning changes to an elector's existing voter registration record:*

3 2.5.3 If an elector submits a change to his or her voter registration record and leaves the
4 affiliation OR BALLOT PREFERENCE section blank, the county clerk ~~must make no~~ MAY
5 NOT change ~~to~~ the voter's EXISTING affiliation OR BALLOT PREFERENCE in the registration
6 record.

7 *Technical amendments to Rule 2.10 concerning new voter notifications:*

8 2.10 ~~New voter notification under section 1-2-509(3), C.R.S.~~ During the 22 days before an election,
9 the county clerk must defer processing undeliverable new voter notifications. After the election is
10 closed, the clerk must determine an applicant "not registered" under section 1-2-509(3), C.R.S.,
11 only if the applicant did not vote in the election.

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2017). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2017). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

Amendments to Rule 2.14.4 concerning voter registration records and data:

2.14.4 Without written authorization from the Secretary of State, the county clerk may not run or schedule to run SCORE reports or exports that include voter or election detail during regular business hours beginning 22 days before election day and from 7:00 am to 7:00 pm on election day. A COUNTY THAT USES AN AUTOMATED SIGNATURE VERIFICATION DEVICE MAY RUN THE EXP-004 REPORT DURING THIS TIME.

Amendments to Rule 3.4.1 concerning qualified political organizations:

3.4.1 Files proof of organization with the Secretary of State BY MARCH 1 IN AN EVEN NUMBERED YEAR;

Amendments to Rule 4.5.2(e)(3) regarding order of ballot issues:

4.5.2 Each political subdivision must determine the order of the ballot issues for their political subdivision in accordance with the requirements of Colorado Constitution Article X, Section 20 and Title 1.

(e) Ballot issues from the various political subdivisions must be ordered on the ballot as provided in section 1-5-407(5), C.R.S:

(3) Each category of local referred ballot issues and questions must be designated by a letter or a number and a letter in the following series:

1A-1Z	County Issues -MEASURES
2A-2Z	Municipal Issues -MEASURES WHOLLY WITHIN A COUNTY
3A-3Z	MUNICIPAL MEASURES GREATER THAN A COUNTY
3A-3Z 4A-4Z	School District Issues —MEASURES WHOLLY WITHIN A COUNTY
5A-5Z	SCHOOL DISTRICT MEASURES GREATER THAN A COUNTY
4A-4Z 6A-6Z	Ballot Issues and Questions -MEASURES for other political subdivisions greater than a county —WHOLLY WITHIN A COUNTY
5A-5Z 7A-7Z	Ballot Issues and Questions -MEASURES for other political subdivisions which are wholly within a county —GREATER THAN A COUNTY

New Rules 7.2.10 through 7.2.14 concerning ballots and ballot packets:

7.2.10 THE MAIL BALLOT PACKET REQUIRED UNDER SECTIONS 1-4-101(2)(B) AND 1-4-1203(4)(C), C.R.S. MUST CONTAIN ONLY THE BALLOTS OF EACH PARTICIPATING MAJOR POLITICAL PARTY.

7.2.11 AN UNAFFILIATED VOTER WHO WANTS TO RECEIVE THE MAIL BALLOT OF A PARTICIPATING MINOR POLITICAL PARTY IN THE MAIL MUST DECLARE A MAIL BALLOT PREFERENCE FOR THAT PARTY IN ACCORDANCE WITH SECTION 1-2-204(2)(J.5), C.R.S.

7.2.12 IF AN UNAFFILIATED VOTER SELECTS A MAIL BALLOT PREFERENCE FOR A MAJOR OR MINOR POLITICAL PARTY THAT IS NOT PARTICIPATING OR THAT PROHIBITS UNAFFILIATED

VOTERS FROM VOTING IN ITS PRIMARY ELECTION, THE COUNTY CLERK MUST SEND THE VOTER THE MAIL BALLOT PACKET DESCRIBED IN RULE 7.2.10.

7.2.13 A VOTER AFFILIATED WITH A QUALIFIED POLITICAL ORGANIZATION IS CONSIDERED AN UNAFFILIATED VOTER FOR THE PURPOSES OF THIS RULE 7.2.

7.2.14 A VOTER AFFILIATED WITH A POLITICAL PARTY THAT IS NOT PARTICIPATING IN THE PRIMARY ELECTION WILL NOT RECEIVE A MAIL BALLOT.

Renumbering Current Rules 7.2.10 through 7.2.12 to Rules 7.2.15 through 7.2.17:

~~7.2.10~~ 7.2.15 The mail ballot return envelope for each unaffiliated voter in a primary election may provide a means for the county to determine, before opening the envelope, which party's primary election ballot the elector returned. If the mail ballot return envelope does not provide such a means, or the county cannot determine which party's ballot the elector returned before opening the envelope, the county must follow the process outlined in Rule 7.5.13. The county's determination under this Rule may not rely solely on a voter's self-reported selection (for example, a checkbox).

~~7.2.11~~ 7.2.16 Each mail ballot return envelope and mail ballot instruction for an unaffiliated voter in a primary election must include a statement instructing the voter to return only one ballot.

~~7.2.12~~ 7.2.17 The county clerk must issue a replacement mail ballot packet to an unaffiliated elector in a primary election as follows:

- (a) If the elector has not declared a mail ballot preference, the county clerk must issue a packet containing the ballots of all participating major political parties.
- (b) If the Elector has timely declared a mail ballot preference, the county clerk must issue the elector's preferred political party's ballot; or upon the elector's request, a packet containing the ballots of all participating major political parties.

Technical amendments to Rule 7.5.1 concerning receipt and processing of ballots:

7.5.1 The county clerk must adequately light all stand-alone drop-off locations and use either an election official or a video security surveillance recording system as defined in Rule ~~4.1.43~~ 1.1.45 to monitor each location.

Amendments to Rule 7.17 concerning scanning elector's signatures:

7.17 Within ~~90~~ 120 days after each election DAY, OR BEFORE THE FIRST DAY TO CONDUCT SIGNATURE VERIFICATION AT THE NEXT COUNTY OR MUNICIPAL MAIL BALLOT ELECTION, WHICHEVER IS SOONER, the county clerk must scan into SCORE the elector's signature and signature date on each accepted mail ballot return envelope and on any cure letter returned by the elector. IN A PRESIDENTIAL PRIMARY YEAR, THE DEADLINE FOR SCANNING SIGNATURES AND SIGNATURE DATES FROM ALL PRIOR ELECTIONS THAT YEAR IS EXTENDED TO 120 DAYS AFTER THE STATE PRIMARY ELECTION. A COUNTY THAT IS UNABLE TO SCAN THE SIGNATURE AND/OR SIGNATURE DATE INTO SCORE MAY APPLY TO THE SECRETARY OF STATE FOR A WAIVER FROM THESE REQUIREMENTS.

Amendments to Rule 10.4 concerning canvass:

10.4 No canvass board may certify official results until authorized to do so by the Secretary of State. The Secretary of State may extend the canvass deadline for one or more counties in order to complete the risk-limiting audit in accordance with Rule 25.2. Before certifying official results, a county that conducts a comparison audit as defined in Rule ~~25.1.4~~-25.1.5 must manually adjust the preliminary results to ~~reflect all~~ ACCOUNT FOR discrepancies identified in the risk-limiting audit IF DIRECTED BY THE SECRETARY OF STATE.

Amendments to Rule 11.3.2(c) and (d) concerning logic and accuracy testing:

11.3.2 Logic and Accuracy Test

(c) Preparing for the Logic and Accuracy Test

(2) The county must convene a Testing Board of one registered elector from each of the major political parties. Testing Board members must be registered to vote in the county AND BE SWORN IN AS ELECTION JUDGES.

(d) Conducting the Test

(4) The Testing Board and designated election official must count the test ballots as follows, if applicable:

(C) Ballot Marking Devices (BMDs):

(i) The Testing Board must RANDOMLY SELECT AND test at least one BMD.

Amendments to Rule 15.1.1 through 15.1.4 concerning preparation, filing, and verification of petitions:

15.1 The following requirements apply to candidate, statewide initiative, recall, and referendum petitions, unless otherwise specified.

15.1.1 PETITION TEMPLATE FOR STATE PETITIONS

(A) PETITION PROPONENTS MUST USE THE SECRETARY OF STATE'S FILLABLE .PDF PETITION TEMPLATE TO CREATE THEIR PETITION FORMAT.

(B) AFTER APPROVAL OF THE PETITION FORMAT AS TO FORM, PROPONENTS MUST PRINT ALL PETITION SECTIONS IN ACCORDANCE WITH THE SECRETARY OF STATE'S PETITION-PRINTING GUIDELINES.

(C) ANY SIGNATURE AFFIXED TO A PETITION SECTION THAT DOES NOT CONFORM TO THE REQUIREMENTS OF THIS RULE 15.1.1 IS NOT VALID.

~~15.1.1~~-15.1.2 The Secretary of State or DEO will not accept or count additional signatures after proponents file the original petition or addendum.

~~15.1.2~~-15.1.3 Circulator affidavit

1 (a) If a petition section does not have a completed circulator affidavit, the Secretary
2 of State or DEO will reject the entire section.

3 (b) If a petition section does not have a completed notary clause, or if the date of the
4 notary clause differs from the date the circulator signed the affidavit, the
5 Secretary of State or DEO will reject the entire section.

6 (c) IF A STATE CANDIDATE IS CURING A CIRCULATOR AFFIDAVIT UNDER SECTION 1-
7 4-912(2), C.R.S., THE CANDIDATE MUST USE THE CURE AFFIDAVIT PROVIDED BY
8 THE SECRETARY OF STATE.

9 ~~15.1.3~~ 15.1.4 Verifying individual entries

10 (d) Secretary of State or DEO staff will reject the entry if:

11 (13) THE SIGNER'S INFORMATION APPEARS OUTSIDE OF A NUMBERED
12 SIGNATURE BLOCK ON A PETITION SECTION.

13 *Amendments to Rule 15.5 concerning initiative petition verification:*

14 15.5 Statewide initiative petition verification

15 15.5.1 Verification by random sample.

16 ~~15.5.2 Preliminary count and random number generation.~~

17 ~~(a) After counting the entries on each petition section, Secretary of State staff will~~
18 ~~enter the petition identification number, the petition section number, the page~~
19 ~~number, and the number of entries on the page into the database.~~

20 ~~(b)-(A) Staff will then create a record for each entry ON THE PETITION that contains the~~
21 ~~petition identification number, petition section number, page number, and the~~
22 ~~entry number. Staff will AND tally the total number of entries.~~

23 ~~(c) If the number of entries is less than the total number of signatures required to~~
24 ~~certify the measure to the ballot, the Secretary of State will issue a statement of~~
25 ~~insufficiency.~~

26 ~~15.5.3(B) Random sample.~~ The database will generate a series of random numbers equal to
27 4,000 signatures or five percent of the total number of signatures, whichever is greater.
28 Staff will check the validity of the random signatures in accordance with this Rule. Staff
29 will maintain a master record of each accepted and rejected entry, along with the reason
30 code for each rejected entry.

31 *New Rule 15.7 concerning signature verification of petitions:*

32 15.7 SIGNATURE VERIFICATION ON STATE CANDIDATE PETITIONS

33 15.7.1 THE SECRETARY OF STATE WILL COMPARE THE SIGNATURE ON EACH PETITION ENTRY
34 WITH THE ELECTOR'S SIGNATURE IN SCORE IN ACCORDANCE WITH THE SECRETARY OF
35 STATE'S SIGNATURE VERIFICATION GUIDE. THE SECRETARY OF STATE MAY USE AN
36 AUTOMATED SIGNATURE VERIFICATION DEVICE.

(A) IF THE SIGNATURES MATCH AND THE ENTRY IS OTHERWISE VALID, THE SECRETARY OF STATE MUST ACCEPT THE ENTRY.

(B) IF UPON INITIAL REVIEW THE SIGNATURES DO NOT MATCH, THE SECRETARY OF STATE MUST CONDUCT FURTHER REVIEW OF THE ENTRY. A TEAM OF TWO STAFF MEMBERS WHO ARE NOT AFFILIATED WITH THE SAME POLITICAL PARTY MUST REVIEW THE SIGNATURES, CONDUCT ADDITIONAL RESEARCH IN SCORE IF NECESSARY, AND, UNLESS BOTH STAFF MEMBERS AGREE THAT THE SIGNATURES DO NOT MATCH, ACCEPT THE ENTRY IF IT IS OTHERWISE VALID.

[Not shown: renumbering of Rule 15.7 to 15.8]

Amendments to Rule 16.1.6 concerning military and overseas electors:

16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days before the ~~Primary Election or Presidential Primary Election, if applicable,~~ FIRST PRIMARY ELECTION IN AN EVEN NUMBERED YEAR to each elector whose record is marked "Inactive." The correspondence may be sent by email or mail and, at a minimum, must notify the electors of:

- (a) The status of the elector's record and ballot request;
- (b) The upcoming federal elections;
- (c) How to update the elector's mailing information and request a ballot; and
- (d) Any other information the county clerk deems appropriate.

Amendments to Rule 16.1.7 concerning military and overseas electors:

16.1.7 No later than 45 days before an election, the county clerk must report to the Secretary of State the number OF ballots transmitted to military and overseas electors by the 45-day deadline.

Amendments to Rule 16.2.3 concerning correction of citation:

16.2.3 The self-affirmation must include the standard oath required by the Uniformed and Overseas Citizen Voting Act (~~42 U.S.C. sec. 1973ff(b)(7) and 1(a)(5)~~ 52 U.S.C. SEC. 20301(B)(7) AND 20302(A)(5)), the elector's name, date of birth, signature, and the following statement: I also understand that by returning my voted ballot by electronic transmission, I am voluntarily waiving my right to a secret ballot and that Colorado law requires that I return this ballot by a more secure method, such as mail, if available and feasible. (Sections 1-8.3-113 and 1-8.3-114, C.R.S.)

Amendments to Rule 16.2.4 concerning electronic transmission to military and overseas electors:

16.2.4 If the county clerk transmits a ballot packet to an elector by fax OR EMAIL and the transmission is unsuccessful, the county clerk must attempt to fax OR EMAIL the ballot at least two more times. IF ELECTRONIC TRANSMISSION IS UNSUCCESSFUL, THE COUNTY CLERK MUST MAIL THE BALLOT AND REMOVE THE ELECTRONIC TRANSMISSION FLAG IN SCORE UNDER RULE 16.2.1(E).

1 *Amendments to Rule 25.2.2(g) concerning conducting the risk limiting audit:*

2 25.2.2 Preparing for the audit

3 (g) Ballot polling audit uploads. No later than 11:59 p.m. MT on the ninth day after
4 election day, each county conducting a ballot polling audit must submit or
5 upload:

6 (1) Its verified and hashed ballot manifest, and the ballot manifest's hash
7 value, by email to the Secretary of State's office; ~~and~~

8 (2) ITS CUMULATIVE TABULATION REPORT, BY EMAIL TO THE SECRETARY
9 OF STATE'S OFFICE; AND

10 ~~(2)~~(3) Its RLA tabulation results export to the Secretary of State's election
11 night reporting system.

12 *Amendments to Rule 25.2.4 concerning conducting the risk limiting audit:*

13 25.2.4 Concluding the audit. No later than the third business day following the expiration of the
14 deadline to request a recount under section 1-10.5-107(2), C.R.S. or the completion of
15 any recount, whichever is later, a county that conducted a comparison audit must review
16 its CVR file and redact voter choices corresponding to any ballot card susceptible to
17 being personally identified with an individual voter BEFORE SENDING IT TO THE
18 SECRETARY OF STATE, as required by section 24-72-205.5(4)(b)(iii), C.R.S.

Permanent Rules Adopted

Department

Department of Revenue

Agency

Division of Motor Vehicles

CCR number

1 CCR 204-25

Rule title

1 CCR 204-25 VENDOR CONTRACTS FOR THE BULK ELECTRONIC TRANSFER
OF DEPARTMENT RECORDS 1 - eff 11/14/2017

Effective date

11/14/2017

COLORADO DEPARTMENT OF REVENUE
Division of Motor Vehicles

1 CCR 204-25 (RECODIFIED AS 1 CCR 204-30, RULE 14)

**CONTRACTS FOR THE BULK ELECTRONIC
TRANSFER OF DEPARTMENT INFORMATION**

Authority

This rule is promulgated in accordance with the State Administrative Procedures Act, section 24-4-101 et seq., C.R.S. and adopted pursuant to the authority in sections 42-1-204 C.R.S. and 42-1-206(3.7).

Scope and Purpose

- A. This rule governs annual contracts between the department and vendors and primary users for the purpose of establishing, regulating, and maintaining the bulk electronic transfer of information.
- B. This rule does not apply to any federal, state, or local governmental agency that receives Data directly from the department.

1.0 Definitions

“Data” means a subset of Information.

“Information” means the total of all files, updated files, or portions thereof, that the department is permitted by law to release through a bulk electronic transfer.

“Sub-Vendor” means any person who enters into an agreement with a vendor to receive Data. A primary user of Data may also be a Sub-Vendor.

2.0 Contract Requirements

- A. The department will not transfer Information to a vendor or primary user unless the vendor or primary user has executed a contract with the department in accordance with section 42-1-206(3.7), C.R.S.
- B. A contract between the department and a vendor shall include provisions that ensure that no Data will be transferred to a Sub-Vendor unless the Sub-Vendor has provided the vendor, and the vendor has approved, a form, DR 2489, Requestor Release and Affidavit of Intended Use, and has agreed that it will not use the Data in a manner prohibited by law.

Editor's Notes

History

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
Chief of Staff

FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00257

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Motor Vehicles

on 09/27/2017

1 CCR 204-25

VENDOR CONTRACTS FOR THE BULK ELECTRONIC TRANSFER OF DEPARTMENT RECORDS
(Recodified as 1 CCR 204-30 Rule 14)

The above-referenced rules were submitted to this office on 09/27/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 06, 2017 08:22:23

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Board of Pharmacy

CCR number

3 CCR 719-1

Rule title

3 CCR 719-1 STATE BOARD OF PHARMACY RULES 1 - eff 11/14/2017

Effective date

11/14/2017

1.00.00 RULES OF PROFESSIONAL CONDUCT.

- 1.00.11** A pharmacist shall at all times conduct his/her profession in conformity with all federal and state drug laws, rules and regulations; and shall uphold the legal standards of the current official compendia.
- 1.00.12** A pharmacist shall not be a party or accessory to nor engage in any fraudulent or deceitful practice or transaction in pharmacy, nor knowingly participate in any practice which detrimentally affects the patient, nor discredit his/her profession.
- 1.00.13** A pharmacist shall not enter into any agreement or arrangement with anyone for the compounding of secret formula or coded orders, except for investigational drugs.

- 3.01.10 a.** In a prescription drug outlet packaging shall only be done by a pharmacist, or by an intern or pharmacy technician under the supervision of a pharmacist. In an other outlet, packaging may be done by a person not licensed as a pharmacist pursuant to protocols approved by the Board.
- b.** Such packaged drugs shall only be dispensed or distributed from the premises where packaged. Such packaged drugs shall only be distributed as provided in 3.01.10(d).
- c.** Any container used for packaging shall meet compendia requirements.
- d.** The following prescription drug outlets may distribute packaged medications without limitation to prescription drug outlets and other outlets under common ownership:
- 1.** Prescription drug outlets owned and operated by a hospital that is accredited by the joint commission on accreditation of healthcare organizations or a successor organization pursuant to 12-42.5-118((15)(b), C.R.S;
 - 2.** Prescription drug outlets operated by a health maintenance organization as defined in section 10-16-102, C.R.S.; and
 - 3.** The Colorado Department of Corrections.

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

- a. In-state Prescription Drug Outlet. If a registration has expired, a facility seeking to reinstate such registration shall submit the following:**
- (1) The current reinstatement application with the required fee;**
 - (2) If the owner of the in-state prescription drug outlet is a corporation, submit either a copy of the articles of incorporation as they were filed with the Colorado Secretary of State or a Certificate of Good Standing issued by the Colorado Secretary of State;**
 - (3) A letter stating whether the corporation is public or private as follows:**
 - (A) If the corporation is a public corporation, submit a list of all stockholders owning five percent or more of the stock; or**
 - (B) If the corporation is a private corporation, submit a list of all stockholders;**
 - (4) An accurate drawn-to-scale floor plan of the prescription drug outlet's compounding / dispensing area detailing all counters, bays, sinks, refrigerators and, if applicable, sterile and non-sterile compounding hoods; and**
 - (5) A completed, dated and signed minimum equipment self-inspection form as provided with the reinstatement application.**

7.00.30 Compliance of Outlet:

- b. The manager shall be responsible for posting the following information for each pharmacy technician working in the compounding/dispensing area:**
 - 1. Certificate indicating the technician is certified by a nationally recognized certification Board; or**
 - 2. Diploma indicating the technician has graduated from an accredited pharmacy technician training program; or**
 - 3. Documentation that the pharmacy technician has completed five hundred hours of experiential training at the pharmacy. This documentation must be certified by the pharmacist manager of the prescription drug outlet; or**
 - 4. Documentation that the pharmacy technician does not have certification from a nationally recognized certification Board, has not graduated from an accredited pharmacy technician training program, and has not completed 500 hours of experiential training at the pharmacy. Within 18 months of beginning employment at the pharmacy, each pharmacy technician shall meet the requirements of either subparagraph 1, 2 or 3 of this Rule 7.00.30(b).**

21.00.20 Casual Sales/Distribution of Compounded Products.

- a. An in-state prescription drug outlet shall only distribute a compounded product to:**
- (1) Practitioners licensed and located in Colorado and authorized by law to prescribe the drug;**
 - (2) Colorado licensed/registered acupuncturists, direct-entry midwives, or naturopathic doctors who are located in Colorado and authorized by law to obtain the drug;**
 - (3) Hospital prescription drug outlets registered and located in Colorado; or**
 - (4) Other outlets registered and located in Colorado.**

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

- b. Unless otherwise allowed by state and federal law, nonresident prescription drug outlets shall not distribute compounded products into Colorado pursuant to 21 U.S.C. secs. 331(a), 353(b) and 355(a).**
- c. Unless otherwise allowed by state and federal law, nonresident prescription drug outlets registered in Colorado may dispense compounded products and ship them into Colorado only pursuant to valid, patient-specific prescription orders.**
- d. A nonresident prescription drug outlet may distribute a compounded product to a Colorado-licensed veterinarian who is located in Colorado and authorized by law to prescribe the drug only if:**
- i) The nonresident prescription drug outlet provides the Board with a copy of the outlet's most recent report detailing an inspection by the National Association of Boards of Pharmacy Verified Pharmacy Program, for which third-party inspection the nonresident prescription drug outlet shall obtain and pay for on an annual basis, and the Board approves the inspection report as satisfactorily demonstrating proof of compliance with the Board's own inspection procedures and standards; and**
 - ii) The nonresident prescription drug outlet provides the Board, on an annual basis, with a copy of the outlet's current manufacturer registration obtained from the Drug Enforcement Administration.**
- e. Distribution of a compounded product to a Colorado-licensed veterinarian may be for the purpose of dispensing by the receiving veterinarian only if:**
- i) The compounded product is necessary for the treatment of an animal patient's emergency medical condition;**

- ii) **As determined by the veterinarian, the veterinarian cannot access, in a timely manner, the compounded product from a prescription drug outlet or nonresident prescription drug outlet.**
- f. **Except as provided under CRS 12-42.5-118(15)(a), (b)(I) and (b)(II), the amount of compounded drug product a prescription drug outlet compounds and distributes shall be no more than ten (10) percent of the total number of drug dosage units the prescription drug outlet dispenses and distributes on an annual basis, and no more than ten (10) percent of the total number of drug dosage units the nonresident prescription drug outlet dispenses and distributes into Colorado on an annual basis pursuant to Board Rules 21.00.20(d) and (e). An in-state compounding prescription drug outlet registered pursuant to CRS 12-42.5-117(9) may distribute compounded product pursuant to CRS 12-42.5-118(15)(a), (b)(I) and (II). All prescription drug outlets shall comply with all applicable federal laws and rules pertaining to the distribution of controlled substance preparations.**
- g. **The distributing prescription drug outlet or compounding prescription drug outlet must retain the following information on a current basis for each practitioner, hospital prescription drug outlet or hospital other outlet or, when allowable, each prescription drug outlet, to whom it distributes compounded products:**
 - (1) **Verification of practitioner's license, or hospital prescription drug outlet's or hospital other outlet's registration; and**
 - (2) **Verification of practitioner's or hospital prescription drug outlet's or hospital other outlet's current Drug Enforcement Administration registration, if controlled substances are distributed;**
- h. **Labeling of compounded products which are distributed shall comply with rule 21.11.10(c) or (d) or 21.21.70(c) or (d), whichever is applicable.**
- i. **Records of distribution shall comply with rule 11.07.10 or 11.07.20, whichever is applicable.**

23.00.00 ELECTRONIC PRESCRIPTION MONITORING PROGRAM.

23.00.10 Definitions:

- a. **“Bona fide investigation,” for purposes of an investigation of an individual prescriber under investigation by a state regulatory board, means:**
 - 1. **Any investigation conducted by any state regulatory board within the Colorado Division of Professions and Occupations, or the Director of the Colorado Division of Professions and Occupations and**
 - 2. **Investigations pertaining to matters which are the subject of a complaint or notice of charges pending in the Office of Administrative Courts so long as the information obtained from the PDMP is made available by the state regulatory board to the respondent in the pending case.**
- b. **“Bona fide research or education” means research conducted by qualified entities whose recognized primary purpose is scientific inquiry; the results of which would likely contribute to the basic knowledge of prescribing practitioners, dispensing pharmacists, or entities for the purpose of curtailing substance abuse of consumers. The Board shall determine in its discretion on a case-by-case basis whether an individual or entity seeking access to the PDMP pursuant to CRS 12-42.5-404(5) constitutes “bona fide research or education” conducted by qualified personnel for purposes of satisfying the statutory limitations therein.**
- c. **“Client”, as it pertains to a licensed veterinarian’s use of the PDMP, means the patient’s owner, the owner’s agent, or a person responsible for the patient.**
- d. **“Clinical patient care services” means pharmaceutical care provided in a clinical setting. The pharmacist providing clinical patient care services must be working closely with the physician/prescriber responsible for the patient’s care. “Clinical patient care services” do not include monitoring previously dispensed prescriptions for any purpose in the absence of a current assessment of a patient whether in a clinical setting or not.**
- e. **“Law Enforcement Official” means any of the following:**
 - 1. **Sheriff;**
 - 2. **Undersheriff;**
 - 3. **Certified deputy sheriff;**
 - 4. **Coroner;**
 - 5. **Police Officer;**
 - 6. **Southern Ute Police Officer;**
 - 7. **Ute Mountain Ute police officer;**
 - 8. **Town marshall;**
 - 9. **CBI director and agents;**

10. Colorado state patrol officer;
 11. Colorado attorney general and any entity designated as “peace officers” by the Attorney General or acting on behalf of a state agency;
 12. Attorney general criminal investigator;
 13. District attorney and all assistants, deputies, etc. statutorily defined as “peace officers;”
 14. District Attorney chief investigator and investigators;
 15. Police administrator and police officers employed by the Colorado State Hospital in Pueblo; and
 16. Federal special agents.
- f. “Legitimate program to monitor a patient’s controlled substance abuse” means a program in which prescribers actively monitor a patient’s controlled substance use. Such programs shall only involve patients in pain management or other controlled substance management programs. Such programs shall actively monitor the patient’s controlled substance usage by means of urine or other drug screens in addition to the use of the PDMP. The patient must be informed in writing that his/her controlled substance usage is being actively screened by various methods, including review of the PDMP.
- g. “Mistreat”, as it pertains to a licensed veterinarian’s use of the PDMP, means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.
- h. “Patient”, as it pertains to a licensed veterinarian’s use of the PDMP, means an animal that is examined or treated by a licensed veterinarian and includes herds, flocks, litters and other groups of animals.
- i. “PDMP” means the Electronic Prescription Drug Monitoring Program.
- j. “Prescriber” or “practitioner” means a licensed health care professional with authority to prescribe a controlled substance.
- k. “Prescription Drug Outlet” or “Dispenser” means any resident or nonresident pharmacy registered with the Board.
- l. “Qualified personnel” means persons who are appropriately trained to collect and analyze data for the purpose of conducting bona fide research or education.
- m. “Valid photographic identification” means any of the following forms of identification which include an identifying photograph:
1. A valid driver’s license, or identification issued by any United States state;
 2. An official passport issued by any nation; or
 3. A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel’s dependents.

23.00.70 PDMP Access

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

- a. Board staff responsible for administering the PDMP;**
- b. Any licensed practitioner, or up to three (3) trained individuals designated by the practitioner by way of registered PDMP sub-accounts of the prescriber to act on the prescriber's behalf in accordance with 12-42.5-403(1.5)(b), (c) and (d), C.R.S., with the statutory authority to prescribe controlled substances to the extent the query relates to a current patient of the practitioner;**
- c. Any licensed veterinarian with statutory authority to prescribe controlled substances, to the extent the query relates to a current patient or to a client and if the veterinarian, in the exercise of professional judgment, has a reasonable basis to suspect the client has committed drug abuse or has mistreated an animal;**
- d. Licensed pharmacists, or up to three (3) trained individuals designated by the pharmacist by way of registered PDMP sub-accounts of the pharmacist to act on the pharmacist's behalf in accordance with 12-42.5-403(1.5)(b), (c) and (d), C.R.S., or a pharmacist licensed in another state, with statutory authority to dispense controlled substances to the extent the information requested relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance or prescription drug or a patient to whom the pharmacist is currently providing clinical patient care services;**
- e. Practitioners engaged in a legitimate program to monitor a patient's controlled substance abuse;**
- f. Law enforcement officials so long as the information released is specific to an individual patient, prescriber, or prescription drug outlet and part of a bona fide investigation and the request for information is accompanied by an official court order or subpoena. Such official court orders or subpoenas shall be submitted with the Board-provided form;**
- g. The individual who is the recipient of a controlled substance prescription so long as the information released is specific to such individual. The procedure for individuals to obtain such information is as follows:**
 - 1. The individual shall submit a written, signed request to the Board on the Board-provided form;**
 - 2. The individual shall provide valid photographic identification prior to obtaining the PDMP information;**
 - 3. An individual submitting a request on behalf of another individual who is the recipient of a controlled substance prescription may only obtain PDMP information if the following documents are provided:**

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

(B) Valid photographic identification of the individual submitting the request.

- h. State regulatory boards within the Colorado Division of Professions and Occupations and the Director of the Colorado Division of Professions and Occupations so long as the information released is specific to an individual prescriber and is part of a bona fide investigation and the request for information is accompanied by an official court order or subpoena. Such official court orders or subpoenas shall be submitted with the Board-provided form; and**
- i. A resident physician with an active physician training license issued by the Colorado medical board pursuant to section 12-36-122 and under the supervision of a licensed physician to the extent the query relates to a current patient of the resident physician to whom the resident physician is prescribing or considering prescribing a controlled substance.**
- j. The Department of Public Health and Environment for purposes of population-level analysis, but any use of the program data by the department is subject to the federal "Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any rules promulgated pursuant to HIPAA, including the requirement to remove any identifying data unless exempted from the requirement.**
- k. A person authorized to access the PDMP may knowingly release PDMP information specific to an individual or to the individual's treating providers in accordance with HIPAA, Pub.L. 104-191, as amended, and any rules promulgated pursuant to HIPAA without violating Part 4 of Title 12, Article 42.5.**

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00305

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Board of Pharmacy

on 09/21/2017

3 CCR 719-1

STATE BOARD OF PHARMACY RULES

The above-referenced rules were submitted to this office on 09/27/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 09, 2017 08:45:59

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Real Estate

CCR number

4 CCR 725-3

Rule title

4 CCR 725-3 MORTGAGE LOAN ORIGINATORS AND MORTGAGE COMPANIES 1 -
eff 11/14/2017

Effective date

11/14/2017

**DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
MORTGAGE LOAN ORIGINATORS
4 CCR 725-3**

CHAPTER 1: DEFINITIONS

(Definitions that states the defined terms in this section are not necessarily in alphabetical order.)

1.39 Family Member: A person who is related by blood, marriage, civil union, or adoption.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00338

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Real Estate

on 09/20/2017

4 CCR 725-3

MORTGAGE LOAN ORIGINATORS AND MORTGAGE COMPANIES

The above-referenced rules were submitted to this office on 09/21/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 02, 2017 09:01:03

A handwritten signature in blue ink, reading "Frederick R. Yarger".

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Hazardous Materials and Waste Management Division

CCR number

6 CCR 1007-1 Part 01

Rule title

6 CCR 1007-1 Part 01 RADIATION CONTROL - GENERAL PROVISIONS 1 - eff
11/14/2017

Effective date

11/14/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL - GENERAL PROVISIONS

6 CCR 1007-1 Part 01

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

Adopted by the Board of Health on September 20, 2017, effective date November 14, 2017.

[Publication Instructions: STRIKE the first 8 lines of the current rule and replace with the following revised rule text. The change updates the adopted and effective dates and relocates them to above the solid line for consistency with other rule formatting.]

[* * * = indicates omission of unaffected rules]

PART 1: GENERAL PROVISIONS

* * *

[Publication Instructions: Strike 1.1.5.1, and INSERT the following revised rule language.]

- 1.1.5.1 In accordance with Section 24-4-103(12.5)(c), CRS, <https://www.colorado.gov/cdphe/radregs> identifies where incorporated material is available to the public on the internet at no cost. If the incorporated material is not available on the internet at no cost to the public, copies of the incorporated material has been provided to the State Publications Depository and Distribution Center, also known as the State Publications Library. The State Librarian at the State Publication Library retains a copy of the material and will make the copy available to the public.

* * *

[Publication Instructions: In 1.2, STRIKE the current definition of “Special form radioactive material”, and INSERT the following revised definition language.]

“Special form radioactive material” means radioactive material that satisfies the following conditions:

- (1) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;
- (2) The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and
- (3) It satisfies the requirements of 10 CFR 71.75. A special form encapsulation designed in accordance with the requirements of:
 - (a) 10 CFR 71.4 in effect on June 30, 1983 (see 10 CFR part 71, revised as of January 1, 1983), and constructed before July 1, 1985;
 - (b) A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and

- (c) Special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

* * *

[Publication Instructions: In 1.4.3, STRIKE the current language, and INSERT the following revised language.]

- 1.4.3 The addresses of the Federal Agencies and Organizations originally issuing the referenced materials are available on the Division website at <https://www.colorado.gov/cdphe/radregs>.

* * *

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00301

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Board of Health

on 09/20/2017

6 CCR 1007-1 Part 01

RADIATION CONTROL - GENERAL PROVISIONS

The above-referenced rules were submitted to this office on 09/22/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 02, 2017 09:02:36

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Hazardous Materials and Waste Management Division

CCR number

6 CCR 1007-1 Part 17

Rule title

6 CCR 1007-1 Part 17 RADIATION CONTROL - TRANSPORTATION OF
RADIOACTIVE MATERIALS 1 - eff 11/14/2017

Effective date

11/14/2017

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL - TRANSPORTATION OF RADIOACTIVE MATERIALS

6 CCR 1007-1 Part 17

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

Adopted by the Board of Health September 20, 2017, effective date November 14, 2017.

[Publication Instructions: STRIKE all text from the current rule in its entirety including Appendix 7A and associated tables, and replace with the following revised rule text, appendix, and tables. Ensure that a page break is inserted on the first page of Tables 17A1 through 17A4 such that each individual table begins on a new page.]

PART 17: TRANSPORTATION OF RADIOACTIVE MATERIALS

GENERAL PROVISIONS

17.1 Purpose and Scope.

17.1.1 Authority.

Rules and regulations set forth herein are adopted pursuant to the provisions of sections 25-1-108, 25-1.5-101(1)(I), and 25-11-104, CRS.

17.1.2 Basis and Purpose.

A statement of basis and purpose accompanies this part and changes to this part. A copy may be obtained from the Department.

17.1.3 Scope.

This part establishes requirements for packaging, preparation for shipment, and transportation of radioactive material.

17.1.4 Applicability.

17.1.4.1 This part applies to any person who transports radioactive material or delivers radioactive material to a carrier for transport.

- (1) This part applies in particular to any licensee authorized by specific or general license to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on a public highway.
- (2) The transport of licensed material or delivery of licensed material to a carrier for transport is subject to the:
 - (a) General provisions of 17.1 through 17.5, including referenced DOT regulations;
 - (b) Quality assurance requirements of 10 CFR 71; and
 - (c) Operating controls and procedures requirements of 17.11 through 17.17.

- (3) No provision of this part authorizes possession of licensed material.
- (4) Exemptions from the requirement in 17.3 for a license are specified in 17.4.
- (5) The general license under 17.7 requires that a NRC Certificate of Compliance or other package approval be issued for the package to be used under the general license.
- (6) General licenses for which no package approval is required are issued in 17.8 and 17.9.
- (7) These rules apply to any person required to obtain a Certificate of Compliance or an approved compliance plan from the NRC pursuant to 10 CFR 71 if the person delivers radioactive material to a common or contract carrier for transport or transports the material outside the confines of the person's plant or other authorized place of use.

17.1.4.2 The packaging and transport of radioactive material are also subject to other parts of these regulations and to the regulations of other agencies (such as the DOT, the United States Postal Service and the NRC) having jurisdiction over means of transport.

17.1.4.3 The requirements of this part are in addition to, and not in substitution for, other requirements.

17.1.5 Published Material Incorporated by Reference.

In accordance with Section 24-4-103(12.5)(c), CRS, <https://www.colorado.gov/cdphe/radregs> identifies where incorporated material is available to the public on the internet at no cost. If the incorporated material is not available on the internet at no cost to the public, copies of the incorporated material has been provided to the State Publications Depository and Distribution Center, also known as the State Publications Library. The State Librarian at the State Publication Library retains a copy of the material and will make the copy available to the public.

17.2 Definitions.

17.2.1 Definitions of general applicability to these regulations are in Part 1, Section 1.2.2.

17.2.2 Terms used in Part 17 have the definitions set forth as follows.

"Certificate holder" means a person who has been issued a Certificate of Compliance or other package approval by the NRC.

"Certificate of Compliance" (COC) means the certificate issued by the NRC under subpart D of 10 CFR 71 which approves the design of a package for the transportation of radioactive material

"Closed transport vehicle" means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive material. The enclosure may be either temporary or permanent but shall limit access from top, sides, and ends. In the case of packaged materials, it may be of the "see-through" type.

"Consignment" means each shipment of a package or groups of packages or load of radioactive material offered by a shipper for transport.

"Containment system" means the assembly of components of the packaging intended to retain the radioactive material during transport.

"Contamination" means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm² (1x10⁻⁵ µCi/cm²) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm² (1x10⁻⁶ µCi/cm²) for all other alpha emitters.

(1) *Fixed contamination* means contamination that cannot be removed from a surface during normal conditions of transport.

(2) *Non-fixed contamination* means contamination that can be removed from a surface during normal conditions of transport.

"Conveyance" means:

- (1) For transport by public highway or rail any transport vehicle or large freight container;
- (2) For transport by water any vessel, or any hold, compartment, or defined deck area of a vessel including any transport vehicle on board the vessel; and
- (3) For transport by any aircraft.

"Criticality Safety Index (CSI)" means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages, overpacks, or freight containers containing fissile material during transportation. Determination of the criticality safety index is described in 10 CFR 71.22, 71.23, and 71.59. The criticality safety index for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.

"Deuterium" means, for the purposes of Part 17, deuterium and any deuterium compound, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

"Exclusive use" means the sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

"Fissile material package" means a fissile material packaging together with its fissile material contents.

"Graphite" means, for the purposes of Part 17, graphite with a boron equivalent content less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

"Indian Tribe" means an Indian or Alaska native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

"Low specific activity material" (LSA material) means radioactive material with limited specific activity which is nonfissile or is excepted under Part 17 and which satisfies the descriptions and limits set forth in the following section. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. The LSA material must be in one of three groups:

- (1) LSA-I.
 - (a) Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for the use of these radionuclides;

- (b) Natural uranium, depleted uranium, natural thorium or their compounds or mixtures, provided they are unirradiated and in solid or liquid form;
 - (c) Radioactive material, other than fissile material, for which the A_2 value in Appendix 17A is unlimited; or
 - (d) Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with Appendix 17A.
- (2) LSA-II.
- (a) Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or
 - (b) Other radioactive material in which the activity is distributed throughout, and the estimated average specific activity does not exceed $10^{-4} \times A_2/\text{g}$ for solids and gases, and $10^{-5} \times A_2/\text{g}$ for liquids.
- (3) LSA-III. Solids (e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of 10 CFR 71.77, in which:
- (a) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.);
 - (b) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days, will not exceed $0.1 \times A_2$; and
 - (c) The estimated average specific activity of the solid, excluding any shielding material, does not exceed $2 \times 10^{-3} A_2/\text{g}$; and

"Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than 10 days.

"Nuclear waste" means, for the purposes of Part 17, a quantity of source, byproduct or special nuclear material required to be in NRC-approved specification packaging while transported to, through or across a state boundary to a disposal site, or to a collection point for transport to a disposal site.

"Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 10 CFR 71. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

"Quality assurance", for the purposes of Part 17, comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service.

"Quality control", for the purposes of Part 17, comprises those quality assurance actions that relate to control of the physical characteristics and quality of the material or component to predetermined requirements.

"Regulations of the DOT" means the regulations in 49 CFR Parts 100-189 and Parts 390-397 (October 1, 2016).

“Regulations of the NRC” means the regulations in 10 CFR 71 (January 1, 2016) for purposes of Part 17.

“Surface contaminated object” (SCO) means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. The SCO must be in one of two groups with surface activity not exceeding the following limits:

- (1) SCO-I: a solid object on which:
 - (a) The non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4 Bq/cm² (10⁻⁴ microcurie/cm²) for beta, gamma and low toxicity alpha emitters, or 0.4 Bq/cm² (10⁻⁵ microcurie/cm²) for all other alpha emitters;
 - (b) The fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4 x 10⁴ Bq/cm² (1.0 microcurie/cm²) for beta, gamma and low toxicity alpha emitters, or 4 x 10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters; and
 - (c) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 4 x 10⁴ Bq/cm² (1 microcurie/cm²) for beta, gamma and low toxicity alpha emitters, or 4 x 10³ Bq/cm² (0.1 microcurie/cm²) for all other alpha emitters.
- (2) SCO-II: a solid object on which the limits for SCO-I are exceeded and on which:
 - (a) The non-fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 400 Bq/cm² (10⁻² microcurie/cm²) for beta, gamma and low toxicity alpha emitters or 40 Bq/cm² (10⁻³ microcurie/cm²) for all other alpha emitters;
 - (b) The fixed contamination on the accessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 8 x 10⁵ Bq/cm² (20 microcuries/cm²) for beta, gamma and low toxicity alpha emitters, or 8 x 10⁴ Bq/cm² (2 microcuries/cm²) for all other alpha emitters; and
 - (c) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm² (or the area of the surface if less than 300 cm²) does not exceed 8 x 10⁵ Bq/cm² (20 microcuries/cm²) for beta, gamma and low toxicity alpha emitters, or 8 x 10⁴ Bq/cm² (2 microcuries/cm²) for all other alpha emitters.

“Transport index” (TI) means the dimensionless number, rounded up the next tenth, placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at 1 meter (3.3 feet) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter).

“Tribal official” means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.

“Type A package” means a Type A packaging that, together with its radioactive contents limited to A1 or A2 as appropriate, meets the requirements of 49 CFR 173.410 and 173.412 and is designed to retain the integrity of containment and shielding required by Part 17 under normal conditions of transport as demonstrated by the tests set forth in 49 CFR 173.465 or 173.466, as appropriate.

“Type A packaging” means a packaging designed for a Type A package.

“Type AF package”, “Type BF package”, “Type B(U)F package”, and “Type B(M)F package” each means a fissile material packaging together with its fissile material contents.

“Type A quantity” means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A1 for special form radioactive material or A2 for normal form radioactive material, where A1 and A2 are given in Appendix 17A or may be determined by procedures described in Appendix 17A.

“Type B package” means a Type B packaging together with its radioactive contents.¹

¹ A Type B package design is designated as B(U) or B(M). On approval, a Type B package design is designated by NRC as B(U) unless the package has a maximum normal operating pressure of more than 700kPa (100 lb/in²) gauge or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in 10 CFR 71.73 (hypothetical accident conditions), in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. No distinction is made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to 49 CFR Part 173. A Type B package approved prior to September 6, 1983 was designated only as Type B; limitations on its use are specified in 17.8.

“Type B packaging” means a packaging designed to retain the integrity of containment and shielding when subjected to the normal conditions of transport and hypothetical accident test conditions set forth 10 CFR Part 71.

“Type B quantity” means a quantity of radioactive material greater than a Type A quantity.

“Uranium – natural, depleted, enriched”.

- (1) “Natural uranium” means, for the purposes of Part 17, uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235 and the remainder by weight essentially uranium-238).
- (2) “Depleted uranium” means, for the purposes of Part 17, uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.
- (3) “Enriched uranium” means, for the purposes of Part 17, uranium containing more uranium 235 than the naturally occurring distribution of uranium isotopes.

LICENSE-RELATED REGULATORY REQUIREMENTS

17.3 Requirement for License.

No person shall transport radioactive material or deliver radioactive material to a carrier for transport except as authorized in a general or specific license issued by the Department, an Agreement State, a Licensing State, or NRC, or as exempted in 17.4

17.4 Exemptions.

- 17.4.1 Common and contract carriers, freight forwarders, and warehouse workers which are subject to the requirements of the DOT in 49 CFR 170 through 189, or the U.S. Postal Service in the Postal Service Manual (Domestic Mail Manual), are exempt from the requirements of Part 17 to the extent that they transport or store radioactive material in the regular course of their carriage for others or storage incident thereto. Common and contract carriers who are not subject to the requirements of the DOT or U.S. Postal Service are subject to 17.3 and other applicable requirements of these regulations.

17.4.2 A licensee is exempt from the requirements of Part 17 with respect to shipment or carriage of the following low-level materials:

17.4.2.1 Natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in Appendix 17A, Table 17A2, or Table 17A3 of this part.

17.4.2.2 Materials for which the activity concentration is not greater than the activity concentration values specified in Appendix 17A, Table 17A2, or Table 17A3 of this part, or for which the consignment activity is not greater than the limit for an exempt consignment found in Appendix 17A, Table 17A2 or Table 17A3 of this part.

17.4.2.3 Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in 17.2.

17.4.3 Fissile materials meeting the requirements of one of the paragraphs (a) through (f) in 10 CFR 71.15 are exempt from classification as fissile material, and from the fissile material package standards of 10 CFR 71.55 and 10 CFR 71.59, but are subject to all other requirements of 10 CFR 71, except as noted in paragraphs (a) through (f) in 10 CFR 71.15.

17.4.4 Any physician licensed by a state to dispense drugs in the practice of medicine is exempt from 17.5 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under Part 7 or equivalent requirements of another Agreement State or NRC.

17.5 Transportation of Licensed Material.

17.5.1 Each licensee who transports licensed material outside the site of usage, as specified in the Department license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall:

17.5.1.1 Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the DOT, particularly the regulations of the DOT in the following areas:

- (1) Packaging - 49 CFR Part 173: Subparts A and B and I.
- (2) Marking and labeling - 49 CFR Part 172: Subpart D, § § 172.400 through 172.407, § § 172.436 through 172.441, and Subpart E.
- (3) Placarding - 49 CFR Part 172: Subpart F, especially § § 172.500 through 172.519, 172.556, and Appendices B and C.
- (4) Accident reporting - 49 CFR Part 171: § § 171.15 and 171.16.
- (5) Shipping papers and emergency information - 49 CFR Part 172: Subparts C and G.
- (6) Hazardous material employee training - 49 CFR Part 172: Subpart H.
- (7) Security plans - 49 CFR Part 172: Subpart I.
- (8) Hazardous material shipper/carrier registration - 49 CFR Part 107: Subpart G.

17.5.1.2 The licensee shall also comply with applicable regulations of the DOT pertaining to the following modes of transportation:

- (1) Rail - 49 CFR Part 174: Subparts A through D, and K.
- (2) Air - 49 CFR Part 175.
- (3) Vessel - 49 CFR Part 176: Subparts A through F, and M.
- (4) Public highway - 49 CFR Part 177 and Parts 390 through 397.

17.5.1.3 Assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee in accordance with 4.32.5.2.

17.5.2 If, for any reason, the regulations of the DOT are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of 49 CFR Parts 170 through 189 appropriate to the mode of transport to the same extent as if the shipment was subject to these regulations.

GENERAL LICENSES

17.6 General Licenses for Carriers.

17.6.1 A general license is hereby issued to any common or contract carrier not exempt under 17.4 to receive, possess, transport, and store radioactive material in the regular course of their carriage for others or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the DOT insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.³

³ Notification of an incident shall be filed with, or made to, the Department as prescribed in 49 CFR, regardless of and in addition to the notification made to the DOT or other agencies.

17.6.2 A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the DOT insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.³

17.6.3 Persons who transport radioactive material pursuant to the general licenses in 17.6.1 and 17.6.2 are exempt from the requirements of Parts 4 and 10 of these regulations to the extent that they transport radioactive material.

17.7 General License: NRC-Approved Packages.

17.7.1 A general license is hereby issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, NRC issued Certificate of Compliance, or other approval has been issued by the Department.

17.7.2 This general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the provisions of Subpart H (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125) of 10 CFR 71.

17.7.3 Each licensee issued a general license under Section 17.7.1 shall:

17.7.3.1 Maintain a copy of the NRC issued Certificate of Compliance, or other approval of the package, and the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;

17.7.3.2 Comply with the terms and conditions of the license, NRC issued Certificate of Compliance, or other approval by the Department, as applicable, and the applicable requirements of Subparts A (excluding 71.11), G (excluding 71.85(a)-(c), and 71.91(b)), and H (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125) of 10 CFR 71;

17.7.3.3 Prior to the licensee's first use of the package, submit to the Department in writing:

(1) The licensee's name and license number; and

(2) The package identification number specified in the package approval.

17.7.4 The general license in 17.7.1 applies only when the package approval authorizes use of the package under this general license.

17.7.5 For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license in 17.7.1 is subject to additional restrictions of 10 CFR 71.19.

17.8 General Licenses: Use of Foreign-Approved and Other Approved Packages

17.8.1 A general license is issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate, that has been revalidated by the DOT as meeting the applicable requirements of 49 CFR 171.23.

17.8.2 Except as otherwise provided in this section, the general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the applicable provisions of 10 CFR 71.101 through 71.137, excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125.

17.8.3 This general license applies only to shipments made to or from locations outside the United States.

17.8.4 Each licensee issued a general license under Section 17.8.1 shall:

(1) Maintain a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and

(2) Comply with the terms and conditions of the certificate and revalidation, and with the applicable requirements of Part 17, sections 17.1 through 17.5, 17.10 through 17.17, and Subparts A (excluding 71.11), G (excluding 71.85(a)-(c), and 71.91(b)), and H (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125) of 10 CFR 71..

17.9 General Licenses: Fissile Material Transport

17.9.1 A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the licensee meets the requirements of 10 CFR 71.22 and the material is shipped in accordance with 10 CFR 71.22 and each applicable requirement of Part 17.

17.9.2 A general license is hereby issued to any licensee to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources to a carrier for transport, if the licensee meets the requirements of 10 CFR 71.23 and the material is shipped in accordance with 10 CFR 71.23 and each applicable requirement of Part 17.

QUALITY ASSURANCE

17.10 Quality Assurance Requirements.

17.10.1 Subpart H of 10 CFR 71 describes quality assurance requirements applying to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging that are important to safety. As used in Subpart H of 10 CFR 71, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component to predetermined requirements.

Each licensee is responsible for satisfying the quality assurance requirements that apply to its use of a packaging for the shipment of licensed material subject to the applicable requirements of Subpart H of 10 CFR 71 (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125).

17.10.2 Radiography containers.

A program for transport container inspection and maintenance limited to radiographic exposure devices, source changers, or packages transporting these devices and meeting the requirements of Part 5, sections 5.12(4) through 5.12(6) or equivalent Agreement State or NRC requirement, is deemed to satisfy the requirements of 17.7.2 and 10 CFR 71.101(b).

17.11 Advance Notification of Shipment of Nuclear Waste.

17.11.1 As specified in 17.11.3, 17.11.4, and 17.11.5, each licensee shall provide advance notification to the governor of a state, or the governor's designee, of the shipment of licensed material (nuclear waste), within or across the boundary of the state, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

17.11.2 As specified in 17.11.3, 17.11.4, and 17.11.5 of this section, after June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in 17.11.4.3(3), or the official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

17.11.3 Advance notification is also required under this section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:

- 17.11.3.1 The licensed material is required by this part to be in Type B packaging for transportation;
- 17.11.3.2 The licensed material is being transported to or across a state boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and
- 17.11.3.3 The quantity of licensed material in a single package exceeds the least of the following:
 - (1) 3000 times the A_1 value of the radionuclides as specified in Appendix 17A, Table A1 for special form radioactive material; or
 - (2) 3000 times the A_2 value of the radionuclides as specified in Appendix 17A, Table A1 for normal form radioactive material; or
 - (3) 1000 TBq (27,000 Ci).

17.11.4 Procedures for submitting advance notification

17.11.4.1 The notification must be made in writing to:

- (1) The office of each appropriate governor or governor's designee;
- (2) The office of each appropriate Tribal official or Tribal official's designee;
- (3) The Department.

17.11.4.2 A notification delivered by mail must be postmarked at least 7 days before the beginning of the 7 day period during which departure of the shipment is estimated to occur.

17.11.4.3 A notification delivered by any other means than mail must reach the office of the governor or of the governor's designee or the Tribal official, or Tribal official's designee at least 4 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur.

- (1) A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the Federal Register on June 30, 1995 (60 FR 34306)
- (2) Contact information for each State, including telephone and mailing addresses of governors and governors' designees, and participating Tribes, including telephone and mailing addresses of Tribal officials and Tribal official's designees, is available on the NRC Web site at: <https://scp.nrc.gov/special/designee.pdf>.
- (3) A list of the names and mailing addresses of the governor's designees and Tribal official's designees of participating Tribes is available on request from the Director, Division of Material Safety, State, Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

17.11.4.4 The licensee shall retain a copy of the notification as a record for 3 years.

17.11.5 Information to be furnished in advance notification of shipment.

17.11.5.1 Each advance notification of nuclear waste shall contain the following information:

- (1) The name, address, and telephone number of the shipper, carrier, and receiver of the nuclear waste shipment;
- (2) A description of the nuclear waste contained in the shipment, as required by 49 CFR 172.202 and 172.203(d);
- (3) The point of origin of the shipment and the 7-day period during which departure of the shipment is estimated to occur;
- (4) The 7-day period during which arrival of the shipment at state boundaries or Tribal reservation boundaries is estimated to occur;
- (5) The destination of the shipment, and the 7-day period during which arrival of the shipment is estimated to occur; and
- (6) A point of contact with a telephone number for current shipment information.

17.11.6 Revision notice

17.11.6.1 A licensee who finds that schedule information previously furnished to a governor or governor's designee or a Tribal official or Tribal official's designee, in accordance with this section, will not be met, shall:

- (1) Telephone a responsible individual in the office of the governor of the state or of the governor's designee or the Tribal official or Tribal official's designee and inform that individual of the extent of the delay beyond the schedule originally reported; and
- (2) Maintain a record of the name of the individual contacted for 3 years.

17.11.7 Cancellation notice

17.11.7.1 Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall:

- (1) Send a cancellation notice to the governor of each state, or governor's designee previously notified, each Tribal official or Tribal official's designee previously notified and to the Department;
- (2) State in the notice that it is a cancellation and identify the advance notification that is being cancelled; and
- (3) Retain a copy of the notice for 3 years.

17.12 Air Transport of Plutonium.

Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this part or included indirectly by citation of the regulations of the DOT, as may be applicable, the licensee shall assure that plutonium in any form is not transported by air, or delivered to a carrier for air transport, unless:

17.12.1 The plutonium is contained in a medical device designed for individual human application; or

17.12.2 The plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for plutonium specified in Appendix 17A, Table 17A-1, and in which the radioactivity is essentially uniformly distributed; or

17.12.3 The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form and is shipped in accordance with 17.5; or

17.12.4 The plutonium is shipped in a package specifically authorized (in the Certificate of Compliance issued by the NRC for that package) for the shipment of plutonium by air and the licensee requires, through special arrangement with the carrier, compliance with 49 CFR 175.704, the regulations of the DOT applicable to the air transport of plutonium.

OPERATING CONTROLS AND PROCEDURES

17.13 Fissile Material: Assumptions as to Unknown Properties of Fissile Material.

When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties had credible values that would cause the maximum neutron multiplication.

17.14 Preliminary Determinations.

Before the first use of any packaging for the shipment of radioactive material the licensee shall ascertain that the determinations in paragraphs (a) through (c) of 10 CFR 71.85 have been made by the certificate holder.

17.15 Routine Determinations.

Prior to each shipment of licensed material, the licensee shall determine that:

- 17.15.1 The package is proper for the contents to be shipped;
- 17.15.2 The package is in unimpaired physical condition except for superficial defects such as marks or dents;
- 17.15.3 Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
- 17.15.4 Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
- 17.15.5 Any pressure relief device is operable and set in accordance with written procedures;
- 17.15.6 The package has been loaded and closed in accordance with written procedures;
- 17.15.7 Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for the purpose unless it satisfies design requirements specified in 10 CFR 71.45;
- 17.15.8 The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable and within the limits specified in 49 CFR 173.443.
 - 17.15.8.1 Determination of the level of non-fixed (removable) contamination shall be based upon wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material.
 - (1) The number and location of measurements shall be sufficient to yield a representative assessment of the removable contamination levels.
 - (2) Other methods of assessment of equal or greater detection efficiency may be used.
 - 17.15.8.2 In the case of packages transported as exclusive use shipments by rail or highway only, the non-fixed (removable) radioactive contamination:
 - (1) At the beginning of transport shall not exceed the levels specified in 49 CFR 173.443; and
 - (2) At any time during transport shall not exceed 10 times the levels specified in 49 CFR 173.443.
- 17.15.9 External radiation levels around the package and around the vehicle, if applicable, shall not exceed:
 - 17.15.9.1 2 mSv/h (200 millirem per hour) at any point on the external surface of the package at any time during transportation;
 - 17.15.9.2 A transport index of 10.0.
- 17.15.10 For a package transported in exclusive use by rail, highway or water, radiation levels external to the package may exceed the limits specified in 17.15.9 but shall not exceed any of the following:

- 17.15.10.1 2 mSv/h (200 millirem per hour) on the accessible external surface of the package unless the following conditions are met, in which case the limit is 10 mSv/h (1000 millirem per hour);
- (1) The shipment is made in a closed transport vehicle,
 - (2) Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation, and
 - (3) No loading or unloading operation occurs between the beginning and end of the transportation.
- 17.15.10.2 2 mSv/h (200 millirem per hour) at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of a flat-bed style vehicle, with a personnel barrier, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load (or enclosure, if used), and on the lower external surface of the vehicle;
- (1) A flat bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes.
 - (2) If no personnel barrier is in place, the package cannot exceed 2 mSv/h (200 millirem per hour) at any accessible surface.
- 17.15.10.3 0.1 mSv/h (10 millirem per hour) at any point 2 meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of a flat-bed style vehicle, at any point 2 meters from the vertical planes projected from the outer edges of the vehicle; and
- 17.15.10.4 0.02 mSv/h (2 millirem per hour) in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with 10.3; and
- 17.15.11 For shipments made under the provisions of Section 17.15.10, the shipper shall provide specific written instructions to the carrier for maintenance of the exclusive use shipment controls. The instructions must be included with the shipping paper information.
- 17.15.12 The written instructions required for exclusive use shipments must be sufficient so that, when followed, they will cause the carrier to avoid actions that will:
- 17.15.12.1 Unnecessarily delay delivery; or
 - 17.15.12.2 Unnecessarily result in increased radiation levels or radiation exposures to transport workers or members of the general public.
- 17.15.13 A package must be prepared for transport so that in still air at 100 degrees Fahrenheit (38 degrees Celsius) and in the shade, no accessible surface of a package would have a temperature exceeding 50 degrees Celsius (122 degrees Fahrenheit) in a nonexclusive use shipment or 82 degrees Celsius (185 degrees Fahrenheit) in an exclusive use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.
- 17.15.14 A package may not incorporate a feature intended to allow continuous venting during transport.
- 17.15.15 Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to the consignee, or otherwise made available to the consignee, for the consignee's use in accordance with 4.32.5.2.

REPORTS AND RECORDS

17.16 Reports.

The licensee shall report to the Department within 30 days:

- 17.16.1 Any instance in which there is significant reduction in the effectiveness of any packaging during use; and
- 17.16.2 Details of any defects with safety significance in the packaging after first use, with the means employed to repair the defects and prevent their recurrence; and
- 17.16.3 Instances in which the conditions of approval in the Certificate of Compliance were not observed in making a shipment.

17.17 Shipment Records.

17.17.1 Each licensee shall maintain, for a period of 3 years after shipment, a record of each shipment of licensed material not exempt under 17.4 showing, where applicable:

- 17.17.1.1 Identification of the packaging by model number and serial number;
- 17.17.1.2 Verification that the packaging, as shipped, had no significant defect;
- 17.17.1.3 Volume and identification of coolant;
- 17.17.1.4 Type and quantity of licensed material in each package, and the total quantity of each shipment;
- 17.17.1.5 For each item of irradiated fissile material:
 - (1) Identification by model number and serial number;
 - (2) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - (3) Any abnormal or unusual condition relevant to radiation safety;
- 17.17.1.6 Date of the shipment;
- 17.17.1.7 For fissile packages and for Type B packages, any special controls exercised;
- 17.17.1.8 Name and address of the transferee;
- 17.17.1.9 Address to which the shipment was made; and
- 17.17.1.10 Results of the determinations required by 17.15 and by the conditions of the package approval.

17.17.2 The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this part. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.

17.17.3 The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging.

- 17.17.3.1 The records to be maintained shall include:
 - (1) Results of the determinations required by 10 CFR 71.85(a) through (c);

- (2) Design, fabrication, and assembly records;
- (3) Results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and
- (4) Results of maintenance, modification, and repair activities.

17.17.3.2 Inspection, test, and audit records must identify:

- (1) The inspector or data records,
- (2) The type of observation,
- (3) The results,
- (4) The acceptability, and
- (5) The action taken in connection with any deficiencies noted.

17.17.3.3 The records required by 17.17.3. must be retained for 3 years after the life of the packaging to which they apply.

Appendix 17A - Determination of A_1 and A_2

- 17A1 Values of A_1 and A_2 for individual radionuclides, which are the bases for many activity limits elsewhere in these regulations are given in Table 17A1. The curie (Ci) values specified are obtained by converting from the Terabecquerel (TBq) value. The Terabecquerel values are the regulatory standard. The curie values are for information only and are not intended to be the regulatory standard. Where values of A_1 or A_2 are unlimited, it is for radiation control purposes only. For nuclear criticality safety, some materials are subject to controls placed on fissile material.
- 17A2 For individual radionuclides whose identities are known, but which are:
- 17A2.1 Not listed in Table 17A1:
- (1) The A_1 and A_2 values Table 17A3 may be used.
 - (2) Otherwise, the licensee shall obtain prior NRC approval of the A_1 and A_2 values for radionuclides not listed in Table 17A1, before shipping the material. The licensee shall submit such request for prior approval to NRC in accordance with 10 CFR 71.1.
- 17A2.2 Not listed in Table 17A2:
- (1) The exempt material activity concentration and exempt consignment activity values contained in Table 17A3 may be used.
 - (2) Otherwise, the licensee shall obtain prior NRC approval of the exempt material activity concentration and exempt consignment activity values for radionuclides not listed in Table 17A2, before shipping the material. The licensee shall submit such request for prior approval to NRC in accordance with 10 CFR 71.1.
- 17A3 In the calculations of A_1 and A_2 for a radionuclide not in Table 17A1, a single radioactive decay chain, in which radionuclides are present in their naturally occurring proportions, and in which no radioactive decay product nuclide has a half-life either longer than 10 days, or longer than that of the parent nuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the A_1 or A_2 value to be applied shall be those corresponding to the parent nuclide of that chain. In the case of radioactive decay chains in which any radioactive decay product nuclide has a half-life either longer than 10 days, or greater than that of the parent nuclide, the parent and those radioactive decay product nuclides shall be considered as mixtures of different nuclides.
- 17A4 For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply:
- 17A4.1 For special form radioactive material, the maximum quantity transported in a Type A package is as follows:
- $$\sum_i \frac{B(i)}{A_1(i)} \leq 1$$
- where $B(i)$ is the activity of radionuclide i in special form, and $A_1(i)$ is the A_1 value for radionuclide i .
- 17A4.2 For normal form radioactive material, the maximum quantity transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_2(i)} \leq 1$$

where B(i) is the activity of radionuclide i in normal form, and A₂(i) is the A₂ value for radionuclide i.

17A4.3 If the package contains both special and normal form radioactive materials, the activity that may be transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_1(i)} + \sum_j \frac{C(j)}{A_2(j)} \leq 1$$

Where B(i) is the activity of radionuclide i as special form radioactive material, A₁(i) is the A₁ value for radionuclide i, C(j) is the activity of radionuclide j as normal form radioactive material, and A₂(j) is the A₂ value for radionuclide j.

17A4.4 Alternatively, the A₁ value for mixtures of special form material may be determined as follows:

$$A_1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_1(i)}}$$

where f(i) is the fraction of activity of nuclide i in the mixture and A₁(i) is the appropriate A₁ value for nuclide i.

17A4.5 Alternatively, the A₂ value for mixtures of normal form material may be determined as follows:

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

where f(i) is the fraction of activity of nuclide i in the mixture and A₂(i) is the appropriate A₂ value for nuclide i.

17A4.6 The exempt activity concentration for mixtures of nuclides may be determined as follows:

$$\text{Exempt activity concentration for mixture} = \frac{1}{\sum_i \frac{f(i)}{[A](i)}}$$

where f(i) is the fraction of activity concentration of radionuclide i in the mixture, and [A](i) is the activity concentration for exempt material containing radionuclide i.

17A4.7 The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows:

$$\text{Exempt consignment activity limit for mixture} = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$

where $f(i)$ is the fraction of activity of radionuclide i in the mixture, and $A(i)$ is the activity limit for exempt consignments for radionuclide i .

- 17A5 When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest A_1 or A_2 value, as appropriate, for the radionuclides in each group may be used in applying the formulas in 17A4. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A_1 or A_2 values for the alpha emitters and beta/gamma emitters.
- 17A6 When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest $[A]$ (activity concentration for exempt materials) or A (activity limit for exempt consignment) value, as appropriate, for the radionuclides in each group may be used in applying the formulas in 17A4. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest $[A]$ or A values for the alpha emitters and beta/gamma emitters, respectively.

TABLE 17A1: A₁ AND A₂ VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)b	A ₂ (TBq)	A ₂ (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Ac-225 (a)	Actinium (89)	8.0X10 ⁻¹	2.2X10 ¹	6.0X10 ⁻³	1.6X10 ⁻¹	2.1X10 ³	5.8X10 ⁴
Ac-227 (a)	.	9.0X10 ⁻¹	2.4X10 ¹	9.0X10 ⁻⁵	2.4X10 ⁻³	2.7	7.2X10 ¹
Ac-228	.	6.0X10 ⁻¹	1.6X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	8.4X10 ⁴	2.2X10 ⁶
Ag-105	Silver (47)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	1.1X10 ³	3.0X10 ⁴
Ag-108m (a)	.	7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	9.7X10 ⁻¹	2.6X10 ¹
Ag-110m (a)	.	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.8X10 ²	4.7X10 ³
Ag-111	.	2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	5.8X10 ³	1.6X10 ⁵
Al-26	Aluminum (13)	1.0X10 ⁻¹	2.7	1.0X10 ⁻¹	2.7	7.0X10 ⁻⁴	1.9X10 ⁻²
Am-241	Americium (95)	1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	1.3X10 ⁻¹	3.4
Am-242m (a)	.	1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	3.6X10 ⁻¹	1.0X10 ¹
Am-243 (a)	.	5.0	1.4X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	7.4X10 ⁻³	2.0X10 ⁻¹
Ar-37	Argon (18)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	3.7X10 ³	9.9X10 ⁴
Ar-39	.	4.0X10 ¹	1.1X10 ³	2.0X10 ¹	5.4X10 ²	1.3	3.4X10 ¹
Ar-41	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.5X10 ⁶	4.2X10 ⁷
As-72	Arsenic (33)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	6.2X10 ⁴	1.7X10 ⁶
As-73	.	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	8.2X10 ²	2.2X10 ⁴
As-74	.	1.0	2.7X10 ¹	9.0X10 ⁻¹	2.4X10 ¹	3.7X10 ³	9.9X10 ⁴
As-76	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	5.8X10 ⁴	1.6X10 ⁶
As-77	.	2.0X10 ¹	5.4X10 ²	7.0X10 ⁻¹	1.9X10 ¹	3.9X10 ⁴	1.0X10 ⁶
At-211 (a)	Astatine (85)	2.0X10 ¹	5.4X10 ²	5.0X10 ⁻¹	1.4X10 ¹	7.6X10 ⁴	2.1X10 ⁶
Au-193	Gold (79)	7.0	1.9X10 ²	2.0	5.4X10 ¹	3.4X10 ⁴	9.2X10 ⁵
Au-194	.	1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.5X10 ⁴	4.1X10 ⁵
Au-195	.	1.0X10 ¹	2.7X10 ²	6.0	1.6X10 ²	1.4X10 ²	3.7X10 ³
Au-198	.	1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.0X10 ³	2.4X10 ⁵
Au-199	.	1.0X10 ¹	2.7X10 ²	6.0X10 ⁻¹	1.6X10 ¹	7.7X10 ³	2.1X10 ⁵
Ba-131 (a)	Barium (56)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	3.1X10 ³	8.4X10 ⁴
Ba-133	.	3.0	8.1X10 ¹	3.0	8.1X10 ¹	9.4	2.6X10 ²
Ba-133m	.	2.0X10 ¹	5.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	2.2X10 ⁴	6.1X10 ⁵
Ba-140 (a)	.	5.0X10 ⁻¹	1.4X10 ¹	3.0X10 ⁻¹	8.1	2.7X10 ³	7.3X10 ⁴
Be-7	Beryllium (4)	2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	1.3X10 ⁴	3.5X10 ⁵
Be-10	.	4.0X10 ¹	1.1X10 ³	6.0X10 ⁻¹	1.6X10 ¹	8.3X10 ⁻⁴	2.2X10 ⁻²
Bi-205	Bismuth (83)	7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	1.5X10 ³	4.2X10 ⁴
Bi-206	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	3.8X10 ³	1.0X10 ⁵
Bi-207	.	7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	1.9	5.2X10 ¹
Bi-210	.	1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.6X10 ³	1.2X10 ⁵
Bi-210m (a)	.	6.0X10 ⁻¹	1.6X10 ¹	2.0X10 ⁻²	5.4X10 ⁻¹	2.1X10 ⁻⁵	5.7X10 ⁻⁴
Bi-212 (a)	.	7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	5.4X10 ⁵	1.5X10 ⁷
Bk-247	Berkelium (97)	8.0	2.2X10 ²	8.0X10 ⁻⁴	2.2X10 ⁻²	3.8X10 ⁻²	1.0
Bk-249 (a)	.	4.0X10 ¹	1.1X10 ³	3.0X10 ⁻¹	8.1	6.1X10 ¹	1.6X10 ³
Br-76	Bromine (35)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	9.4X10 ⁴	2.5X10 ⁶
Br-77	.	3.0	8.1X10 ¹	3.0	8.1X10 ¹	2.6X10 ⁴	7.1X10 ⁵
Br-82	.	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁴	1.1X10 ⁶
C-11	Carbon (6)	1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.1X10 ⁷	8.4X10 ⁸

TABLE 17A1: A₁ AND A₂ VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)b	A ₂ (TBq)	A ₂ (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
C-14	.	4.0X10 ¹	1.1X10 ³	3.0	8.1X10 ¹	1.6X10 ⁻¹	4.5
Ca-41	Calcium (20)	Unlimited	Unlimited	Unlimited	Unlimited	3.1X10 ⁻³	8.5X10 ⁻²
Ca-45	.	4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	6.6X10 ²	1.8X10 ⁴
Ca-47 (a)	.	3.0	8.1X10 ¹	3.0X10 ⁻¹	8.1	2.3X10 ⁴	6.1X10 ⁵
Cd-109	Cadmium (48)	3.0X10 ¹	8.1X10 ²	2.0	5.4X10 ¹	9.6X10 ¹	2.6X10 ³
Cd-113m	.	4.0X10 ¹	1.1X10 ³	5.0X10 ⁻¹	1.4X10 ¹	8.3	2.2X10 ²
Cd-115 (a)	.	3.0	8.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	1.9X10 ⁴	5.1X10 ⁵
Cd-115m	.	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	9.4X10 ²	2.5X10 ⁴
Ce-139	Cerium (58)	7.0	1.9X10 ²	2.0	5.4X10 ¹	2.5X10 ²	6.8X10 ³
Ce-141	.	2.0X10 ¹	5.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	1.1X10 ³	2.8X10 ⁴
Ce-143	.	9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ⁴	6.6X10 ⁵
Ce-144 (a)	.	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	1.2X10 ²	3.2X10 ³
Cf-248	Californium (98)	4.0X10 ¹	1.1X10 ³	6.0X10 ⁻³	1.6X10 ⁻¹	5.8X10 ¹	1.6X10 ³
Cf-249	.	3.0	8.1X10 ¹	8.0X10 ⁻⁴	2.2X10 ⁻²	1.5X10 ⁻¹	4.1
Cf-250	.	2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	4.0	1.1X10 ²
Cf-251	.	7.0	1.9X10 ²	7.0X10 ⁻⁴	1.9X10 ⁻²	5.9X10 ⁻²	1.6
Cf-252	.	1.0X10 ⁻¹	2.7	3.0X10 ⁻³	8.1X10 ⁻²	2.0X10 ¹	5.4X10 ²
Cf-253 (a)	.	4.0X10 ¹	1.1X10 ³	4.0X10 ⁻²	1.1	1.1X10 ³	2.9X10 ⁴
Cf-254	.	1.0X10 ⁻³	2.7X10 ⁻²	1.0X10 ⁻³	2.7X10 ⁻²	3.1X10 ²	8.5X10 ³
Cl-36	Chlorine (17)	1.0X10 ¹	2.7X10 ²	6.0X10 ⁻¹	1.6X10 ¹	1.2X10 ⁻³	3.3X10 ⁻²
Cl-38	.	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	4.9X10 ⁶	1.3X10 ⁸
Cm-240	Curium (96)	4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	7.5X10 ²	2.0X10 ⁴
Cm-241	.	2.0	5.4X10 ¹	1.0	2.7X10 ¹	6.1X10 ²	1.7X10 ⁴
Cm-242	.	4.0X10 ¹	1.1X10 ³	1.0X10 ⁻²	2.7X10 ⁻¹	1.2X10 ²	3.3X10 ³
Cm-243	.	9.0	2.4X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	1.9X10 ⁻³	5.2X10 ¹
Cm-244	.	2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	3.0	8.1X10 ¹
Cm-245	.	9.0	2.4X10 ²	9.0X10 ⁻⁴	2.4X10 ⁻²	6.4X10 ⁻³	1.7X10 ⁻¹
Cm-246	.	9.0	2.4X10 ²	9.0X10 ⁻⁴	2.4X10 ⁻²	1.1X10 ⁻²	3.1X10 ⁻¹
Cm-247 (a)	.	3.0	8.1X10 ¹	1.0X10 ⁻³	2.7X10 ⁻²	3.4X10 ⁻⁶	9.3X10 ⁻⁵
Cm-248	.	2.0X10 ⁻²	5.4X10 ⁻¹	3.0X10 ⁻⁴	8.1X10 ⁻³	1.6X10 ⁻⁴	4.2X10 ⁻³
Co-55	Cobalt (27)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.1X10 ⁵	3.1X10 ⁶
Co-56	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.1X10 ³	3.0X10 ⁴
Co-57	.	1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	3.1X10 ²	8.4X10 ³
Co-58	.	1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.2X10 ³	3.2X10 ⁴
Co-58m	.	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	2.2X10 ⁵	5.9X10 ⁶
Co-60	.	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.2X10 ¹	1.1X10 ³
Cr-51	Chromium (24)	3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	3.4X10 ³	9.2X10 ⁴
Cs-129	Cesium (55)	4.0	1.1X10 ²	4.0	1.1X10 ²	2.8X10 ⁴	7.6X10 ⁵
Cs-131	.	3.0X10 ¹	8.1X10 ²	3.0X10 ¹	8.1X10 ²	3.8X10 ³	1.0X10 ⁵
Cs-132	.	1.0	2.7X10 ¹	1.0	2.7X10 ¹	5.7X10 ³	1.5X10 ⁵
Cs-134	.	7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	4.8X10 ¹	1.3X10 ³
Cs-134m	.	4.0X10 ¹	1.1X10 ³	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ⁵	8.0X10 ⁶
Cs-135	.	4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	4.3X10 ⁻⁵	1.2X10 ⁻³
Cs-136	.	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.7X10 ³	7.3X10 ⁴

TABLE 17A1: A ₁ AND A ₂ VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)b	A ₂ (TBq)	A ₂ (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Cs-137 (a)	.	2.0	5.4X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	3.2	8.7X10 ⁻¹
Cu-64	Copper (29)	6.0	1.6X10 ⁻²	1.0	2.7X10 ⁻¹	1.4X10 ⁻⁵	3.9X10 ⁻⁶
Cu-67	.	1.0X10 ⁻¹	2.7X10 ⁻²	7.0X10 ⁻¹	1.9X10 ⁻¹	2.8X10 ⁻⁴	7.6X10 ⁻⁵
Dy-159	Dysprosium (66)	2.0X10 ⁻¹	5.4X10 ⁻²	2.0X10 ⁻¹	5.4X10 ⁻²	2.1X10 ⁻²	5.7X10 ⁻³
Dy-165	.	9.0X10 ⁻¹	2.4X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	3.0X10 ⁻⁵	8.2X10 ⁻⁶
Dy-166 (a)	.	9.0X10 ⁻¹	2.4X10 ⁻¹	3.0X10 ⁻¹	8.1	8.6X10 ⁻³	2.3X10 ⁻⁵
Er-169	Erbium (68)	4.0X10 ⁻¹	1.1X10 ⁻³	1.0	2.7X10 ⁻¹	3.1X10 ⁻³	8.3X10 ⁻⁴
Er-171	.	8.0X10 ⁻¹	2.2X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	9.0X10 ⁻⁴	2.4X10 ⁻⁶
Eu-147	Europium (63)	2.0	5.4X10 ⁻¹	2.0	5.4X10 ⁻¹	1.4X10 ⁻³	3.7X10 ⁻⁴
Eu-148	.	5.0X10 ⁻¹	1.4X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	6.0X10 ⁻²	1.6X10 ⁻⁴
Eu-149	.	2.0X10 ⁻¹	5.4X10 ⁻²	2.0X10 ⁻¹	5.4X10 ⁻²	3.5X10 ⁻²	9.4X10 ⁻³
Eu-150. (short.lived)	.	2.0	5.4X10 ⁻¹	7.0X10 ⁻¹	1.9X10 ⁻¹	6.1X10 ⁻⁴	1.6X10 ⁻⁶
Eu-150. (long.lived)	.	7.0X10 ⁻¹	1.9X10 ⁻¹	7.0X10 ⁻¹	1.9X10 ⁻¹	6.1X10 ⁻⁴	1.6X10 ⁻⁶
Eu-152	.	1.0	2.7X10 ⁻¹	1.0	2.7X10 ⁻¹	6.5	1.8X10 ⁻²
Eu-152m	.	8.0X10 ⁻¹	2.2X10 ⁻¹	8.0X10 ⁻¹	2.2X10 ⁻¹	8.2X10 ⁻⁴	2.2X10 ⁻⁶
Eu-154	.	9.0X10 ⁻¹	2.4X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	9.8	2.6X10 ⁻²
Eu-155	.	2.0X10 ⁻¹	5.4X10 ⁻²	3.0	8.1X10 ⁻¹	1.8X10 ⁻¹	4.9X10 ⁻²
Eu-156	.	7.0X10 ⁻¹	1.9X10 ⁻¹	7.0X10 ⁻¹	1.9X10 ⁻¹	2.0X10 ⁻³	5.5X10 ⁻⁴
F-18	Fluorine.(9)	1.0	2.7X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	3.5X10 ⁻⁶	9.5X10 ⁻⁷
Fe-52.(a)	Iron.(26)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	2.7X10 ⁻⁵	7.3X10 ⁻⁶
Fe-55	.	4.0X10 ⁻¹	1.1X10 ⁻³	4.0X10 ⁻¹	1.1X10 ⁻³	8.8X10 ⁻¹	2.4X10 ⁻³
Fe-59	.	9.0X10 ⁻¹	2.4X10 ⁻¹	9.0X10 ⁻¹	2.4X10 ⁻¹	1.8X10 ⁻³	5.0X10 ⁻⁴
Fe-60 (a)	.	4.0X10 ⁻¹	1.1X10 ⁻³	2.0X10 ⁻¹	5.4	7.4X10 ⁻⁴	2.0X10 ⁻²
Ga-67	Gallium (31)	7.0	1.9X10 ⁻²	3.0	8.1X10 ⁻¹	2.2X10 ⁻⁴	6.0X10 ⁻⁵
Ga-68	.	5.0X10 ⁻¹	1.4X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	1.5X10 ⁻⁶	4.1X10 ⁻⁷
Ga-72	.	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	1.1X10 ⁻⁵	3.1X10 ⁻⁶
Gd-146.(a)	Gadolinium(64)	5.0X10 ⁻¹	1.4X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	6.9X10 ⁻²	1.9X10 ⁻⁴
Gd-148	.	2.0X10 ⁻¹	5.4X10 ⁻²	2.0X10 ⁻³	5.4X10 ⁻²	1.2	3.2X10 ⁻¹
Gd-153	.	1.0X10 ⁻¹	2.7X10 ⁻²	9.0	2.4X10 ⁻²	1.3X10 ⁻²	3.5X10 ⁻³
Gd-159	.	3.0	8.1X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	3.9X10 ⁻⁴	1.1X10 ⁻⁶
Ge-68.(a)	Germanium(32)	5.0X10 ⁻¹	1.4X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	2.6X10 ⁻²	7.1X10 ⁻³
Ge-71	.	4.0X10 ⁻¹	1.1X10 ⁻³	4.0X10 ⁻¹	1.1X10 ⁻³	5.8X10 ⁻³	1.6X10 ⁻⁵
Ge-77	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.3X10 ⁻⁵	3.6X10 ⁻⁶
Hf-172 (a)	Hafnium (72)	6.0X10 ⁻¹	1.6X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	4.1X10 ⁻¹	1.1X10 ⁻³
Hf-175	.	3.0	8.1X10 ⁻¹	3.0	8.1X10 ⁻¹	3.9X10 ⁻²	1.1X10 ⁻⁴
Hf-181	.	2.0	5.4X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	6.3X10 ⁻²	1.7X10 ⁻⁴
Hf-182	.	Unlimited	Unlimited	Unlimited	Unlimited	8.1X10 ⁻⁶	2.2X10 ⁻⁴
Hg-194 (a)	Mercury (80)	1.0	2.7X10 ⁻¹	1.0	2.7X10 ⁻¹	1.3X10 ⁻¹	3.5
Hg-195m (a)	.	3.0	8.1X10 ⁻¹	7.0X10 ⁻¹	1.9X10 ⁻¹	1.5X10 ⁻⁴	4.0X10 ⁻⁵
Hg-197	.	2.0X10 ⁻¹	5.4X10 ⁻²	1.0X10 ⁻¹	2.7X10 ⁻²	9.2X10 ⁻³	2.5X10 ⁻⁵
Hg-197m	.	1.0X10 ⁻¹	2.7X10 ⁻²	4.0X10 ⁻¹	1.1X10 ⁻¹	2.5X10 ⁻⁴	6.7X10 ⁻⁵
Hg-203	.	5.0	1.4X10 ⁻²	1.0	2.7X10 ⁻¹	5.1X10 ⁻²	1.4X10 ⁻⁴

TABLE 17A1: A₁ AND A₂ VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)b	A ₂ (TBq)	A ₂ (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Ho-166	Holmium (67)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	2.6X10 ⁻⁴	7.0X10 ⁻⁵
Ho-166m	.	6.0X10 ⁻¹	1.6X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	6.6X10 ⁻²	1.8
I-123	Iodine (53)	6.0	1.6X10 ²	3.0	8.1X10 ¹	7.1X10 ⁻⁴	1.9X10 ⁻⁶
I-124	.	1.0	2.7X10 ¹	1.0	2.7X10 ¹	9.3X10 ⁻³	2.5X10 ⁻⁵
I-125	.	2.0X10 ¹	5.4X10 ²	3.0	8.1X10 ¹	6.4X10 ⁻²	1.7X10 ⁻⁴
I-126	.	2.0	5.4X10 ¹	1.0	2.7X10 ¹	2.9X10 ⁻³	8.0X10 ⁻⁴
I-129	.	Unlimited	Unlimited	Unlimited	Unlimited	6.5X10 ⁻⁶	1.8X10 ⁻⁴
I-131	.	3.0	8.1X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	4.6X10 ⁻³	1.2X10 ⁻⁵
I-132	.	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	3.8X10 ⁻⁵	1.0X10 ⁻⁷
I-133	.	7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.2X10 ⁻⁴	1.1X10 ⁻⁶
I-134	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	9.9X10 ⁻⁵	2.7X10 ⁻⁷
I-135.(a)	.	6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.3X10 ⁻⁵	3.5X10 ⁻⁶
In-111	Indium (49)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	1.5X10 ⁻⁴	4.2X10 ⁻⁵
In-113m	.	4.0	1.1X10 ²	2.0	5.4X10 ¹	6.2X10 ⁻⁵	1.7X10 ⁻⁷
In-114m.(a)	.	1.0X10 ¹	2.7X10 ²	5.0X10 ⁻¹	1.4X10 ¹	8.6X10 ⁻²	2.3X10 ⁻⁴
In-115m	.	7.0	1.9X10 ²	1.0	2.7X10 ¹	2.2X10 ⁻⁵	6.1X10 ⁻⁶
Ir-189.(a)	Iridium (77)	1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	1.9X10 ⁻³	5.2X10 ⁻⁴
Ir-190	.	7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	2.3X10 ⁻³	6.2X10 ⁻⁴
Ir-192.	.	° 1.0	° 2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	3.4X10 ⁻²	9.2X10 ⁻³
Ir-194	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	3.1X10 ⁻⁴	8.4X10 ⁻⁵
K-40	Potassium (19)	9.0X10 ⁻¹	2.4X10 ¹	9.0X10 ⁻¹	2.4X10 ¹	2.4X10 ⁻⁷	6.4X10 ⁻⁶
K-42	.	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	2.2X10 ⁻⁵	6.0X10 ⁻⁶
K-43	.	7.0X10 ⁻¹	1.9X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.2X10 ⁻⁵	3.3X10 ⁻⁶
Kr-79	Krypton (36)	4.0	1.1X10 ²	2.0	5.4X10 ¹	4.2X10 ⁻⁴	1.1X10 ⁻⁶
Kr-81	.	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	7.8X10 ⁻⁴	2.1X10 ⁻²
Kr-85	.	1.0X10 ¹	2.7X10 ²	1.0X10 ¹	2.7X10 ²	1.5X10 ⁻¹	3.9X10 ⁻²
Kr-85m	.	8.0	2.2X10 ²	3.0	8.1X10 ¹	3.0X10 ⁻⁵	8.2X10 ⁻⁶
Kr-87	.	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	1.0X10 ⁻⁶	2.8X10 ⁻⁷
La-137	Lanthanum(57)	3.0X10 ¹	8.1X10 ²	6.0	1.6X10 ²	1.6X10 ⁻³	4.4X10 ⁻²
La-140	.	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	2.1X10 ⁻⁴	5.6X10 ⁻⁵
Lu-172	Lutetium (71)	6.0X10 ⁻¹	1.6X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	4.2X10 ⁻³	1.1X10 ⁻⁵
Lu-173	.	8.0	2.2X10 ²	8.0	2.2X10 ²	5.6X10 ⁻¹	1.5X10 ⁻³
Lu-174	.	9.0	2.4X10 ²	9.0	2.4X10 ²	2.3X10 ⁻¹	6.2X10 ⁻²
Lu-174m	.	2.0X10 ¹	5.4X10 ²	1.0X10 ¹	2.7X10 ²	2.0X10 ⁻²	5.3X10 ⁻³
Lu-177	.	3.0X10 ¹	8.1X10 ²	7.0X10 ⁻¹	1.9X10 ¹	4.1X10 ⁻³	1.1X10 ⁻⁵
Mg-28.(a)	Magnesium(12)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	2.0X10 ⁻⁵	5.4X10 ⁻⁶
Mn-52	Manganese(25)	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.6X10 ⁻⁴	4.4X10 ⁻⁵
Mn-53	.	Unlimited	Unlimited	Unlimited	Unlimited	6.8X10 ⁻⁵	1.8X10 ⁻³
Mn-54	.	1.0	2.7X10 ¹	1.0	2.7X10 ¹	2.9X10 ⁻²	7.7X10 ⁻³
Mn-56	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	8.0X10 ⁻⁵	2.2X10 ⁻⁷
Mo-93	Molybdenum (42)	4.0X10 ¹	1.1X10 ³	2.0X10 ¹	5.4X10 ²	4.1X10 ⁻²	1.1
Mo-99 (a) (h)	.	1.0	2.7X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.8X10 ⁻⁴	4.8X10 ⁻⁵
N-13	Nitrogen (7)	9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	5.4X10 ⁻⁷	1.5X10 ⁻⁹

TABLE 17A1: A ₁ AND A ₂ VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)b	A ₂ (TBq)	A ₂ (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Na-22	Sodium (11)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	2.3X10 ²	6.3X10 ³
Na-24	.	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	3.2X10 ⁵	8.7X10 ⁶
Nb-93m	Niobium (41)	4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	8.8	2.4X10 ²
Nb-94	.	7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	6.9X10 ⁻³	1.9X10 ⁻¹
Nb-95	.	1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.5X10 ³	3.9X10 ⁴
Nb-97	.	9.0X10 ⁻¹	2.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	9.9X10 ⁵	2.7X10 ⁷
Nd-147	Neodymium (60)	6.0	1.6X10 ²	6.0X10 ⁻¹	1.6X10 ¹	3.0X10 ³	8.1X10 ⁴
Nd-149	.	6.0X10 ⁻¹	1.6X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	4.5X10 ⁵	1.2X10 ⁷
Ni-59	Nickel (28)	Unlimited	Unlimited	Unlimited	Unlimited	3.0X10 ⁻³	8.0X10 ⁻²
Ni-63	.	4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	2.1	5.7X10 ¹
Ni-65	.	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	7.1X10 ⁵	1.9X10 ⁷
Np-235	Neptunium (93)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	5.2X10 ¹	1.4X10 ³
Np-236 (short-lived)	.	2.0X10 ¹	5.4X10 ²	2.0	5.4X10 ¹	4.7X10 ⁻⁴	1.3X10 ⁻²
Np-236 (long-lived)	.	9.0X10 ⁰	2.4X10 ²	2.0X10 ⁻²	5.4X10 ⁻¹	4.7X10 ⁻⁴	1.3X10 ⁻²
Np-237	.	2.0X10 ¹	5.4X10 ²	2.0X10 ⁻³	5.4X10 ⁻²	2.6X10 ⁻⁵	7.1X10 ⁻⁴
Np-239	.	7.0	1.9X10 ²	4.0X10 ⁻¹	1.1X10 ¹	8.6X10 ³	2.3X10 ⁵
Os-185	Osmium (76)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	2.8X10 ²	7.5X10 ³
Os-191	.	1.0X10 ¹	2.7X10 ²	2.0	5.4X10 ¹	1.6X10 ³	4.4X10 ⁴
Os-191m	.	4.0X10 ¹	1.1X10 ³	3.0X10 ¹	8.1X10 ²	4.6X10 ⁴	1.3X10 ⁶
Os-193	.	2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.0X10 ⁴	5.3X10 ⁵
Os-194 (a)	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.1X10 ¹	3.1X10 ²
P-32	Phosphorus. (15)	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	1.1X10 ⁴	2.9X10 ⁵
P-33	.	4.0X10 ¹	1.1X10 ³	1.0	2.7X10 ¹	5.8X10 ³	1.6X10 ⁵
Pa-230. (a)	Protactinium. (91)	2.0	5.4X10 ¹	7.0X10 ⁻²	1.9	1.2X10 ³	3.3X10 ⁴
Pa-231	.	4.0	1.1X10 ²	4.0X10 ⁻⁴	1.1X10 ⁻²	1.7X10 ⁻³	4.7X10 ⁻²
Pa-233	.	5.0	1.4X10 ²	7.0X10 ⁻¹	1.9X10 ¹	7.7X10 ²	2.1X10 ⁴
Pb-201	Lead. (82)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	6.2X10 ⁴	1.7X10 ⁶
Pb-202	.	4.0X10 ¹	1.1X10 ³	2.0X10 ¹	5.4X10 ²	1.2X10 ⁻⁴	3.4X10 ⁻³
Pb-203	.	4.0	1.1X10 ²	3.0	8.1X10 ¹	1.1X10 ⁴	3.0X10 ⁵
Pb-205	.	Unlimited	Unlimited	Unlimited	Unlimited	4.5X10 ⁻⁶	1.2X10 ⁻⁴
Pb-210. (a)	.	1.0	2.7X10 ¹	5.0X10 ⁻²	1.4	2.8	7.6X10 ¹
Pb-212. (a)	.	7.0X10 ⁻¹	1.9X10 ¹	2.0X10 ⁻¹	5.4	5.1X10 ⁴	1.4X10 ⁶
Pd-103. (a)	Palladium. (46)	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	2.8X10 ³	7.5X10 ⁴
Pd-107	.	Unlimited	Unlimited	Unlimited	Unlimited	1.9X10 ⁻⁵	5.1X10 ⁻⁴
Pd-109	.	2.0	5.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	7.9X10 ⁴	2.1X10 ⁶
Pm-143	Promethium. (61)	3.0	8.1X10 ¹	3.0	8.1X10 ¹	1.3X10 ²	3.4X10 ³
Pm-144	.	7.0X10 ⁻¹	1.9X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	9.2X10 ¹	2.5X10 ³
Pm-145	.	3.0X10 ¹	8.1X10 ²	1.0X10 ¹	2.7X10 ²	5.2	1.4X10 ²
Pm-147	.	4.0X10 ¹	1.1X10 ³	2.0	5.4X10 ¹	3.4X10 ¹	9.3X10 ²
Pm-148m. (a)	.	8.0X10 ⁻¹	2.2X10 ¹	7.0X10 ⁻¹	1.9X10 ¹	7.9X10 ²	2.1X10 ⁴

TABLE 17A1: A₁ AND A₂ VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)b	A ₂ (TBq)	A ₂ (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Pm-149	.	2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	1.5X10 ⁴	4.0X10 ⁵
Pm-151	.	2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.7X10 ⁴	7.3X10 ⁵
Po-210	Polonium. (84)	4.0X10 ¹	1.1X10 ³	2.0X10 ⁻²	5.4X10 ⁻¹	1.7X10 ²	4.5X10 ³
Pr-142	Praseodymium. (59)	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	4.3X10 ⁴	1.2X10 ⁶
Pr-143	.	3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ³	6.7X10 ⁴
Pt-188. (a)	Platinum. (78)	1.0	2.7X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	2.5X10 ³	6.8X10 ⁴
Pt-191	.	4.0	1.1X10 ²	3.0	8.1X10 ¹	8.7X10 ³	2.4X10 ⁵
Pt-193	.	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	1.4	3.7X10 ¹
Pt-193m	.	4.0X10 ¹	1.1X10 ³	5.0X10 ⁻¹	1.4X10 ¹	5.8X10 ³	1.6X10 ⁵
Pt-195m	.	1.0X10 ¹	2.7X10 ²	5.0X10 ⁻¹	1.4X10 ¹	6.2X10 ³	1.7X10 ⁵
Pt-197	.	2.0X10 ¹	5.4X10 ²	6.0X10 ⁻¹	1.6X10 ¹	3.2X10 ⁴	8.7X10 ⁵
Pt-197m	.	1.0X10 ¹	2.7X10 ²	6.0X10 ⁻¹	1.6X10 ¹	3.7X10 ⁵	1.0X10 ⁷
Pu-236	Plutonium. (94)	3.0X10 ¹	8.1X10 ²	3.0X10 ⁻³	8.1X10 ⁻²	2.0X10 ¹	5.3X10 ²
Pu-237	.	2.0X10 ¹	5.4X10 ²	2.0X10 ¹	5.4X10 ²	4.5X10 ²	1.2X10 ⁴
Pu-238	.	1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	6.3X10 ⁻¹	1.7X10 ¹
Pu-239	.	1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	2.3X10 ⁻³	6.2X10 ⁻²
Pu-240	.	1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	8.4X10 ⁻³	2.3X10 ⁻¹
Pu-241. (a)	.	4.0X10 ¹	1.1X10 ³	6.0X10 ⁻²	1.6	3.8	1.0X10 ²
Pu-242	.	1.0X10 ¹	2.7X10 ²	1.0X10 ⁻³	2.7X10 ⁻²	1.5X10 ⁻⁴	3.9X10 ⁻³
Pu-244. (a)	.	4.0X10 ⁻¹	1.1X10 ¹	1.0X10 ⁻³	2.7X10 ⁻²	6.7X10 ⁻⁷	1.8X10 ⁻⁵
Ra-223. (a)	Radium. (88)	4.0X10 ⁻¹	1.1X10 ¹	7.0X10 ⁻³	1.9X10 ⁻¹	1.9X10 ³	5.1X10 ⁴
Ra-224. (a)	.	4.0X10 ⁻¹	1.1X10 ¹	2.0X10 ⁻²	5.4X10 ⁻¹	5.9X10 ³	1.6X10 ⁵
Ra-225 (a)	.	2.0X10 ⁻¹	5.4	4.0X10 ⁻³	1.1X10 ⁻¹	1.5X10 ³	3.9X10 ⁴
Ra-226. (a)	.	2.0X10 ⁻¹	5.4	3.0X10 ⁻³	8.1X10 ⁻²	3.7X10 ⁻²	1.0
Ra-228. (a)	.	6.0X10 ⁻¹	1.6X10 ¹	2.0X10 ⁻²	5.4X10 ⁻¹	1.0X10 ¹	2.7X10 ²
Rb-81	Rubidium (37)	2.0	5.4X10 ¹	8.0X10 ⁻¹	2.2X10 ¹	3.1X10 ⁵	8.4X10 ⁶
Rb-83. (a)	.	2.0	5.4X10 ¹	2.0	5.4X10 ¹	6.8X10 ²	1.8X10 ⁴
Rb-84	.	1.0	2.7X10 ¹	1.0	2.7X10 ¹	1.8X10 ³	4.7X10 ⁴
Rb-86	.	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	3.0X10 ³	8.1X10 ⁴
Rb-87	.	Unlimited	Unlimited	Unlimited	Unlimited	3.2X10 ⁻⁹	8.6X10 ⁻⁸
Rb(nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	6.7X10 ⁶	1.8X10 ⁸
Re-184	Rhenium (75)	1.0	2.7X10 ¹	1.0	2.7X10 ¹	6.9X10 ²	1.9X10 ⁴
Re-184m	.	3.0	8.1X10 ¹	1.0	2.7X10 ¹	1.6X10 ²	4.3X10 ³
Re-186	.	2.0	5.4X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	6.9X10 ³	1.9X10 ⁵
Re-187	.	Unlimited	Unlimited	Unlimited	Unlimited	1.4X10 ⁻⁹	3.8X10 ⁻⁸
Re-188	.	4.0X10 ⁻¹	1.1X10 ¹	4.0X10 ⁻¹	1.1X10 ¹	3.6X10 ⁴	9.8X10 ⁵
Re-189. (a)	.	3.0	8.1X10 ¹	6.0X10 ⁻¹	1.6X10 ¹	2.5X10 ⁴	6.8X10 ⁵
Re(nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	0.0	2.4X10 ⁻⁸
Rh-99	Rhodium (45)	2.0	5.4X10 ¹	2.0	5.4X10 ¹	3.0X10 ³	8.2X10 ⁴
Rh-101	.	4.0	1.1X10 ²	3.0	8.1X10 ¹	4.1X10 ¹	1.1X10 ³
Rh-102	.	5.0X10 ⁻¹	1.4X10 ¹	5.0X10 ⁻¹	1.4X10 ¹	4.5X10 ¹	1.2X10 ³
Rh-102m	.	2.0	5.4X10 ¹	2.0	5.4X10 ¹	2.3X10 ²	6.2X10 ³
Rh-103m	.	4.0X10 ¹	1.1X10 ³	4.0X10 ¹	1.1X10 ³	1.2X10 ⁶	3.3X10 ⁷

TABLE 17A1: A₁ AND A₂ VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)b	A ₂ (TBq)	A ₂ (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Rh-105	.	1.0X10 ⁻¹	2.7X10 ⁻²	8.0X10 ⁻¹	2.2X10 ⁻¹	3.1X10 ⁻⁴	8.4X10 ⁻⁵
Rn-222. (a)	Radon (86)	3.0X10 ⁻¹	8.1	4.0X10 ⁻³	1.1X10 ⁻¹	5.7X10 ⁻³	1.5X10 ⁻⁵
Ru-97	Ruthenium (44)	5.0	1.4X10 ⁻²	5.0	1.4X10 ⁻²	1.7X10 ⁻⁴	4.6X10 ⁻⁵
Ru-103. (a)	.	2.0	5.4X10 ⁻¹	2.0	5.4X10 ⁻¹	1.2X10 ⁻³	3.2X10 ⁻⁴
Ru-105	.	1.0	2.7X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	2.5X10 ⁻⁵	6.7X10 ⁻⁶
Ru-106. (a)	.	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	1.2X10 ⁻²	3.3X10 ⁻³
S-35	Sulphur (16)	4.0X10 ⁻¹	1.1X10 ⁻³	3.0	8.1X10 ⁻¹	1.6X10 ⁻³	4.3X10 ⁻⁴
Sb-122	Antimony (51)	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	1.5X10 ⁻⁴	4.0X10 ⁻⁵
Sb-124	.	6.0X10 ⁻¹	1.6X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	6.5X10 ⁻²	1.7X10 ⁻⁴
Sb-125	.	2.0	5.4X10 ⁻¹	1.0	2.7X10 ⁻¹	3.9X10 ⁻¹	1.0X10 ⁻³
Sb-126	.	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	3.1X10 ⁻³	8.4X10 ⁻⁴
Sc-44	Scandium (21)	5.0X10 ⁻¹	1.4X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	6.7X10 ⁻⁵	1.8X10 ⁻⁷
Sc-46	.	5.0X10 ⁻¹	1.4X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	1.3X10 ⁻³	3.4X10 ⁻⁴
Sc-47	.	1.0X10 ⁻¹	2.7X10 ⁻²	7.0X10 ⁻¹	1.9X10 ⁻¹	3.1X10 ⁻⁴	8.3X10 ⁻⁵
Sc-48	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	5.5X10 ⁻⁴	1.5X10 ⁻⁶
Se-75	Selenium (34)	3.0	8.1X10 ⁻¹	3.0	8.1X10 ⁻¹	5.4X10 ⁻²	1.5X10 ⁻⁴
Se-79	.	4.0X10 ⁻¹	1.1X10 ⁻³	2.0	5.4X10 ⁻¹	2.6X10 ⁻³	7.0X10 ⁻²
Si-31	Silicon (14)	6.0X10 ⁻¹	1.6X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	1.4X10 ⁻⁶	3.9X10 ⁻⁷
Si-32	.	4.0X10 ⁻¹	1.1X10 ⁻³	5.0X10 ⁻¹	1.4X10 ⁻¹	3.9	1.1X10 ⁻²
Sm-145	Samarium (62)	1.0X10 ⁻¹	2.7X10 ⁻²	1.0X10 ⁻¹	2.7X10 ⁻²	9.8X10 ⁻¹	2.6X10 ⁻³
Sm-147	.	Unlimited	Unlimited	Unlimited	Unlimited	8.5X10 ⁻¹	2.3X10 ⁻⁸
Sm-151	.	4.0X10 ⁻¹	1.1X10 ⁻³	1.0X10 ⁻¹	2.7X10 ⁻²	9.7X10 ⁻¹	2.6X10 ⁻¹
Sm-153	.	9.0	2.4X10 ⁻²	6.0X10 ⁻¹	1.6X10 ⁻¹	1.6X10 ⁻⁴	4.4X10 ⁻⁵
Sn-113. (a)	Tin (50)	4.0	1.1X10 ⁻²	2.0	5.4X10 ⁻¹	3.7X10 ⁻²	1.0X10 ⁻⁴
Sn-117m	.	7.0	1.9X10 ⁻²	4.0X10 ⁻¹	1.1X10 ⁻¹	3.0X10 ⁻³	8.2X10 ⁻⁴
Sn-119m	.	4.0X10 ⁻¹	1.1X10 ⁻³	3.0X10 ⁻¹	8.1X10 ⁻²	1.4X10 ⁻²	3.7X10 ⁻³
Sn-121m. (a)	.	4.0X10 ⁻¹	1.1X10 ⁻³	9.0X10 ⁻¹	2.4X10 ⁻¹	2.0	5.4X10 ⁻¹
Sn-123	.	8.0X10 ⁻¹	2.2X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	3.0X10 ⁻²	8.2X10 ⁻³
Sn-125	.	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻³	1.1X10 ⁻⁵
Sn-126. (a)	.	6.0X10 ⁻¹	1.6X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	1.0X10 ⁻³	2.8X10 ⁻²
Sr-82. (a)	Strontium (38)	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	2.3X10 ⁻³	6.2X10 ⁻⁴
Sr-85	.	2.0	5.4X10 ⁻¹	2.0	5.4X10 ⁻¹	8.8X10 ⁻²	2.4X10 ⁻⁴
Sr-85m	.	5.0	1.4X10 ⁻²	5.0	1.4X10 ⁻²	1.2X10 ⁻⁶	3.3X10 ⁻⁷
Sr-87m	.	3.0	8.1X10 ⁻¹	3.0	8.1X10 ⁻¹	4.8X10 ⁻⁵	1.3X10 ⁻⁷
Sr-89	.	6.0X10 ⁻¹	1.6X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	1.1X10 ⁻³	2.9X10 ⁻⁴
Sr-90. (a)	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	5.1	1.4X10 ⁻²
Sr-91. (a)	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.3X10 ⁻⁵	3.6X10 ⁻⁶
Sr-92. (a)	.	1.0	2.7X10 ⁻¹	3.0X10 ⁻¹	8.1	4.7X10 ⁻⁵	1.3X10 ⁻⁷
T(H-3)	Tritium. (1)	4.0X10 ⁻¹	1.1X10 ⁻³	4.0X10 ⁻¹	1.1X10 ⁻³	3.6X10 ⁻²	9.7X10 ⁻³
Ta-178. (long	Tantalum. (73)	1.0	2.7X10 ⁻¹	8.0X10 ⁻¹	2.2X10 ⁻¹	4.2X10 ⁻⁶	1.1X10 ⁻⁸
Ta-179	.	3.0X10 ⁻¹	8.1X10 ⁻²	3.0X10 ⁻¹	8.1X10 ⁻²	4.1X10 ⁻¹	1.1X10 ⁻³
Ta-182	.	9.0X10 ⁻¹	2.4X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	2.3X10 ⁻²	6.2X10 ⁻³

TABLE 17A1: A ₁ AND A ₂ VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)b	A ₂ (TBq)	A ₂ (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Tb-157	Terbium. (65)	4.0X10 ⁻¹	1.1X10 ⁻³	4.0X10 ⁻¹	1.1X10 ⁻³	5.6X10 ⁻¹	1.5X10 ⁻¹
Tb-158	.	1.0	2.7X10 ⁻¹	1.0	2.7X10 ⁻¹	5.6X10 ⁻¹	1.5X10 ⁻¹
Tb-160	.	1.0	2.7X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	4.2X10 ⁻²	1.1X10 ⁻⁴
Tc-95m (a)	Technetium (43)	2.0	5.4X10 ⁻¹	2.0	5.4X10 ⁻¹	8.3X10 ⁻²	2.2X10 ⁻⁴
Tc-96	.	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	1.2X10 ⁻⁴	3.2X10 ⁻⁵
Tc-96m. (a)	.	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	1.4X10 ⁻⁶	3.8X10 ⁻⁷
Tc-97	.	Unlimited	Unlimited	Unlimited	Unlimited	5.2X10 ⁻⁵	1.4X10 ⁻³
Tc-97m	.	4.0X10 ⁻¹	1.1X10 ⁻³	1.0	2.7X10 ⁻¹	5.6X10 ⁻²	1.5X10 ⁻⁴
Tc-98	.	8.0X10 ⁻¹	2.2X10 ⁻¹	7.0X10 ⁻¹	1.9X10 ⁻¹	3.2X10 ⁻⁵	8.7X10 ⁻⁴
Tc-99	.	4.0X10 ⁻¹	1.1X10 ⁻³	9.0X10 ⁻¹	2.4X10 ⁻¹	6.3X10 ⁻⁴	1.7X10 ⁻²
Tc-99m	.	1.0X10 ⁻¹	2.7X10 ⁻²	4.0	1.1X10 ⁻²	1.9X10 ⁻⁵	5.3X10 ⁻⁶
Te-121	Tellurium. (52)	2.0	5.4X10 ⁻¹	2.0	5.4X10 ⁻¹	2.4X10 ⁻³	6.4X10 ⁻⁴
Te-121m	.	5.0	1.4X10 ⁻²	3.0	8.1X10 ⁻¹	2.6X10 ⁻²	7.0X10 ⁻³
Te-123m	.	8.0	2.2X10 ⁻²	1.0	2.7X10 ⁻¹	3.3X10 ⁻²	8.9X10 ⁻³
Te-125m	.	2.0X10 ⁻¹	5.4X10 ⁻²	9.0X10 ⁻¹	2.4X10 ⁻¹	6.7X10 ⁻²	1.8X10 ⁻⁴
Te-127	.	2.0X10 ⁻¹	5.4X10 ⁻²	7.0X10 ⁻¹	1.9X10 ⁻¹	9.8X10 ⁻⁴	2.6X10 ⁻⁶
Te-127m. (a)	.	2.0X10 ⁻¹	5.4X10 ⁻²	5.0X10 ⁻¹	1.4X10 ⁻¹	3.5X10 ⁻²	9.4X10 ⁻³
Te-129	.	7.0X10 ⁻¹	1.9X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	7.7X10 ⁻⁵	2.1X10 ⁻⁷
Te-129m. (a)	.	8.0X10 ⁻¹	2.2X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	1.1X10 ⁻³	3.0X10 ⁻⁴
Te-131m. (a)	.	7.0X10 ⁻¹	1.9X10 ⁻¹	5.0X10 ⁻¹	1.4X10 ⁻¹	3.0X10 ⁻⁴	8.0X10 ⁻⁵
Te-132. (a)	.	5.0X10 ⁻¹	1.4X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	1.1X10 ⁻⁴	3.0X10 ⁻⁵
Th-227	Thorium. (90)	1.0X10 ⁻¹	2.7X10 ⁻²	5.0X10 ⁻³	1.4X10 ⁻¹	1.1X10 ⁻³	3.1X10 ⁻⁴
Th-228. (a)	.	5.0X10 ⁻¹	1.4X10 ⁻¹	1.0X10 ⁻³	2.7X10 ⁻²	3.0X10 ⁻¹	8.2X10 ⁻²
Th-229	.	5.0	1.4X10 ⁻²	5.0X10 ⁻⁴	1.4X10 ⁻²	7.9X10 ⁻³	2.1X10 ⁻¹
Th-230	.	1.0X10 ⁻¹	2.7X10 ⁻²	1.0X10 ⁻³	2.7X10 ⁻²	7.6X10 ⁻⁴	2.1X10 ⁻²
Th-231	.	4.0X10 ⁻¹	1.1X10 ⁻³	2.0X10 ⁻²	5.4X10 ⁻¹	2.0X10 ⁻⁴	5.3X10 ⁻⁵
Th-232	.	Unlimited	Unlimited	Unlimited	Unlimited	4.0X10 ⁻⁹	1.1X10 ⁻⁷
Th-234. (a)	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	8.6X10 ⁻²	2.3X10 ⁻⁴
Th(nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	8.1X10 ⁻⁹	2.2X10 ⁻⁷
Ti-44. (a)	Titanium. (22)	5.0X10 ⁻¹	1.4X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	6.4	1.7X10 ⁻²
Tl-200	Thallium. (81)	9.0X10 ⁻¹	2.4X10 ⁻¹	9.0X10 ⁻¹	2.4X10 ⁻¹	2.2X10 ⁻⁴	6.0X10 ⁻⁵
Tl-201	.	1.0X10 ⁻¹	2.7X10 ⁻²	4.0	1.1X10 ⁻²	7.9X10 ⁻³	2.1X10 ⁻⁵
Tl-202	.	2.0	5.4X10 ⁻¹	2.0	5.4X10 ⁻¹	2.0X10 ⁻³	5.3X10 ⁻⁴
Tl-204	.	1.0X10 ⁻¹	2.7X10 ⁻²	7.0X10 ⁻¹	1.9X10 ⁻¹	1.7X10 ⁻¹	4.6X10 ⁻²
Tm-167	Thulium. (69)	7.0	1.9X10 ⁻²	8.0X10 ⁻¹	2.2X10 ⁻¹	3.1X10 ⁻³	8.5X10 ⁻⁴
Tm-170	.	3.0	8.1X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	2.2X10 ⁻²	6.0X10 ⁻³

TABLE 17A1: A ₁ AND A ₂ VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci) ^b	A ₂ (TBq)	A ₂ (Ci)	Specific activity	
						(TBq/g)	(Ci/g)
Tm-171	.	4.0X10 ⁻¹	1.1X10 ⁻³	4.0X10 ⁻¹	1.1X10 ⁻³	4.0X10 ⁻¹	1.1X10 ⁻³
U-230. (fast. lung. absorption). (a)(d)	Uranium. (92)	4.0X10 ⁻¹	1.1X10 ⁻³	1.0X10 ⁻¹	2.7	1.0X10 ⁻³	2.7X10 ⁻⁴
U-230. (medium. lung . absorption). (a)(e)	.	4.0X10 ⁻¹	1.1X10 ⁻³	4.0X10 ⁻³	1.1X10 ⁻¹	1.0X10 ⁻³	2.7X10 ⁻⁴
U-230 (slow lung absorption) (a)(f)	.	3.0X10 ⁻¹	8.1X10 ⁻²	3.0X10 ⁻³	8.1X10 ⁻²	1.0X10 ⁻³	2.7X10 ⁻⁴
U-232. (fast. lung. absorption). (d)	.	4.0X10 ⁻¹	1.1X10 ⁻³	1.0X10 ⁻²	2.7X10 ⁻¹	8.3X10 ⁻¹	2.2X10 ⁻¹
U-232. (medium. lung . absorption). (e)	.	4.0X10 ⁻¹	1.1X10 ⁻³	7.0X10 ⁻³	1.9X10 ⁻¹	8.3X10 ⁻¹	2.2X10 ⁻¹
U-232. (slow. lung. absorption). (f)	.	1.0X10 ⁻¹	2.7X10 ⁻²	1.0X10 ⁻³	2.7X10 ⁻²	8.3X10 ⁻¹	2.2X10 ⁻¹
U-233. (fast. lung. absorption). (d)	.	4.0X10 ⁻¹	1.1X10 ⁻³	9.0X10 ⁻²	2.4	3.6X10 ⁻⁴	9.7X10 ⁻³
U-233. (medium. lung. absorption). (e)	.	4.0X10 ⁻¹	1.1X10 ⁻³	2.0X10 ⁻²	5.4X10 ⁻¹	3.6X10 ⁻⁴	9.7X10 ⁻³
U-233. (slow. lung. absorption). (f)	.	4.0X10 ⁻¹	1.1X10 ⁻³	6.0X10 ⁻³	1.6X10 ⁻¹	3.6X10 ⁻⁴	9.7X10 ⁻³
U-234. (fast. lung. absorption)(d)	.	4.0X10 ⁻¹	1.1X10 ⁻³	9.0X10 ⁻²	2.4	2.3X10 ⁻⁴	6.2X10 ⁻³
U-234 (medium lung absorption) (e)	.	4.0X10 ⁻¹	1.1X10 ⁻³	2.0X10 ⁻²	5.4X10 ⁻¹	2.3X10 ⁻⁴	6.2X10 ⁻³
U-234 (slow lung absorption) (f)	.	4.0X10 ⁻¹	1.1X10 ⁻³	6.0X10 ⁻³	1.6X10 ⁻¹	2.3X10 ⁻⁴	6.2X10 ⁻³
U-235. (all. lung. absorption. types). (a),(d),(e),(f)	.	Unlimited	Unlimited	Unlimited	Unlimited	8.0X10 ⁻⁸	2.2X10 ⁻⁶
U-236. (fast.	.	Unlimited	Unlimited	Unlimited	Unlimited	2.4X10 ⁻⁶	6.5X10 ⁻⁵

TABLE 17A1: A₁ AND A₂ VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci) ^b	A ₂ (TBq)	A ₂ (Ci)	Specific activity	
						(TBq/g)	(Ci/g)
lung. absorption). (d)							
U-236. (medium. lung . absorption). (e)	.	4.0X10 ⁻¹	1.1X10 ⁻³	2.0X10 ⁻²	5.4X10 ⁻¹	2.4X10 ⁻⁶	6.5X10 ⁻⁵
U-236 (slow lung absorption) (f)	.	4.0X10 ⁻¹	1.1X10 ⁻³	6.0X10 ⁻³	1.6X10 ⁻¹	2.4X10 ⁻⁶	6.5X10 ⁻⁵
U-238 . (all lung absorption types) (d),(e),(f)	.	Unlimited	Unlimited	Unlimited	Unlimited	1.2X10 ⁻⁸	3.4X10 ⁻⁷
U. (nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	2.6X10 ⁻⁸	7.1X10 ⁻⁷
U. (enriched. to. 20%. or. less). (g)	.	Unlimited	Unlimited	Unlimited	Unlimited	See. Table. 17A4	See. Table. 17A4
U. (dep)	.	Unlimited	Unlimited	Unlimited	Unlimited	See. Table. 17A4	(See. Table. 17A3)
V-48	Vanadium. (23)	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	6.3X10 ⁻³	1.7X10 ⁻⁵
V-49	.	4.0X10 ⁻¹	1.1X10 ⁻³	4.0X10 ⁻¹	1.1X10 ⁻³	3.0X10 ⁻²	8.1X10 ⁻³
W-178. (a)	Tungsten. (74)	9.0	2.4X10 ⁻²	5.0	1.4X10 ⁻²	1.3X10 ⁻³	3.4X10 ⁻⁴
W-181	.	3.0X10 ⁻¹	8.1X10 ⁻²	3.0X10 ⁻¹	8.1X10 ⁻²	2.2X10 ⁻²	6.0X10 ⁻³
W-185	.	4.0X10 ⁻¹	1.1X10 ⁻³	8.0X10 ⁻¹	2.2X10 ⁻¹	3.5X10 ⁻²	9.4X10 ⁻³
W-187	.	2.0	5.4X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	2.6X10 ⁻⁴	7.0X10 ⁻⁵
W-188. (a)	.	4.0X10 ⁻¹	1.1X10 ⁻¹	3.0X10 ⁻¹	8.1	3.7X10 ⁻²	1.0X10 ⁻⁴
Xe-122. (a)	Xenon. (54)	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	4.8X10 ⁻⁴	1.3X10 ⁻⁶
Xe-123	.	2.0	5.4X10 ⁻¹	7.0X10 ⁻¹	1.9X10 ⁻¹	4.4X10 ⁻⁵	1.2X10 ⁻⁷
Xe-127	.	4.0	1.1X10 ⁻²	2.0	5.4X10 ⁻¹	1.0X10 ⁻³	2.8X10 ⁻⁴
Xe-131m	.	4.0X10 ⁻¹	1.1X10 ⁻³	4.0X10 ⁻¹	1.1X10 ⁻³	3.1X10 ⁻³	8.4X10 ⁻⁴
Xe-133	.	2.0X10 ⁻¹	5.4X10 ⁻²	1.0X10 ⁻¹	2.7X10 ⁻²	6.9X10 ⁻³	1.9X10 ⁻⁵
Xe-135	.	3.0	8.1X10 ⁻¹	2.0	5.4X10 ⁻¹	9.5X10 ⁻⁴	2.6X10 ⁻⁶
Y-87. (a)	Yttrium. (39)	1.0	2.7X10 ⁻¹	1.0	2.7X10 ⁻¹	1.7X10 ⁻⁴	4.5X10 ⁻⁵
Y-88	.	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	5.2X10 ⁻²	1.4X10 ⁻⁴
Y-90	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	2.0X10 ⁻⁴	5.4X10 ⁻⁵
Y-91	.	6.0X10 ⁻¹	1.6X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	9.1X10 ⁻²	2.5X10 ⁻⁴
Y-91m	.	2.0	5.4X10 ⁻¹	2.0	5.4X10 ⁻¹	1.5X10 ⁻⁶	4.2X10 ⁻⁷
Y-92	.	2.0X10 ⁻¹	5.4	2.0X10 ⁻¹	5.4	3.6X10 ⁻⁵	9.6X10 ⁻⁶
Y-93	.	3.0X10 ⁻¹	8.1	3.0X10 ⁻¹	8.1	1.2X10 ⁻⁵	3.3X10 ⁻⁶
Yb-169	Ytterbium. (70)	4.0	1.1X10 ⁻²	1.0	2.7X10 ⁻¹	8.9X10 ⁻²	2.4X10 ⁻⁴

TABLE 17A1: A ₁ AND A ₂ VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci) ^b	A ₂ (TBq)	A ₂ (Ci)	Specific activity	
						(TBq/g)	(Ci/g)
Yb-175	.	3.0X10 ⁻¹	8.1X10 ⁻²	9.0X10 ⁻¹	2.4X10 ⁻¹	6.6X10 ⁻³	1.8X10 ⁻⁵
Zn-65	Zinc. (30)	2.0	5.4X10 ⁻¹	2.0	5.4X10 ⁻¹	3.0X10 ⁻²	8.2X10 ⁻³
Zn-69	.	3.0	8.1X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	1.8X10 ⁻⁶	4.9X10 ⁻⁷
Zn-69m. (a)	.	3.0	8.1X10 ⁻¹	6.0X10 ⁻¹	1.6X10 ⁻¹	1.2X10 ⁻⁵	3.3X10 ⁻⁶
Zr-88	Zirconium. (40)	3.0	8.1X10 ⁻¹	3.0	8.1X10 ⁻¹	6.6X10 ⁻²	1.8X10 ⁻⁴
Zr-93	.	Unlimited	Unlimited	Unlimited	Unlimited	9.3X10 ⁻⁵	2.5X10 ⁻³
Zr-95. (a)	.	2.0	5.4X10 ⁻¹	8.0X10 ⁻¹	2.2X10 ⁻¹	7.9X10 ⁻²	2.1X10 ⁻⁴
Zr-97. (a)	.	4.0X10 ⁻¹	1.1X10 ⁻¹	4.0X10 ⁻¹	1.1X10 ⁻¹	7.1X10 ⁻⁴	1.9X10 ⁻⁶

Notes:

a A₁ and/or A₂ values include contributions from daughter nuclides with half-lives less than 10 days, as listed in the following:

Mg-28	Al-28
Ca-47	Sc-47
Ti-44	Sc-44
Fe-52	Mn-52m
Fe-60	Co-60m
Zn-69m	Zn-69
Ge-68	Ga-68
Rb-83	Kr-83m
Sr-82	Rb-82
Sr-90	Y-90
Sr-91	Y-91m
Sr-92	Y-92
Y-87	Sr-87m
Zr-95	Nb-95m
Zr-97	Nb-97m, Nb-97
Mo-99	Tc-99m
Tc-95m	Tc-95
Tc-96m	Tc-96
Ru-103	Rh-103m
Ru-106	Rh-106
Pd-103	Rh-103m
Ag-108m	Ag-108
Ag-110m	Ag-110
Cd-115	In-115m
In-114m	In-114
Sn-113	In-113m
Sn-121m	Sn-121
Sn-126	Sb-126m
Te-127m	Te-127
Te-129m	Te-129
Te-131m	Te-131
Te-132	I-132
I-135	Xe-135m
Xe-122	I-122
Cs-137	Ba-137m
Ba-131	Cs-131
Ba-140	La-140
Ce-144	Pr-144m, Pr-144
Pm-148m	Pm-148
Gd-146	Eu-146
Dy-166	Ho-166
Hf-172	Lu-172
W-178	Ta-178
W-188	Re-188
Re-189	Os-189m
Os-194	Ir-194
Ir-189	Os-189m
Pt-188	Ir-188
Hg-194	Au-194
Hg-195m	Hg-195
Pb-210	Bi-210

Pb-212	Bi-212, Tl-208, Po-212
Bi-210m	Tl-206
Bi-212	Tl-208, Po-212
At-211	Po-211
Rn-222	Po-218, Pb-214, At-218, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Po-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212
Ra-225	Ac-225, Fr-221, At-217, Bi-213, Tl-209, Po-213, Pb-209
Ra-226	Rn-222, Po-218, Pb-214, At-218, Bi-214, Po-214
Ra-228	Ac-228
Ac-225	Fr-221, At-217, Bi-213, Tl-209, Po-213, Pb-209
Ac-227	Fr-223
Th-228	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212
Th-234	Pa-234m, Pa-234
Pa-230	Ac-226, Th-226, Fr-222, Ra-222, Rn-218, Po-214
U-230	Th-226, Ra-222, Rn-218, Po-214
U-235	Th-231
Pu-241	U-237
Pu-244	U-240, Np-240m
Am-242m	Am-242, Np-238
Am-243	Np-239
Cm-247	Pu-243
Bk-249	Am-245
Cf-253	Cm-249

b The values of A_1 and A_2 in Curies (Ci) are approximate and for information only; the regulatory standard units are Terabecquerels (TBq) (see Appendix 17A – Determination of A_1 and A_2 , Section 17A1)

c The activity of Ir-192 in special form may be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance from the source.

d These values apply only to compounds of uranium that take the chemical form of UF₆, UO₂F₂ and UO₂(NO₃)₂ in both normal and accident conditions of transport.

e These values apply only to compounds of uranium that take the chemical form of UO₃, UF₄, UCl₄, and hexavalent compounds in both normal and accident conditions of transport.

f These values apply to all compounds of uranium other than those specified in d and e, above.

g These values apply to unirradiated uranium only.

h $A_2 = 0.74$ TBq (20 Ci) for Mo-99 for domestic use.

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Ac-225	Actinium (89)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Ac-227	.	1.0×10^{-1}	2.7×10^{-12}	1.0×10^3	2.7×10^{-8}
Ac-228	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Ag-105	Silver (47)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ag-108m (a)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Ag-110m	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Ag-111	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Al-26	Aluminum (13)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Am-241	Americium (95)	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Am-242m (a)	.	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Am-243 (a)	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Ar-37	Argon (18)	1.0×10^{-6}	2.7×10^{-5}	1.0×10^8	2.7×10^{-3}
Ar-39	.	1.0×10^{-7}	2.7×10^{-4}	1.0×10^4	2.7×10^{-7}
Ar-41	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^9	2.7×10^{-2}
As-72	Arsenic (33)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
As-73	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
As-74	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
As-76	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
As-77	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
At-211	Astatine (85)	1.0×10^{-3}	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Au-193	Gold (79)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Au-194	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Au-195	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Au-198	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Au-199	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ba-131	Barium (56)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ba-133	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ba-133m	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ba-140 (a)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Be-7	Beryllium (4)	1.0×10^{-3}	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Be-10	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^6	2.7×10^{-5}
Bi-205	Bismuth (83)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Bi-206	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Bi-207	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Bi-210	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Bi-210m	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Bi-212 (a)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Bk-247	Berkelium (97)	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Bk-249	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Br-76	Bromine (35)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Br-77	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Br-82	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
C-11	Carbon (6)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
C-14	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Ca-41	Calcium (20)	1.0×10^{-5}	2.7×10^{-6}	1.0×10^7	2.7×10^{-4}
Ca-45	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Ca-47	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Cd-109	Cadmium (48)	1.0×10^{-4}	2.7×10^{-7}	1.0×10^6	2.7×10^{-5}
Cd-113m	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Cd-115	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Cd-115m	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Ce-139	Cerium (58)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ce-141	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Ce-143	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ce-144 (a)	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
Cf-248	Californium (98)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Cf-249	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Cf-250	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Cf-251	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Cf-252	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Cf-253	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
Cf-254	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Cl-36	Chlorine (17)	1.0×10^{-4}	2.7×10^{-7}	1.0×10^6	2.7×10^{-5}
Cl-38	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Cm-240	Curium (96)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
Cm-241	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Cm-242	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
Cm-243	.	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Cm-244	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Cm-245	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Cm-246	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Cm-247	.	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Cm-248	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Co-55	Cobalt (27)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Co-56	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Co-57	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Co-58	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Co-58m	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Co-60	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Cr-51	Chromium (24)	1.0×10^{-3}	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Cs-129	Cesium (55)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Cs-131	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Cs-132	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Cs-134	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Cs-134m	.	1.0×10^3	2.7×10^{-8}	1.0×10^5	2.7×10^{-6}
Cs-135	.	1.0×10^4	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Cs-136	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Cs-137 (a)	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Cu-64	Copper (29)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Cu-67	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Dy-159	Dysprosium (66)	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Dy-165	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Dy-166	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Er-169	Erbium (68)	1.0×10^4	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Er-171	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Eu-147	Europium (63)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Eu-148	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Eu-149	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Eu-150 (short-lived)	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Eu-150 (long-lived)	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Eu-152	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Eu-152 m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Eu-154	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Eu-155	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Eu-156	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
F-18	Fluorine (9)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Fe-52	Iron (26)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Fe-55	.	1.0×10^4	2.7×10^{-7}	1.0×10^6	2.7×10^{-5}
Fe-59	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Fe-60	.	1.0×10^2	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
Ga-67	Gallium (31)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ga-68	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Ga-72	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Gd-146	Gadolinium (64)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Gd-148	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Gd-153	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Gd-159	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Ge-68	Germanium (32)	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Ge-71	.	1.0×10^4	2.7×10^{-7}	1.0×10^8	2.7×10^{-3}
Ge-77	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Hf-172	Hafnium (72)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Hf-175	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Hf-181	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Hf-182	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Hg-194	Mercury (80)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Hg-195m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Hg-197	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Hg-197m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Hg-203	.	1.0×10^2	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
Ho-166	Holmium (67)	1.0×10^3	2.7×10^{-8}	1.0×10^5	2.7×10^{-6}
Ho-166m	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
I-123	Iodine (53)	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
I-124	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
I-125	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
I-126	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
I-129	.	1.0×10^2	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
I-131	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
I-132	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
I-133	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
I-134	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
I-135	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
In-111	Indium (49)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
In-113m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
In-114m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
In-115m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ir-189	Iridium (77)	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Ir-190	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Ir-192	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Ir-194	.	1.0×10^2	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
K-40	Potassium (19)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
K-42	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
K-43	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Kr-79	Krypton (36)	1.0×10^3	2.7×10^{-8}	1.0×10^5	2.7×10^{-6}
Kr-81	.	1.0×10^4	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Kr-85	.	1.0×10^5	2.7×10^{-6}	1.0×10^4	2.7×10^{-7}
Kr-85m	.	1.0×10^3	2.7×10^{-8}	1.0×10^{10}	2.7×10^{-1}
Kr-87	.	1.0×10^2	2.7×10^{-9}	1.0×10^9	2.7×10^{-2}
La-137	Lanthanum (57)	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
La-140	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Lu-172	Lutetium (71)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Lu-173	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Lu-174	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-7}	2.7×10^{-4}
Lu-174m	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-7}	2.7×10^{-4}
Lu-177	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
Mg-28	Magnesium (12)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-5}	2.7×10^{-6}
Mn-52	Manganese (25)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-5}	2.7×10^{-6}
Mn-53	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-9}	2.7×10^{-2}
Mn-54	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Mn-56	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-5}	2.7×10^{-6}
Mo-93	Molybdenum (42)	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-8}	2.7×10^{-3}
Mo-99	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
N-13	Nitrogen (7)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-9}	2.7×10^{-2}
Na-22	Sodium (11)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Na-24	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-5}	2.7×10^{-6}
Nb-93m	Niobium (41)	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-7}	2.7×10^{-4}
Nb-94	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Nb-95	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Nb-97	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Nd-147	Neodymium (60)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Nd-149	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Ni-59	Nickel (28)	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-8}	2.7×10^{-3}
Ni-63	.	1.0×10^{-5}	2.7×10^{-6}	1.0×10^{-8}	2.7×10^{-3}
Ni-65	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Np-235	Neptunium (93)	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
Np-236 (short-lived)	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
Np-236 (long-lived)	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
Np-237 (a)	.	1.0	2.7×10^{-11}	1.0×10^{-3}	2.7×10^{-8}
Np-239	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-7}	2.7×10^{-4}
Os-185	Osmium (76)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Os-191	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-7}	2.7×10^{-4}
Os-191m	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
Os-193	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Os-194	Osmium (76)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-5}	2.7×10^{-6}
P-32	Phosphorus (15)	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-5}	2.7×10^{-6}
P-33	.	1.0×10^{-5}	2.7×10^{-6}	1.0×10^{-8}	2.7×10^{-3}
Pa-230(a)	Protactinium (91)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Pa-231	.	1.0	2.7×10^{-11}	1.0×10^{-3}	2.7×10^{-8}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Pa-233	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-7}	2.7×10^{-4}
Pb-201	Lead (82)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Pb-202	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-6}	2.7×10^{-5}
Pb-203	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Pb-205	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-7}	2.7×10^{-4}
Pb-210 (a)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-4}	2.7×10^{-7}
Pb-212 (a)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-5}	2.7×10^{-6}
Pd-103	Palladium (46)	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-8}	2.7×10^{-3}
Pd-107	.	1.0×10^{-5}	2.7×10^{-6}	1.0×10^{-8}	2.7×10^{-3}
Pd-109	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-6}	2.7×10^{-5}
Pm-143	Promethium (61)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Pm-144	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Pm-145	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
Pm-147	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-7}	2.7×10^{-4}
Pm-148m	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Pm-149	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-6}	2.7×10^{-5}
Pm-151	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Po-210	Polonium (84)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-4}	2.7×10^{-7}
Pr-142	Praseodymium (59)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-5}	2.7×10^{-6}
Pr-143	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-6}	2.7×10^{-5}
Pt-188	Platinum (78)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Pt-191	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Pt-193	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-7}	2.7×10^{-4}
Pt-193m	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
Pt-195m	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Pt-197	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-6}	2.7×10^{-5}
Pt-197m	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Pu-236	Plutonium (94)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-4}	2.7×10^{-7}
Pu-237	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
Pu-238	.	1.0	2.7×10^{-11}	1.0×10^{-4}	2.7×10^{-7}
Pu-239	.	1.0	2.7×10^{-11}	1.0×10^{-4}	2.7×10^{-7}
Pu-240	.	1.0	2.7×10^{-11}	1.0×10^{-3}	2.7×10^{-8}
Pu-241	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-5}	2.7×10^{-6}
Pu-242	.	1.0	2.7×10^{-11}	1.0×10^{-4}	2.7×10^{-7}
Pu-244	.	1.0	2.7×10^{-11}	1.0×10^{-4}	2.7×10^{-7}
Ra-223 (a)	Radium (88)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-5}	2.7×10^{-6}
Ra-224 (a)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-5}	2.7×10^{-6}
Ra-225	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-5}	2.7×10^{-6}
Ra-226 (a)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-4}	2.7×10^{-7}
Ra-228 (a)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-5}	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Rb-81	Rubidium (37)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Rb-83	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Rb-84	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Rb-86	.	1.0×10^2	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
Rb-87	.	1.0×10^4	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Rb (natural)	.	1.0×10^4	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Re-184	Rhenium (75)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Re-184m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Re-186	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Re-187	.	1.0×10^6	2.7×10^{-5}	1.0×10^9	2.7×10^{-2}
Re-188	.	1.0×10^2	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
Re-189	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Re (natural)	.	1.0×10^6	2.7×10^{-5}	1.0×10^9	2.7×10^{-2}
Rh-99	Rhodium (45)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Rh-101	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Rh-102	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Rh-102m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Rh-103m	.	1.0×10^4	2.7×10^{-7}	1.0×10^8	2.7×10^{-3}
Rh-105	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Rn-222 (a)	Radon (86)	1.0×10^1	2.7×10^{-10}	1.0×10^8	2.7×10^{-3}
Ru-97	Ruthenium (44)	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Ru-103	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Ru-105	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Ru-106 (a)	.	1.0×10^2	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
S-35	Sulphur (16)	1.0×10^5	2.7×10^{-6}	1.0×10^8	2.7×10^{-3}
Sb-122	Antimony (51)	1.0×10^2	2.7×10^{-9}	1.0×10^4	2.7×10^{-7}
Sb-124	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Sb-125	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Sb-126	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Sc-44	Scandium (21)	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Sc-46	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Sc-47	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Sc-48	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Se-75	Selenium (34)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Se-79	.	1.0×10^4	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Si-31	Silicon (14)	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Si-32	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Sm-145	Samarium (62)	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Sm-147	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Sm-151	.	1.0×10^4	2.7×10^{-7}	1.0×10^8	2.7×10^{-3}
Sm-153	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Sn-113	Tin (50)	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Sn-117m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Sn-119m	.	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Sn-121m	.	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Sn-123	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Sn-125	.	1.0×10^2	2.7×10^{-9}	1.0×10^5	2.7×10^{-6}
Sn-126	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Sr-82	Strontium (38)	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Sr-85	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Sr-85m	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Sr-87m	Strontium (38)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Sr-89	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Sr-90 (a)	.	1.0×10^2	2.7×10^{-9}	1.0×10^4	2.7×10^{-7}
Sr-91	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Sr-92	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
T(H-3)	Tritium (1)	1.0×10^6	2.7×10^{-5}	1.0×10^9	2.7×10^{-2}
Ta-178 (long-lived)	Tantalum (73)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Ta-179	.	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Ta-182	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Tb-157	Terbium (65)	1.0×10^4	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Tb-158	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Tb-160	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Tc-95m	Technetium (43)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Tc-96	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Tc-96m	.	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Tc-97	.	1.0×10^3	2.7×10^{-8}	1.0×10^8	2.7×10^{-3}
Tc-97m	.	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Tc-98	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Tc-99	.	1.0×10^4	2.7×10^{-7}	1.0×10^7	2.7×10^{-4}
Tc-99m	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Te-121	Tellurium (52)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Te-121m	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Te-123m	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Te-125m	.	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Te-127	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Te-127m	.	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Te-129	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Te-129m	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Te-131m	.	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Te-132	.	1.0×10^2	2.7×10^{-9}	1.0×10^7	2.7×10^{-4}
Th-227	Thorium (90)	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Th-228 (a)	.	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Th-229 (a)	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Th-230	.	1.0	2.7×10^{-11}	1.0×10^4	2.7×10^{-7}
Th-231	.	1.0×10^3	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Th-232	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
Th-234 (a)	.	1.0×10^3	2.7×10^{-8}	1.0×10^5	2.7×10^{-6}
Th (natural) (a)	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
Ti-44	Titanium (22)	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
Tl-200	Thallium (81)	1.0×10^1	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Tl-201	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Tl-202	.	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Tl-204	.	1.0×10^4	2.7×10^{-7}	1.0×10^4	2.7×10^{-7}
Tm-167	Thulium (69)	1.0×10^2	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Tm-170	.	1.0×10^3	2.7×10^{-8}	1.0×10^6	2.7×10^{-5}
Tm-171	.	1.0×10^4	2.7×10^{-7}	1.0×10^8	2.7×10^{-3}
U-230 (fast lung absorption) (a),(b)	Uranium (92)	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
U-230 (medium lung absorption) (c)	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
U-230 (slow lung absorption) (d)	.	1.0×10^1	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}
U-232 (fast lung absorption) (a),(b)	Uranium (92)	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
U-232 (medium lung absorption) (c)	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
U-232 (slow lung absorption) (d)	.	1.0	2.7×10^{-11}	1.0×10^3	2.7×10^{-8}
U-233 (fast lung absorption) (b)	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
U-233 (medium lung absorption) (c)	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
U-233 (slow lung absorption) (d)	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
U-234 (fast lung absorption) (b)	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
U-234 (medium lung absorption) (c)	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}
U-234 (slow lung absorption) (d)	.	1.0×10^1	2.7×10^{-10}	1.0×10^4	2.7×10^{-7}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
U-235 (all lung absorption types) (a),(b),(c),(d)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-4}	2.7×10^{-7}
U-236 (fast lung absorption) (b)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-4}	2.7×10^{-7}
U-236 (medium lung absorption) (c)	Uranium (92)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-4}	2.7×10^{-7}
U-236 (slow lung absorption) (d)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-4}	2.7×10^{-7}
U-238 (all lung absorption types) (a),(b),(c),(d)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-4}	2.7×10^{-7}
U (natural) (a)	.	1.0	2.7×10^{-11}	1.0×10^{-3}	2.7×10^{-8}
U (enriched to 20% or less) (e)	.	1.0	2.7×10^{-11}	1.0×10^{-3}	2.7×10^{-8}
U (depleted)	.	1.0	2.7×10^{-11}	1.0×10^{-3}	2.7×10^{-8}
V-48	Vanadium (23)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-5}	2.7×10^{-6}
V-49	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-7}	2.7×10^{-4}
W-178	Tungsten (74)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
W-181	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
W-185	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-7}	2.7×10^{-4}
W-187	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
W-188	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-5}	2.7×10^{-6}
Xe-122	Xenon (54)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-9}	2.7×10^{-2}
Xe-123	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-9}	2.7×10^{-2}
Xe-127	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-5}	2.7×10^{-6}
Xe-131m	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-4}	2.7×10^{-7}
Xe-133	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-4}	2.7×10^{-7}
Xe-135	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-10}	2.7×10^{-1}
Y-87	Yttrium (39)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Y-88	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Y-90	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-5}	2.7×10^{-6}
Y-91	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-6}	2.7×10^{-5}
Y-91m	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}
Y-92	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-5}	2.7×10^{-6}
Y-93	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-5}	2.7×10^{-6}
Yb-169	Ytterbium (79)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-7}	2.7×10^{-4}
Yb-175	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^{-7}	2.7×10^{-4}
Zn-65	Zinc (30)	1.0×10^{-1}	2.7×10^{-10}	1.0×10^{-6}	2.7×10^{-5}
Zn-69	.	1.0×10^{-4}	2.7×10^{-7}	1.0×10^{-6}	2.7×10^{-5}
Zn-69m	.	1.0×10^{-2}	2.7×10^{-9}	1.0×10^{-6}	2.7×10^{-5}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Zr-88	Zirconium (40)	1.0×10^{-2}	2.7×10^{-9}	1.0×10^6	2.7×10^{-5}
Zr-93 (a)	.	1.0×10^{-3}	2.7×10^{-8}	1.0×10^7	2.7×10^{-4}
Zr-95	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^6	2.7×10^{-5}
Zr-97 (a)	.	1.0×10^{-1}	2.7×10^{-10}	1.0×10^5	2.7×10^{-6}

a Parent nuclides and their progeny included in secular equilibrium are listed in the following:

Sr-90	Y-90
Zr-93	Nb-93m
Zr-97	Nb-97
Ru-106	Rh-106
Ag-108m	Ag-108
Cs-137	Ba-137m
Ce-144	Pr-144
Ba-140	La-140
Bi-212	Tl-208 (0.36), Po-212 (0.64)
Pb-210	Bi-210, Po-210
Pb-212	Bi-212, Tl-208 (0.36), Po-212 (0.64)
Rn-222	Po-218, Pb-214, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Ra-226	Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Ra-228	Ac-228
Th-228	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-229	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-nat	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-234	Pa-234m
U-230	Th-226, Ra-222, Rn-218, Po-214
U-232	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
U-235	Th-231
U-238	Th-234, Pa-234m
U-nat	Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Np-237	Pa-233
Am-242m	Am-242
Am-243	Np-239

b These values apply only to compounds of uranium that take the chemical form of UF₆, UO₂F₂ and UO₂(NO₃)₂ in both normal and accident conditions of transport.

c These values apply only to compounds of uranium that take the chemical form of UO₃, UF₄, UCl₄, and hexavalent compounds in both normal and accident conditions of transport.

d These values apply to all compounds of uranium other than those specified in b and c, above.

e These values apply to unirradiated uranium only.

TABLE 17A3: GENERAL VALUES FOR A1 AND A2

Contents	A ₁ (TBq)	A ₁ (Ci)	A ₂ (TBq)	A ₂ (Ci)	Activity concentration for exempt material(Bq/g)	Activity concentration for exempt material(Ci/g)	Activity limits for exempt consignments (Bq)	Activity limits for exempt consignments (Ci)
Only beta or gamma emitting radionuclides are known to be present	1×10^{-1}	2.7×10^0	2×10^{-2}	5.4×10^{-1}	1×10^1	2.7×10^{-10}	1×10^4	2.7×10^{-7}
Alpha emitting radionuclides, but no neutron emitters, are known to be present (a)	2×10^{-1}	5.4×10^0	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^3	2.7×10^{-8}
Neutron emitting nuclides are known to be present or no relevant data are available	1×10^{-3}	2.7×10^{-2}	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^3	2.7×10^{-8}

a If beta or gamma emitting nuclides are known to be present, the A1 value of 0.1 TBq (2.7 Ci) should be used.

TABLE 17A4: ACTIVITY-MASS RELATIONSHIPS FOR URANIUM

Uranium Enrichment (i) weight % U-235 present	<u>Specific Activity</u>	<u>Specific Activity</u>
	TBq/g	Ci/g
0.45	1.8×10^{-8}	5.0×10^{-7}
0.72	2.6×10^{-8}	7.1×10^{-7}
1.0	2.8×10^{-8}	7.6×10^{-7}
1.5	3.7×10^{-8}	1.0×10^{-6}
5.0	1.0×10^{-7}	2.7×10^{-6}
10.0	1.8×10^{-7}	4.8×10^{-6}
20.0	3.7×10^{-7}	1.0×10^{-5}
35.0	7.4×10^{-7}	2.0×10^{-5}
50.0	9.3×10^{-7}	2.5×10^{-5}
90.0	2.2×10^{-6}	5.8×10^{-5}
93.0	2.6×10^{-6}	7.0×10^{-5}
95.0	3.4×10^{-6}	9.1×10^{-5}

i The figures for uranium include representative values for the activity of the uranium-235 that is concentrated during the enrichment process.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00302

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Board of Health

on 09/20/2017

6 CCR 1007-1 Part 17

RADIATION CONTROL - TRANSPORTATION OF RADIOACTIVE MATERIALS

The above-referenced rules were submitted to this office on 09/22/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 02, 2017 09:02:54

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

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

CCR number

6 CCR 1015-3

Rule title

6 CCR 1015-3 EMERGENCY MEDICAL SERVICES 1 - eff 01/01/2018

Effective date

01/01/2018

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

Emergency Medical Services

6 CCR 1015-3

Adopted by the Board of Health on September 20, 2017; effective January 1, 2018.

.....

[Publication Instructions: Replace current existing text from Section 1 - Purpose and Authority for Rules through Section 4.5 with the following Section 1 through Section 4.5. In other words, the entirety of Chapter Three is being replaced with the following new language.]

CHAPTER THREE – RULES PERTAINING TO EMERGENCY MEDICAL SERVICES DATA AND INFORMATION COLLECTION AND RECORD KEEPING

Section 1 – Purpose and Authority for Rules

- 1.1 The authority and requirement for data collection is provided in 25-3.5-501(1), C.R.S., which states, "Each ambulance service shall prepare and transmit copies of uniform and standardized records, as specified by regulation adopted by the Department, concerning the transportation and treatment of patients in order to evaluate the performance of the emergency medical services system and to plan systematically for improvements in said system at all levels."

Additional authority for data collection and analysis is provided in § 25-3.5-307, C.R.S., requiring data collection and reporting by air ambulance agencies, § 25-3.5-308(1)(e), C.R.S., requiring data collection and reporting by a ground ambulance service, and § 25-3.5-704(2)(h), C.R.S., requiring the establishment of a continuous quality improvement system to evaluate the statewide emergency medical and trauma services system.

- 1.2 This section consists of rules for the collection and reporting of essential data related to the performance, needs and quality assessment of the statewide emergency medical and trauma services system. These rules focus primarily on the data that ambulance agencies are required to collect and provide to the Department. Rules regarding the collection of data by designated trauma facilities can be found in 6 CCR 1015-4, Chapter 1.

Section 2 - Definitions

- 2.1 "Agency" or "agencies" - Ambulance service and air ambulance service.
- 2.2 "Air Ambulance" - A fixed-wing or rotor-wing aircraft that is equipped to provide air transportation and is specifically designed to accommodate the medical needs of individuals who are ill, injured, or otherwise mentally or physically incapacitated and who require in-flight medical supervision.
- 2.3 "Air Ambulance Service"- Any public or private entity that uses an air ambulance to transport patients to a medical facility.
- 2.4 "Ambulance"- Any privately or publicly owned vehicle that meets the requirements of § 25-3.5-103(1.5), C.R.S.
- 2.5 "Ambulance service"- The furnishing, operating, conducting, maintaining, advertising, or otherwise engaging in or professing to be engaged in the transportation of patients by ambulance. Taken in context, it also means the person so engaged or professing to be so engaged. The person so engaged and the vehicles used for the emergency transportation of

persons injured at a mine are excluded from this definition when the personnel utilized in the operation of said vehicles are subject to the mandatory safety standards of the federal mine safety and health administration, or its successor agency.

- 2.6 "Department" - The Colorado Department of Public Health and Environment.
- 2.7 "NEMSIS" - National Emergency Medical Services Information System
- 2.8 "Patient"- Any individual who is sick, injured, or otherwise incapacitated or helpless.

Section 3 – Reporting Requirements

- 3.1 All ambulance service agencies and air ambulance service agencies licensed in Colorado shall provide the Department with the required data and information as specified in Sections 3.2 and 3.3 below in a format determined by the Department or in an alternate media acceptable to the Department.
- 3.2 Agencies shall provide organizational profile data in a manner designated by the Department.
 - 3.2.1 Organizational profile data shall include but not be limited to information about licensing, service types and level, agency contact information, agency director and medical director contact information, demographics of the service area, number and types of responding personnel, number of calls by response type, counties served, organizational type, and number and type of vehicles.
 - 3.2.2 Agencies shall update organizational profile data whenever changes occur and at least annually.
- 3.3 The required data and information on patient care shall be based on the NEMSIS EMS Data Standard published on July 13, 2016, referenced below.
 - 3.3.1 The National Highway Traffic Safety Administration (NHTSA) Office of Emergency Medical Services, NEMSIS Data Dictionary NHTSA Version 3.4.0, EMS Data Standard, published on July 13, 2016 (NEMSIS 3.4.0) is hereby incorporated by reference into this rule. Such incorporation does not include later amendments to or editions of the referenced material. The Health Facilities and Emergency Medical Services Division of the Department maintains a copy of the complete text of required data elements for public inspection at http://www.nemsis.org/media/nemsis_v3/release-3.4.0/DataDictionary/PDFHTML/DEMEMS/NEMSISDataDictionary.pdf. Certified copies of the incorporated materials may be obtained from the Division by contacting:

EMTS Branch Chief
Health Facilities and EMS Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530
 - 3.3.2 No later than January 1, 2018, agencies shall submit patient care data to the Department as defined by NEMSIS 3.4.0.
 - A) All elements that are identified as National Mandatory, National Required, State Recommended and State Optional by NEMSIS 3.4.0 shall be reported to the Department.
 - 3.3.3 Submission of NEMSIS 3.4.0 data as stated above in 3.3.2 is required. However, ambulance services may provide additional data as outlined in the complete NEMSIS 3.4.0 Data Dictionary or as suggested by the Department.
 - 3.3.4 All transporting agencies licensed in Colorado shall report the required data elements, as stated in Section 3.3.2, on all responses that resulted in patient contact. Although not

required, agencies may also report the required data elements on responses that did not result in patient contact or transport.

- 3.3.5 Agencies unable to submit through the web-based data entry utility shall obtain written approval from the Department prior to submitting patient care data and information in any other format.
- 3.3.6 Agencies shall provide the data to the Department within 60 days of patient contact.
- 3.4 In order to be eligible to apply for funding through the EMTS grants program, agencies shall provide organizational profile information as described in Section 3.2 and regularly submit patient care information as described in Section 3.3.2. and 3.3.6.
- 3.5 If an agency fails to comply with these rules, the Department may report this lack of compliance to any counties in which the agency is licensed.

Section 4 - Confidentiality of Data and Information on Patient Care

- 4.1 The data and information provided to the Department in accordance with Section 3.3 of these rules shall be used to conduct continuing quality improvement of the Emergency Medical and Trauma System, pursuant to § 25-3.5-704 (2)(h)(I), C.R.S. Any data provided to the Department that identifies an individual patient's, provider's or facility's care outcomes or is part of the patient's medical record shall be strictly confidential, whether such data are recorded on paper or electronically. The confidentiality protections provided in § 25-3.5-704 (2)(h)(II), C.R.S. apply to this data.
- 4.2 Any patient care data in the EMS data system that could potentially identify individual patients or providers shall not be released in any form to any agency, institution, or individual, except as provided in Section 4.3.
- 4.3 An agency may retrieve the patient care data that the agency has submitted via the Department's web-based data entry utility.
- 4.4 Results from any analysis of the data by the Department shall only be presented in aggregate according to established Department policies.
- 4.5 The Department may establish procedures to allow access by outside agencies, institutions or individuals to information in the EMS data system that does not identify patients, providers or agencies.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00304

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Board of Health

on 09/20/2017

6 CCR 1015-3

EMERGENCY MEDICAL SERVICES

The above-referenced rules were submitted to this office on 09/22/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 02, 2017 09:03:11

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Workers' Compensation

CCR number

7 CCR 1101-3

Rule title

7 CCR 1101-3 WORKERS' COMPENSATION RULES OF PROCEDURE WITH
TREATMENT GUIDELINES 1 - eff 01/01/2018

Effective date

01/01/2018

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 13 Provider Accreditation

13-1 STATEMENT OF BASIS AND PURPOSE

- (A) This rule implements and establishes procedures for the provider accreditation program set forth in § 8-42-101(3.5) and (3.6), C.R.S., as well educates the providers about their administrative, legal, and medical roles in the Colorado workers' compensation system. Accreditation requirements shall apply to:
 - (1) Providers who seek Level I or Level II accreditation under § 8-42-101(3.5) and (3.6), C.R.S.;
 - (2) Physicians providing permanent impairment evaluations of claimants; and
 - (3) Physicians serving on the Division Independent Medical Examination Panel.

13-2 ACCREDITATION

- (A) To obtain Level I Accreditation, a provider must:
 - (1) Qualify under § 8-42-101(3.5), C.R.S.;
 - (2) Complete an application form prescribed by the Division and pay the registration fee;
 - (3) Complete the Division Level I course;
 - (4) Demonstrate an understanding of the Division materials by passing a Division-administered examination. If the provider does not exhibit sufficient knowledge upon taking the examination a second time, he or she must attend the seminar again prior to any further attempts at the examination. Additional fees may apply.
 - (5) Agree to comply with all relevant statutes, Division rules, and all Division-issued guidance (including materials incorporated by reference);
 - (6) The accreditation begins on the date the provider passes the examination. The accreditation expires on July 31st of the third year following the year the provider passed the examination.
- (B) To obtain Level II Accreditation, a physician must:

- (1) Receive Level I accreditation. However, a physician who received his/her initial Level II accreditation before January 1, 2018 is exempt from this requirement.
- (2) Qualify under § 8-42-101(3.5), C.R.S.;
- (3) Complete an application form prescribed by the Division, pay the registration fee, and indicate if full or limited accreditation is sought;
- (4) Complete the Division Level II course;
- (5) Demonstrate an understanding of the Division materials (including the American Medical Association Guides to the Evaluation of Permanent Impairment, as incorporated by reference into § 8-42-101(3)(a)(I), C.R.S. ('AMA Guides')) by passing a Division-administered examination. If the provider does not exhibit sufficient knowledge upon taking the examination a second time, he or she must attend the seminar again prior to any further attempts at the examination. Additional fees may apply.
 - (i) Full Accreditation: A physician who passes the full Level II Accreditation examination shall be fully accredited to determine permanent impairment ratings on any work-related injury or illness.
 - (ii) Limited Accreditation: A physician who seeks Level II Accreditation to rate impairment only in connection with a specialty medical practice and who satisfactorily completes specified portions of the Level II examination shall receive limited accreditation to determine permanent impairment ratings on the corresponding sections of the AMA Guides.
- (6) Agree to comply with all relevant statutes, Division rules, and all Division-issued guidance (including materials incorporated by reference).
- (7) Submit his/her first three (3) impairment rating reports deemed sufficient by the Division within 12 months of passing the Level II accreditation examination; and
- (8) Agree to the probationary one-year Level II accreditation period beginning on the date the physician passes the Level II accreditation examination. The probationary accreditation will expire if the physician fails to submit three (3) impairment rating reports deemed sufficient by the Division within one year of the examination. Non-probationary accreditation begins on the date the physician submits his/her first three (3) impairment rating reports deemed sufficient by the Division. The non-probationary accreditation expires on January 31ST of the third calendar year following the year the physician successfully completed the Level II Accreditation examination.

13-3 RENEWAL OF ACCREDITATION

- (A) The Division will attempt to notify accredited providers of impending expiration of their accreditation.

- (B) A provider who does not renew his or her accreditation before the expiration date may reapply and complete the process for initial accreditation under section 13-2.
- (C) To renew accreditation, a provider must:
 - (1) Qualify under § 8-42-101(3.5), C.R.S.;
 - (2) Complete an application form prescribed by the Division, pay the registration fee, and, for Level II accreditation, indicate if full or limited reaccreditation is sought;
 - (3) Complete the Division course requirements for the highest level of accreditation maintained;
 - (4) Agree to comply with all relevant statutes and Division rules; and
 - (5) For Level II reaccreditation only, submit one impairment rating report deemed sufficient by the Division (which may be a Division Independent Medical Examination report) for audit. The purpose of providing an impairment report is to demonstrate an understanding of the requirements of a sufficient impairment rating report; to educate and provide feedback to the physician; and to assist the Division in examining its curriculum. Any correspondence or communication regarding this process is confidential and shall not be subject to discovery or examination by any person.

13-4 SANCTIONS UPON ACCREDITATION

- (A) The Director, with input from the Medical Director, may initiate proceedings to sanction a Level I or Level II Accreditation on any of the following grounds:
 - (1) Refusal to comply, substantial failure to comply, or two or more incidents of failure to comply with the provisions of these Workers' Compensation Rules of Procedure and all relevant statutes.
 - (2) Misrepresentation on the application for accreditation, or
 - (3) A unanimous recommendation to revoke accreditation by a reviewing panel pursuant to § 8-43-501(3)(c)(III) and (4), C.R.S..
- (B) The severity of any sanctions taken under these rules shall reflect the character of the failure and the attendant circumstances. Examples of sanctions include, but are not limited to, a suspension or a revocation of accreditation.
- (C) A proceeding to sanction a Level I or Level II Accreditation may be initiated by the Director, with input from the Medical Director, with referral for a hearing before an administrative law judge.
- (D) Following a hearing, the administrative law judge shall render proposed findings of fact and conclusions of law, and make recommendations to the Director, who shall enter an order in the case.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00335

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Workers' Compensation

on 09/18/2017

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES

The above-referenced rules were submitted to this office on 09/18/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 03, 2017 08:14:44

A handwritten signature in blue ink that reads "Frederick R. Yarger".

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Animal Health Division

CCR number

8 CCR 1201-16

Rule title

8 CCR 1201-16 RULES PERTAINING TO CONTROL AND ERADICATION OF
SCRAPIE IN SHEEP AND GOATS 1 - eff 11/30/2017

Effective date

11/30/2017

Colorado Department of Agriculture

Animal Industry Division

8 CCR 1201-16

Control and Eradication of Scrapie in Sheep and Goats

Part 1 Definitions

- 1.1. "Animal" means a domestic sheep or goat.
- 1.2. "Animal and Plant Health Inspection Service (APHIS)" means the agency in the United States Department of Agriculture known as the Animal and Plant Health Inspection Service.
- 1.3. "Breeding animal" means a sexually intact sheep or goat of any age.
- 1.4. "Certificate of Veterinary Inspection (CVI)" means an official document issued by an accredited veterinarian at the point of origin of a shipment of livestock. The document shall include the date; the physical location of origin; the name and mailing address of the consignor; the physical location of the destination; the name and mailing address of the consignee; the age, sex, number, and breed of the livestock; sufficient identification marks, tags or other identification as may be approved by the State Veterinarian, to positively identify livestock; and the results of all required tests. Such document shall also include a statement verifying that the livestock identified on the document have been inspected and that they are free from clinical signs of any contagious, infectious, or communicable diseases and that the livestock do not originate from an area of quarantine, infestation, or infection. A certificate of veterinary inspection is valid for thirty (30) days after the date of issuance.
- 1.5. "Commuter agreement" means a form, approved by the Colorado State Veterinarian and the state veterinarian of the contiguous state, that establishes an agreement between Colorado and a contiguous state to enable livestock owners, managers, or operators to move livestock across state borders for grazing purposes and to return to the state of origin.
- 1.6. "Exposed animal" means:
 - 1.6.1. Any animal that has been in the same flock at the same time as a scrapie-positive female animal, excluding limited contacts; or
 - 1.6.2. Any animal born in a flock after a scrapie-positive animal was born into that flock or lambed in that flock, if born before that flock completes the requirements of a flock plan; or
 - 1.6.3. Any animal that was commingled with a scrapie-positive female animal during or up to 30 days after she lambed, kidded, or aborted, or while a visible vaginal discharge was present, or that was commingled with any other scrapie-positive female animal for 24 hours or more, including during activities such as shows and sales or while in marketing channels; or
 - 1.6.4. Any animal in a noncompliant flock.
- 1.7. "Feeder sheep and goats" means animals under 18 months of age not to be used for reproductive purposes and maintained for feeding and slaughter only.

- 1.8. "Flock" or "herd" means all animals maintained on any single premises, or multiple premises with animal movement or interchange between the premises.
- 1.9. "Flock plan" means a written flock management agreement signed by the owner of a flock, the accredited veterinarian who provides veterinary services for the owner, and a State or APHIS representative in which each signor agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal.
- 1.10. "Genetic tests for scrapie resistance" means DNA genotyping of sheep for genes associated with scrapie resistance at Codon 171 and may also include Codon 136. To be used in regulatory activities, all genetic tests must be collected by an accredited veterinarian or State or Federal animal health official, must occur at a laboratory approved for such purposes by the USDA, must be submitted on forms approved by the USDA and must be on animals identified with USDA approved methods. At present, no genetic test for scrapie resistance is valid for goats.
- 1.11. "Genetically resistant animal" means a sheep that tests RR or QR at Codon 171.
- 1.12. "Genetically resistant to valine scrapie" means a sheep that tests AA at Codon 136. This does not apply to goats.
- 1.13. "Genetically susceptible genotype animal" means sheep that test QQ at Codon 171.
- 1.14. "Genetically susceptible to valine scrapie" means any sheep that tests VV or AV at Codon 136.
- 1.15. "High risk animal" means any goat or a genetically susceptible female sheep that is: (1) the progeny of a scrapie-positive dam; (2) born in the same flock during the same lambing season as progeny of a scrapie-positive dam; or (3) a scrapie susceptible animal that has been present in a flock and has been exposed to amniotic fluid of a scrapie positive dam. Any goat in an infected flock is considered a high risk animal.
- 1.16. "Infected flock" means any flock in which the State Veterinarian has determined that a scrapie positive female sheep has resided unless an epidemiological investigation conducted by the State Veterinarian or APHIS representative shows that the ewe did not lamb or abort in the flock. The USDA designation of a "source" flock shall be included in the infected flock definition for this regulation.
- 1.17. "Limited contacts" means incidental contacts between animals from different flocks off the flock's premises such as at fairs, shows, exhibitions and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations.
- 1.18. "Live-animal screening test" means any test for the diagnosis of scrapie in a live animal that is approved by the USDA.
- 1.19. "Noncompliant flock" means:
 - 1.19.1. Any source or infected flock whose owner declines to enter into a flock plan or post-exposure management and monitoring plan agreement within 30 days of being so designated, or whose owner is not in compliance with either agreement;
 - 1.19.2. Any exposed flock whose owner fails to make animals available for testing within 60 days of notification, or as mutually agreed, or whose owner fails to submit required postmortem samples;

- 1.19.3. Any flock whose owner has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or any other information on a certificate, permit, owner statement, or other official document within the last 5 years; or
- 1.19.4. Any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of this chapter within the last 5 years.
- 1.20. "Official identification" means an identification mark or device approved by APHIS for use in the Scrapie Eradication Program.
- 1.21. "Official Test" means any test for the diagnosis of scrapie in a live or dead animal that is approved by the Administrator of APHIS for that use and conducted either at an approved laboratory or at NVSL.
- 1.22. "Post Exposure Management and Monitoring Plan (PEMMP)" means a written agreement signed by the owner of a flock, any accredited veterinarian who provides veterinary services for the owner, and a State or APHIS representative in which each participant agrees to undertake actions specified in the agreement to reduce the risk of the occurrence of scrapie and to monitor for the occurrence of scrapie in the flock for at least 5 years after the last high-risk or scrapie-positive animal is removed from the flock or after the last exposure of the flock to a scrapie-positive animal unless the monitoring time is otherwise specified by a State or APHIS representative. As part of a PEMMP, the flock owner must provide the facilities and personnel needed to carry out the required elements listed in the plan.
- 1.23. "Scrapie" means a non-febrile, transmissible, insidious, degenerative disease affecting the central nervous system, and is a transmissible spongiform encephalopathy (TSE) found in sheep and goats.
- 1.24. "Scrapie-positive" means an animal that has tested positive through an official test.
- 1.25. "Scrapie Eradication Program" means the cooperative State-Federal program administered by APHIS and Consistent States to control and eradicate scrapie.
- 1.26. "State Veterinarian" means the veterinarian designated by the Commissioner of the Colorado Department of Agriculture as the director of the Division of Animal Health, Colorado Department of Agriculture.
- 1.27. "Source Flock" means a flock in which a State or APHIS representative has determined that at least one animal in that flock was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less.
- 1.28. "USDA" means the United States Department of Agriculture.
- 1.29. "Veterinary Services (VS)" means the division of APHIS charged with animal health activities within the United States.

Part 2 Importation of Breeding Sheep and Goats into Colorado

- 2.1. Except as set forth in Parts 2.2. and 2.3., all breeding sheep and goats imported into Colorado must be accompanied by a certificate of veterinary inspection (CVI) and an import permit. The accredited veterinarian who issues the CVI must obtain the import permit from the State Veterinarian. The accredited veterinarian issuing the CVI shall record the import permit number on the certificate.
- 2.2. No CVI or import permit is required for animals going directly to slaughter.

- 2.3. Animals entering Colorado from a state contiguous to Colorado without change in ownership and as a part of normal operating procedures may do so by acquiring a commuter agreement issued by the State Veterinarian.
- 2.4. CVIs for all breeding sheep and goats imported into Colorado must contain official identification for each animal. Official identification includes any of the following: 1) ear tags and/or microchips approved by the USDA for scrapie identification, 2) registration tattoos in goats when accompanied by a matching certificate of registration from a goat breed registration association, or 3) an APHIS assigned tattoo or tattoo for animals that cannot be ear tagged.

Part 3 Sheep and Goat Transfer of Ownership or Exhibition

- 3.1. All breeding sheep and goats must be identified with official identification for purposes of transfer of ownership or for exhibition in Colorado.

Part 4 Infected Flocks Containing Animals with Scrapie

- 4.1. In any flock in which scrapie is diagnosed, the premises and all sheep and goats on the premises may be placed under quarantine by the State Veterinarian. For any premises, sheep or goats placed under quarantine, the owner of the flock must complete the following:
 - 4.1.1. All sheep and goats must be identified with official identification and inventoried as to sex, age, breed and species.
 - 4.1.2. An epidemiological tracing must be completed as to the origins of animals and the destination of animals moved from the flock; and
 - 4.1.3. A flock plan must be developed, signed by all parties, and approved by the State Veterinarian or his representative.
- 4.2. Any such quarantine will remain in effect until the animals are identified with the appropriate USDA approved methods, epidemiology is completed, and a flock plan has been developed and agreed upon and signed by all parties. The flock plan may be replaced with a PEMMP developed mutually by the owner, his veterinarian, and state or federal officials and approved by the State Veterinarian.
- 4.3. Flock plans for infected flocks within Colorado must be approved by the State Veterinarian prior to implementation. The flock plan must address, but is not limited to:
 - 4.3.1. Animal identification and record keeping;
 - 4.3.2. Disinfection and sanitary measures;
 - 4.3.3. Lambing or kidding management;
 - 4.3.4. The classification and disposition of affected and high-risk animals within the flock;
 - 4.3.5. Animal sales and movements of animals from the flock;
 - 4.3.6. Where appropriate, and as a part of a comprehensive flock management plan, approved live-animal screening tests and genetic tests for scrapie resistance will be used to evaluate the risk status of individual animals within the flock. Genetically susceptible genotype animals must be destroyed or sent to a research facility. Flock plans may include breeding only with homozygous scrapie resistant rams for the duration of the flock plan; and

- 4.3.7. At the discretion of the State Veterinarian, a second genotyping sample may be required at the owner's expense. If there is a discrepancy in test results indicating a QQ genotype, the animal will not be permitted entry into Colorado until the discrepancy is resolved with the approval of the USDA reference laboratory, the National Veterinary Service Laboratory (NVSL).
- 4.4 The flock plan will remain in effect until all scrapie susceptible animals have been removed from the flock. After all scrapie susceptible animals have been removed from the flock, and only homozygous scrapie resistant rams are used for breeding in the flock, the flock plan may be replaced with a PEMMP developed mutually by the owner, his veterinarian, and state or federal officials and approved by the State Veterinarian.

Part 5 Exposed Animals

- 5.1. Any animal that originates from or had contact with a flock in which scrapie has been diagnosed and which animal is not considered high risk will be classified as an exposed animal. An owner of any exposed animal will be notified by the State Veterinarian with information regarding disposition of the exposed animal and any subsequent action required.

Part 6. Livestock Markets

- 6.1 Any sale not specifically designated as a "feeder only sale" is classified as an "open sale," where all sexually intact animals presented, regardless of age, are considered breeding animals. Any "feeder" animal exempt from identification requirements may not be re-classified as a breeding animal (i.e., removed from feeding channels) without official identification showing its birth flock.

Part 7. Reserved

Part 8. Statement of Basis, Specific Statutory Authority and Purpose

- 8.1. Adopted: February 10, 1999 – Effective: March 30, 1999
- 8.2. Adopted October 30, 2002 - Effective January 30, 2003

STATEMENT OF BASIS AND PURPOSE

This rule is adopted by the Colorado State Agricultural Commission pursuant to Section 35-50-101, C.R.S. (1998).

The purposes of this rule are to define requirements for the importation into Colorado of breeding sheep and for public sheep and goat sales and define the procedures which will be applicable for scrapie infected, source and trace flocks.

FACTUAL ISSUES ENCOUNTERED IN DEVELOPING THESE RULES.

Science has shown that scrapie transmission is primarily as result of a scrapie infected ewe's placenta and amniotic fluid at parturition taken in orally by a scrapie susceptible animal. Further, science has shown that a ewe with a resistant gene R at the 171 codon will not pass the scrapie infective agent when she was intentionally exposed to the infective agent.

The most promising strategy for the control and eradication of scrapie is the use of resistant genotype ram to assure that all progeny contains at least one resistant gene, regardless what the dam's genotype. Using homogeneous resistant rams RR in an infected or source flock will virtually eliminate scrapie transmission. Scrapie infected or source flocks that embrace the resistant genotype strategy as part of

the flock plan should be permitted to sell animals that are either QR or RR genotype. However, it is important that all susceptible animals be restricted until eliminated from such flocks by euthanasia and disposal and that only homozygous resistant rams be used for breeding in such flocks, thus assuring that all progeny will be scrapie resistant and that the scrapie agent will not be introduced into other flocks through the movements of scrapie susceptible animals.

Rule concept: Sheep or goats originating from a scrapie infected or source flock both intra and interstate shall be allowed to sell in Colorado if the genotype is confirmed to be QR or RR at the 171 codon.

The seller of such sheep shall be responsible to have such sheep genotyped, but an accredited veterinarian or state or federal animal health official must have taken the specimen and submitted it to an official laboratory.

At the discretion of the State Veterinarian a second genotyping sample may be required at the owner's expense. If there is a discrepancy in test results indicating a QQ genotype, the animal shall not be sold in Colorado.

8.3. Adopted: August 30, 2006 – Effective: October 30, 2006

This rule is adopted by the Commissioner of Agriculture and approved by the Colorado State Agriculture Commission pursuant to Section 35-50-105(3), C.R.S. (2005).

The rule is designed to address the control and eradication of scrapie. Scrapie is a transmissible, degenerative disease affecting the central nervous system of sheep and goats. It is usually transmitted to a susceptible sheep at birth. Goat transmission is not understood as yet. This rule defines the requirements for importing breeding sheep and goats into Colorado, sets forth identification requirements for the transfer of ownership or the exhibition of sheep and goats, and establishes disease protocols for sheep and goat flocks/herds infected with scrapie. This rule is necessary to bring Colorado's standards into compliance with federal scrapie rules so that Colorado can be deemed to be a scrapie-compliant state. This in turn affects Colorado's ability to qualify for grants under various federal disease control programs and allows less stringent interstate movement. Genetic testing has shown that ewes with certain resistant genes will not transmit scrapie to their offspring. These genetic tests refer to both a gene type indicated by a capital letter ("R, Q, A or V") and to a marker or "codon" indicating the location on a strand of genetic material ("codon 171 or 136"). This rule sets forth the combinations of genotypes and codons that are used to determine an animal's susceptibility to scrapie infection. It is necessary to understand these terms in order to understand the scope of the rule. This rule uses these terms in order to track the federal program addressing scrapie control and eradication in sheep and goats.

Scrapie in sheep is transmitted primarily due to the oral ingestion by a susceptible animal of an infected ewe's placenta and amniotic fluid at birth. However, testing shows that a ewe with a resistant gene R at the 171 codon will not pass the scrapie infective agent after being intentionally exposed to the infective agent.

In addition, a gene at a second codon may be necessary to provide resistance to a "valine" strain of scrapie. The valine strain although uncommon at present, may be transmitted by a QR individual. Therefore, if valine strain is found, animals with the QR genotype at codon 171 must be tested at codon 136 and have AA to be classed as resistant animals. If they have AV at codon 136, they could be susceptible.

8.4. Adopted September 20, 2017 – Effective November 30, 2017

Statutory Authority

This rule is amended and adopted pursuant to the Commissioner's authorities found at § 35-50-105(3)(a), (c), (f), (h), and (p), C.R.S.

Purpose

The purpose of this rule-making is to update matters related to the requirements for importation into Colorado of breeding sheep and for public sheep and goat sales and to define the procedures that will be applicable for scrapie-infected source and trace flocks.

Factual and Policy Issues

Language was updated to bring it into conformity with national disease prevention terms, definitions, and standards; the introduction section was deleted in order to bring this rule into conformity with other CDA rules; grammatical and syntactic changes were made to Part 1, including bringing the definitions into conformity with national disease prevention definitions; and language was removed that was formerly required on the CVI, this language is no longer required because facilities that have had positive scrapie animals are on a post exposure management program that would prohibit shipping of livestock from previously positive premises. Information was updated pertaining to identification for sheep intended for exhibition; and information related to flock plans was added in order to provide clarity for users of the rule with regard to the steps they must take once their premises are placed under quarantine and before any such quarantine will be released into either a flock plan or Post-Exposure Management and Monitoring Plan. Part 5 was removed and incorporated into Part 4 as there was a lot of overlap between these two Parts. The State Veterinarian can contact the owner of any scrapie exposed animals pertaining to the disposition of the exposed animals. Information was added about Livestock Markets; Part 7 was deleted; information regarding testing of infected flocks was moved to Part 4.3.6; and the rule has been re-numbered to bring uniformity within the rule to its numbering convention.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00288

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/20/2017

8 CCR 1201-16

RULES PERTAINING TO CONTROL AND ERADICATION OF SCRAPIE IN SHEEP AND GOATS

The above-referenced rules were submitted to this office on 09/25/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 06, 2017 08:18:18

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Inspection and Consumer Services Division

CCR number

8 CCR 1202-3

Rule title

8 CCR 1202-3 RULES AND REGULATIONS REGARDING PROCESSED ANIMAL
WASTE PRODUCTS 1 - eff 11/30/2017

Effective date

11/30/2017

DEPARTMENT OF AGRICULTURE
Inspection and Consumer Services Division
RULES AND REGULATIONS REGARDING PROCESSED ANIMAL WASTE
PRODUCTS
8 CCR 1202-3

Statement of Basis and Purpose

Adopted September 20, 2017 - Effective November 30, 2017

Statutory Authority

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in § 35-60-109(1) C.R.S.

Purpose

The Purpose of this rulemaking is to repeal the Rule published at 8 CCR 1202-3 in their entirety.

Factual and Policy Issues

In 2000 article 60 of Title 35 was repealed and re-enacted causing a change that made this rule obsolete. Current statutory provisions as well as 8 CCR 1202-6 "Rules for Commercial Feed Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S." have made regulations in this rule duplicative and no longer necessary. Repealing this rule would clean up the Commercial Feed regulations that are currently in effect. This repeal is a result of the Departments Regulatory Review Process.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00286

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/20/2017

8 CCR 1202-3

RULES AND REGULATIONS REGARDING PROCESSED ANIMAL WASTE PRODUCTS

The above-referenced rules were submitted to this office on 09/25/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 03, 2017 08:16:43

A handwritten signature in blue ink, reading "Frederick R. Yarger".

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Inspection and Consumer Services Division

CCR number

8 CCR 1202-6

Rule title

8 CCR 1202-6 RULES FOR COMMERCIAL FEED UNDER THE COLORADO FEED LAW, SECTIONS 35-60-101 THROUGH 115, C.R.S. 1 - eff 11/30/2017

Effective date

11/30/2017

COLORADO DEPARTMENT OF AGRICULTURE

Inspection and Consumer Services Division

Rules for Commercial Feed Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.

8 CCR 1202-6

Part 2. Definitions and Terms

- 2.1. The Official Publication of the Association of American Feed Control Officials, Inc. shall mean the 2017 Official Publication of the Association of American Feed Control Officials, Inc. ("AAFCO"), effective January 1, 2017. This rule incorporates by reference the AAFCO standards and guidelines. This rule does not adopt any later amendments to, or editions of, the AAFCO standards and guidelines. Additionally, anyone seeking to review a copy of the referenced material may contact the Inspection and Consumer Services Division of the Department of Agriculture, located at 2331 West 31st Avenue, Denver, Colorado 80211 to learn how this information may be obtained or reviewed. This, and any other material that is incorporated by reference, may be examined at any state publications depository library.
- 2.2. These Rules incorporate the Official Feed Terms as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included), except as the Commissioner designates otherwise in specific cases.
- 2.3. The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 35-60-102(2), C.R.S., of the Colorado Feed Law, when unground and when not mixed or intermixed with other materials: raw meat, individual chemical compounds, hay, loose salt, straw, stover, silage, cobs, husks, and hulls; provided that these commodities are not adulterated within the meaning of Section 35-60-107, C.R.S., of the Colorado Feed Law. The exemption from the definition of commercial feed does not apply to an otherwise exempted commodity that bears a label listing nutritional claims or guarantees.

Part 4. Label Information.

- 4.1. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this section.
 - 4.1.1. Product name and brand name if any.
 - 4.1.1.1. The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class, must be suitable for that purpose.
 - 4.1.1.2. Commercial, registered brand or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.
 - 4.1.1.3. The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: Provided, that if any ingredient or combination of ingredients is

intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.

- 4.1.1.4. The word “protein” shall not be permitted in the product name of a feed that contains added non-protein nitrogen.
- 4.1.1.5. When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word “protein”: Provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.
- 4.1.1.6. Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by AAFCO unless the Commissioner designates otherwise.
- 4.1.1.7. The word “vitamin”, or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Part 5.3 .
- 4.1.1.8. The term “mineralized” shall not be used in the name of a feed except for “TRACE MINERALIZED SALT”. When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.
- 4.1.1.9. The term “meat” and “meat by-products” shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.
- 4.1.2. If a drug is used:
 - 4.1.2.1. The word “medicated” shall appear directly following and below the product name in type size, no smaller than one-half the type size of the product name.
 - 4.1.2.2. Purpose statement as required in Part 4.1.3.
 - 4.1.2.3. The purpose of medication (claim statement).
 - 4.1.2.4. An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Part 5.4.
- 4.1.3. Purpose Statement
 - 4.1.3.1. The statement of purpose shall contain the specific species and animal class(es) for which the feed is intended as defined in Part 4.1.4.
 - 4.1.3.2. The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species and purpose while being consistent with the category of animal class defined in Part 4.1.4 which may include, but is

not limited to weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.

4.1.3.3. The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.

4.1.3.4. The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state "For Further Manufacture of Feed" if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user of the premix. [This section applicable to commercial feeds regulated under Part 4.1.4.10.2.10]

4.1.3.5. The purpose statement of a single purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products or molasses products may exclude the animal class and species and state "For Further Manufacture of Feed" if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient to provide for formulation into various animal species feeds. [This section applicable to commercial feeds regulated under Part 4.1.4.10.2.10.]

4.1.3.6. The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

4.1.4. Guarantees - Crude Protein, Equivalent Crude Protein from Non Protein Nitrogen, Amino Acids, Crude Fat, Crude Fiber, Acid Detergent Fiber, Neutral Detergent Fiber, Calcium, Phosphorus, Salt and Sodium shall be the sequence of nutritional guarantees when such guarantee is stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (percentage, parts per million, International Units, etc.) are listed in a sequence that provides a consistent grouping of the units of measure. All guarantees shall be stated on an "as is" basis.

4.1.4.1. Required guarantees for swine formula feeds

4.1.4.1.1. Animal Classes

4.1.4.1.1.1. Pre-Starter - 2 to 11 pounds

4.1.4.1.1.2. Starter -11 to 44 pounds

4.1.4.1.1.3. Grower - 44 to 110 pounds

4.1.4.1.1.4. Finisher -110 to 242 pounds (market)

4.1.4.1.1.5. Gilts, Sows and Adult Boars

4.1.4.1.1.6. Lactating Gilts and Sows

4.1.4.1.2. Guaranteed Analysis for Swine Complete Feeds and Supplements (all animal classes)

4.1.4.1.2.1. Minimum percentage of Crude Protein

4.1.4.1.2.2. Minimum percentage of Lysine

- 4.1.4.1.2.3. Minimum percentage of Crude Fat
- 4.1.4.1.2.4. Maximum percentage of Crude Fiber
- 4.1.4.1.2.5. Minimum and maximum percentage of Calcium
- 4.1.4.1.2.6. Minimum percentage of Phosphorus
- 4.1.4.1.2.7. Minimum and maximum percentage of Salt (if added)
- 4.1.4.1.2.8. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum Salt guarantee
- 4.1.4.1.2.9. Minimum Selenium in parts per million (ppm)

4.1.4.2. Required guarantees for Formula Poultry Feeds (Broilers, Layers and Turkeys)

4.1.4.2.1. Animal Classes

- 4.1.4.2.1.1. Layer - Chickens that are grown to produce eggs for food, e.g., table eggs
 - 4.1.4.2.1.1.1. Starting/Growing - From day of hatch to approximately 10 weeks of age.
 - 4.1.4.2.1.1.2. Finisher - From approximately 10 weeks of age to time first egg is produced. (Approximately 20 weeks of age).
 - 4.1.4.2.1.1.3. Laying - From time first egg is laid throughout the time of egg production.
 - 4.1.4.2.1.1.4. Breeders - Chickens that produce fertile eggs for hatch replacement layers to produce eggs for food, table eggs, from time first egg is laid throughout their productive cycle.
- 4.1.4.2.1.2. Broilers - Chickens that are grown for human food.
 - 4.1.4.2.1.2.1. Starting/growing - From day of hatch to approximately 5 weeks of age.
 - 4.1.4.2.1.2.2. Finisher - From approximately 5 weeks of age to market, (42 to 52 days).
 - 4.1.4.2.1.2.3. Breeders - Hybrid strains of chickens whose offspring are grown for human food, (broilers), any age and either sex.
- 4.1.4.2.1.3. Broilers, Breeders - Chickens whose offspring are grown for human food (broilers).
 - 4.1.4.2.1.3.1. Starting/Growing - From day of hatch until approximately 10 weeks of age.

4.1.4.2.1.3.2. Finishing - From approximately 10 weeks of age to time first egg is produced, approximately 20 weeks of age.

4.1.4.2.1.3.3. Laying - Fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced.

4.1.4.2.1.4. Turkeys

4.1.4.2.1.4.1. Starting/Growing - Turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males).

4.1.4.2.1.4.2. Finisher - Turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age; males from 16 weeks of age to 20 weeks of age, (or desired market weight).

4.1.4.2.1.4.3. Laying - Female turkeys that are producing eggs; from time first egg is produced, throughout the time they are producing eggs.

4.1.4.2.1.4.4. Breeder - Turkeys that are grown to produce fertile eggs, from day of hatch to time first egg is produced (approximately 30 weeks of age), both sexes.

4.1.4.2.2. Guaranteed Analysis for Poultry Complete Feeds and Supplements (all animal classes)

4.1.4.2.2.1. Minimum percentage of Crude Protein

4.1.4.2.2.2. Minimum percentage of Lysine

4.1.4.2.2.3. Minimum percentage of Methionine

4.1.4.2.2.4. Minimum percentage of Crude Fat

4.1.4.2.2.5. Maximum percentage of Crude Fiber

4.1.4.2.2.6. Minimum and maximum percentage of Calcium

4.1.4.2.2.7. Minimum percentage of Phosphorus

4.1.4.2.2.8. Minimum and maximum percentage of Salt (if added)

4.1.4.2.2.9. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum Salt guarantee

4.1.4.3. Required Guarantees for Beef Cattle Formula Feeds

4.1.4.3.1. Animal Classes

4.1.4.3.1.1. Calves (birth to weaning)

4.1.4.3.1.2. Cattle on Pasture (may be specific as to production stage; e.g. stocker, feeder, replacement heifers, brood cows, bulls, etc.)

4.1.4.3.1.3. Feedlot Cattle

4.1.4.3.2. Guaranteed analysis for Beef Complete Feeds and Supplements (all animal classes)

4.1.4.3.2.1. Minimum percentage of Crude Protein

4.1.4.3.2.2. Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added

4.1.4.3.2.3. Minimum percentage of Crude Fat

4.1.4.3.2.4. Maximum percentage of Crude Fiber

4.1.4.3.2.5. Minimum and maximum percentage of Calcium

4.1.4.3.2.6. Minimum percentage of Phosphorus

4.1.4.3.2.7. Minimum and maximum percentage of Salt (if added)

4.1.4.3.2.8. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum Salt guarantee

4.1.4.3.2.9. Minimum percentage of Potassium

4.1.4.3.2.10. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

4.1.4.3.3. Guaranteed analysis for Beef Mineral Feeds (if added)

4.1.4.3.3.1. Minimum and maximum percentage Calcium

4.1.4.3.3.2. Minimum percentage of Phosphorus

4.1.4.3.3.3. Minimum and maximum percentage of Salt

4.1.4.3.3.4. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum Salt guarantee

4.1.4.3.3.5. Minimum percentage of Magnesium

4.1.4.3.3.6. Minimum percentage of Potassium

4.1.4.3.3.7. Minimum Copper in parts per million (ppm)

4.1.4.3.3.8. Minimum Selenium in parts per million (ppm)

4.1.4.3.3.9. Minimum Zinc in parts per million (ppm)

4.1.4.3.3.10. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound

4.1.4.4. Required Guarantees for Dairy Formula Feeds

4.1.4.4.1. Animal Classes

4.1.4.4.1.1. Veal Milk Replacer - Milk Replacer to be fed for veal production.

4.1.4.4.1.2. Herd Milk Replacer - Milk Replacer to be fed for herd replacement calves.

4.1.4.4.1.3. Starter - Approximately 3 days to 3 months.

4.1.4.4.1.4. Growing Heifers, Bulls and Dairy Beef

4.1.4.4.1.4.1. Grower 1 -3 months to 12 months of age

4.1.4.4.1.4.2. Grower 2 - More than 12 months of age

4.1.4.4.1.5. Lactating Dairy Cattle

4.1.4.4.1.6. Non-Lactating Dairy Cattle

4.1.4.4.2. Guaranteed Analysis for Veal and Herd Replacement Milk Replacer

4.1.4.4.2.1. Minimum percentage Crude Protein

4.1.4.4.2.2. Minimum percentage Crude Fat

4.1.4.4.2.3. Maximum percentage of Crude Fiber

4.1.4.4.2.4. Minimum and maximum percentage Calcium

4.1.4.4.2.5. Minimum percentage of Phosphorus

4.1.4.4.2.6. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

4.1.4.4.3. Guaranteed Analysis for Dairy Cattle Complete Feeds and Supplements

4.1.4.4.3.1. Minimum percentage of Crude Protein

4.1.4.4.3.2. Maximum percentage of Equivalent Crude Protein from Non-Protein Nitrogen (NPN) when added

4.1.4.4.3.3. Minimum percentage of Crude Fat

4.1.4.4.3.4. Maximum percentage of Crude Fiber

4.1.4.4.3.5. Maximum percentage of Acid Detergent Fiber (ADF)

4.1.4.4.3.6. Minimum and maximum percentage of Calcium

4.1.4.4.3.7. Minimum percentage of Phosphorus

4.1.4.4.3.8. Minimum Selenium in parts per million (ppm)

4.1.4.4.3.9. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

4.1.4.4.4. Required Guaranteed Analysis for Dairy Mixing and Pasture Mineral

4.1.4.4.4.1. Minimum and maximum percentage of Calcium

4.1.4.4.4.2. Minimum percentage of Phosphorus

4.1.4.4.4.3. Minimum and maximum percentage of Salt

4.1.4.4.4.4. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum Salt guarantee

4.1.4.4.4.5. Minimum percentage of Magnesium

4.1.4.4.4.6. Minimum percentage of Potassium

4.1.4.4.4.7. Minimum Selenium in parts per million (ppm)

4.1.4.4.4.8. Minimum Vitamin A, other than the precursors of Vitamin A, in International Units per pound

4.1.4.5. Required Guarantees for Equine Formula Feeds

4.1.4.5.1. Animal Classes

4.1.4.5.1.1. Foal

4.1.4.5.1.2. Mare

4.1.4.5.1.3. Breeding

4.1.4.5.1.4. Maintenance

4.1.4.5.2. Guaranteed Analysis for Equine Complete Feeds and Supplements (all animal classes)

4.1.4.5.2.1. Minimum percentage of Crude Protein

4.1.4.5.2.2. Minimum percentage of Crude Fat

4.1.4.5.2.3. Maximum percentage of Crude Fiber

4.1.4.5.2.4. Maximum percentage of Acid Detergent Fiber (ADF)

4.1.4.5.2.5. Maximum percentage of Neutral Detergent Fiber (NDF)

- 4.1.4.5.2.6. Minimum and maximum percentage of Calcium
- 4.1.4.5.2.7. Minimum percentage of Phosphorus
- 4.1.4.5.2.8. Minimum Copper in parts per million (ppm)
- 4.1.4.5.2.9. Minimum Selenium in parts per million (ppm)
- 4.1.4.5.2.10. Minimum Zinc in parts per million (ppm)
- 4.1.4.5.2.11. Minimum Vitamin A, other than the precursors of Vitamin A, in International Units per pound (if added)

4.1.4.5.3. Guaranteed Analysis for Equine Mineral Feeds (all animal classes)

- 4.1.4.5.3.1. Minimum and maximum percentage of Calcium
- 4.1.4.5.3.2. Minimum percentage of Phosphorus
- 4.1.4.5.3.3. Minimum and maximum percentage of Salt (if added)
- 4.1.4.5.3.4. Minimum and maximum percentage of Sodium shall be guaranteed only when the total Sodium exceeds that furnished by the maximum Salt guarantee
- 4.1.4.5.3.5. Minimum Copper in parts per million (ppm)
- 4.1.4.5.3.6. Minimum Selenium in parts per million (ppm)
- 4.1.4.5.3.7. Minimum Zinc in parts per million (ppm)
- 4.1.4.5.3.8. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

4.1.4.6. Required Guarantees for Goat and Sheep Formula Feeds

4.1.4.6.1. Animal Classes

- 4.1.4.6.1.1. Starter
- 4.1.4.6.1.2. Grower
- 4.1.4.6.1.3. Finisher
- 4.1.4.6.1.4. Breeder
- 4.1.4.6.1.5. Lactating

4.1.4.6.2. Guaranteed Analysis for Goat and Sheep Complete Feeds and Supplements (all animal classes)

- 4.1.4.6.2.1. Minimum percentage of Crude Protein

- 4.1.4.6.2.2. Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added
- 4.1.4.6.2.3. Minimum percentage of Crude Fat
- 4.1.4.6.2.4. Maximum percentage of Crude Fiber
- 4.1.4.6.2.5. Minimum and maximum percentage of Calcium
- 4.1.4.6.2.6. Minimum percentage of Phosphorus
- 4.1.4.6.2.7. Minimum and maximum percentage of Salt (if added)
- 4.1.4.6.2.8. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum Salt guarantee
- 4.1.4.6.2.9. Minimum and maximum Copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm)
- 4.1.4.6.2.10. Minimum Selenium in parts per million (ppm)
- 4.1.4.6.2.11. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

4.1.4.7. Required Guarantees for Duck and Geese Formula Feeds

4.1.4.7.1. Animal Classes

4.1.4.7.1.1. Ducks

- 4.1.4.7.1.1.1. Starter - 0 to 3 weeks of age
- 4.1.4.7.1.1.2. Grower - 3 to 6 weeks of age
- 4.1.4.7.1.1.3. Finisher - 6 weeks to market
- 4.1.4.7.1.1.4. Breeder Developer - 8 to 19 weeks of age
- 4.1.4.7.1.1.5. Breeder - 22 weeks to end of lay

4.1.4.7.1.2. Geese

- 4.1.4.7.1.2.1. Starter - 0 to 4 weeks of age
- 4.1.4.7.1.2.2. Grower - 4 to 8 weeks of age
- 4.1.4.7.1.2.3. Finisher - 8 weeks to market
- 4.1.4.7.1.2.4. Breeder Developer - 10 to 22 weeks of age
- 4.1.4.7.1.2.5. Breeder - 22 weeks to end of lay

4.1.4.7.2. Guaranteed Analysis for Duck and Geese Complete Feeds and Supplements (for all animal classes)

- 4.1.4.7.2.1. Minimum percentage of Crude Protein
- 4.1.4.7.2.2. Minimum percentage of Crude Fat
- 4.1.4.7.2.3. Maximum percentage of Crude Fiber
- 4.1.4.7.2.4. Minimum and maximum percentage of Calcium
- 4.1.4.7.2.5. Minimum percentage of Phosphorus
- 4.1.4.7.2.6. Minimum and maximum percentage of Salt (if added)
- 4.1.4.7.2.7. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum Salt guarantee

4.1.4.8. Required Guarantees for Fish Complete Feeds and Supplements

- 4.1.4.8.1. Animal Species shall be declared in lieu of animal class
 - 4.1.4.8.1.1. Trout
 - 4.1.4.8.1.2. Catfish
 - 4.1.4.8.1.3. Species other than trout or catfish
- 4.1.4.8.2. Guaranteed analysis for all Fish Complete Feeds and Supplements
 - 4.1.4.8.2.1. Minimum percentage of Crude Protein
 - 4.1.4.8.2.2. Minimum percentage of Crude Fat
 - 4.1.4.8.2.3. Maximum percentage of Crude Fiber
 - 4.1.4.8.2.4. Minimum percentage of Phosphorus

4.1.4.9. Required Guarantees for Rabbit Complete Feeds and Supplements

- 4.1.4.9.1. Animal Classes
 - 4.1.4.9.1.1. Grower - 4 to 12 weeks of age
 - 4.1.4.9.1.2. Breeder -12 weeks of age and over
- 4.1.4.9.2. Guaranteed analysis for Rabbit Complete Feeds and Supplements (all animal classes)
 - 4.1.4.9.2.1. Minimum percentage of Crude Protein
 - 4.1.4.9.2.2. Minimum percentage of Crude Fat
 - 4.1.4.9.2.3. Minimum and maximum percentage of Crude Fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units)

- 4.1.4.9.2.4. Minimum and maximum percentage of Calcium
- 4.1.4.9.2.5. Minimum percentage of Phosphorus
- 4.1.4.9.2.6. Minimum and maximum percentage of Salt (if added)
- 4.1.4.9.2.7. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum Salt guarantee
- 4.1.4.9.2.8. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
- 4.1.4.10. The required guarantees of grain mixtures with or without molasses and feeds other than those described in Part 4.1.4.1 through 4.1.4.9 shall include the following items, unless exempted in Part 9, in the order listed:
 - 4.1.4.10.1. Animal class(es) and species for which the product is intended.
 - 4.1.4.10.2. Guaranteed analysis
 - 4.1.4.10.2.1. Minimum percentage Crude Protein
 - 4.1.4.10.2.2. Maximum or minimum percentage of equivalent Crude Protein from Non-Protein Nitrogen as required in Section 5.5.
 - 4.1.4.10.2.3. Minimum percentage of Crude Fat
 - 4.1.4.10.2.4. Maximum percentage of Crude Fiber
 - 4.1.4.10.2.5. Minerals in formula feeds, to include in the following order:
 - 4.1.4.10.2.5.1. Minimum and maximum percentages of Calcium
 - 4.1.4.10.2.5.2. Minimum percentage of Phosphorus
 - 4.1.4.10.2.5.3. Minimum and maximum percentage of Salt (if added)
 - 4.1.4.10.2.5.4. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum Salt guarantee
 - 4.1.4.10.2.5.5. Other Minerals
 - 4.1.4.10.2.6. Minerals in feed ingredients - as specified by the Official Definitions of Feed Ingredients published in the 2017 Official Publication of AAFCO.
 - 4.1.4.10.2.7. Vitamins in such terms as specified in Part 5.3.
 - 4.1.4.10.2.8. Total sugars as invert on dried molasses products or products being sold primarily for their sugar content

4.1.4.10.2.9. Viable lactic acid producing microorganisms for use in silage in terms specified in Part 5.7.

4.1.4.10.2.10. A commercial feed (e.g. vitamin/mineral premix, base mix, etc.) intended to provide a specialized nutritional source for use in the manufacture of other feeds, must state its intended purpose and guarantee those nutrients relevant to such stated purpose.

4.1.4.11. Exemptions

4.1.4.11.1. A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:

4.1.4.11.1.1. The feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or

4.1.4.11.1.2. The feed or feed ingredient is intended for non-food producing animals and contains less than 6.5% total mineral.

4.1.4.11.2. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

4.1.4.11.3. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

4.1.4.11.4. Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made.

4.1.4.11.5. The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.

4.1.4.11.6. In lieu of a guaranteed analysis statement, wild bird feed labels may substitute a composition statement that lists the percentage of each ingredient. Composition statement values are allowed a variance from the actual value up to 5%.

4.1.5. Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Section 35-60-106(1)(e), C.R.S. of the Colorado Feed Law.

4.1.5.1. The name of each ingredient listed in descending order of predominance by weight and as defined in the Official Definitions of Feed Ingredients published in the Official Publication of AAFCO, common or usual name, or one approved by the Commissioner.

4.1.5.2. Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of AAFCO, in lieu of the individual ingredients; provided that:

4.1.5.2.1. When a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label.

4.1.5.2.2. The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

4.1.6. Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by Parts 8 and 9 appear elsewhere on the label.

4.1.7. Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, zip code. However, the street address may be omitted if it is shown in the current city directory or telephone directory.

4.1.8. Quantity Statement.

4.1.8.1 Net quantity shall be declared in terms of weight, liquid measure or count.

4.1.8.2. Net quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate SI metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or whole quart and in the appropriate SI metric system units.

4.1.8.3. When the declaration of quantity of contents by count does not give the adequate information as to the quantity of feed in the container, it shall be combined with such statement of weight, liquid measure, or size of the individual units as will provide such information.

Part 5. Expression of Guarantees

5.1. The guarantees for crude protein, equivalent crude protein from non-protein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber and acid detergent fiber shall be in terms of percentage.

5.2. Mineral Guarantees

5.2.1. When the calcium, Salt, and sodium guarantees are given in the guaranteed analysis such shall be stated and conform to the following:

5.2.1.1. When the minimum is below 2.5%, the maximum shall not exceed the minimum by more than 0.5 percentage point.

5.2.1.2. When the minimum is 2.5% but less than 5.0%, the maximum shall not exceed the minimum by more than one percentage point.

- 5.2.1.3. When the minimum is above 5.0% or greater the maximum shall not exceed the minimum by more than 20% of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.
- 5.2.2. When stated, guarantees for minimum and maximum total sodium and Salt: minimum potassium, magnesium, sulfur, phosphorus and maximum fluoride shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1%) or greater.
- 5.2.3. Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.
- 5.3. Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in mg/lb or in units consistent with those employed for the quantity statement unless otherwise specified:
 - 5.3.1. Vitamin A, other than precursors of vitamin A, in International Units per pound.
 - 5.3.2. Vitamin D-3 in products offered for poultry feeding, in International Chick Units per pound.
 - 5.3.3. Vitamin D for other uses, International Units per pound.
 - 5.3.4. Vitamin E, in International Units per pound.
 - 5.3.5. Concentrated oils and feed additive premixes containing vitamins A, D and/or E may, at the option of the distributor be stated in units per gram instead of units per pound.
 - 5.3.6. Vitamin B-12, in milligrams or micrograms per pound.
 - 5.3.7. All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid; choline; biotin; inositol; p-amino benzoic acid; ascorbic acid; and carotene.
- 5.4. Guarantees for drugs shall be stated in terms of percent by weight, except:
 - 5.4.1. Antibiotics, present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed.
 - 5.4.2. Antibiotics present at 2,000 or more grams per ton (total) of commercial feed shall be stated in grams per pound of commercial feed.
 - 5.4.3. Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in Part 558 of the Code of Federal Regulations, Title 21, 2000, incorporated herein by reference (later amendments not included), for certain antibiotics, wherein quantitative, guarantees are required regardless of the level or purpose of the antibiotic.
 - 5.4.4. The term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.
- 5.5. Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:

5.5.1. For ruminants

- 5.5.1.1. Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than 5% protein from natural sources shall be guaranteed as follows:

Crude Protein, minimum, _____ %

(This includes not more than _____ % equivalent crude protein from non-protein nitrogen).

- 5.5.1.2. Mixed feed concentrates and supplements containing less than 5% protein from natural sources may be guaranteed as follows:

Equivalent Crude Protein from Non-Protein Nitrogen, minimum, _____ %

- 5.5.1.3. Ingredient sources of non-protein nitrogen such as Urea, Diammonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic non-protein nitrogen ingredients defined and published in the Official Publication of AAFCO Inc. (later amendments not included) shall be guaranteed as follows:

Nitrogen, minimum, _____ %

Equivalent Crude Protein from Non-Protein Nitrogen, minimum, _____ %

5.5.2. For non-ruminants

- 5.5.2.1. Complete feeds, supplements and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows:

Crude protein, minimum _____ %

(This includes not more than _____ % equivalent crude protein, which is not nutritionally available to species of animal for which feed is intended).

- 5.5.2.2. Premixes, concentrates or supplements intended for non-ruminants containing more than 1.25% equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement:

WARNING: This feed must be used only in accordance with directions furnished on the label.

- 5.6. Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.
- 5.7. Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams, or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.
- 5.8. Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be

specified, such as: Protease (*Bacillus subtilis*) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

- 5.9. Guarantees for minimum percentage of total sugars, as invert shall be included for products being sold for their molasses content or products containing more than 16% sugars.
- 5.10. Guarantees for maximum percentage of moisture shall be included for liquid feed supplements and liquid ingredients containing more than 20% moisture.
- 5.11. Wild bird seed composition statement values are allowed a variance from the actual value up to 5%.
- 5.12. Guarantees for dietary starches, sugars, and fructans for Commercial Feeds, other than customer-formula feed, Pet Food, and Specialty Pet Food Products:
 - 5.12.1. A commercial feed which bears on its labeling a claim in any manner for levels of “dietary starch,” “sugars,” “fructans,” or words of similar designation, shall include on the label:
 - 5.12.1.1. Guarantees for maximum percentage of dietary starch and maximum percentage of sugars, in the Guaranteed Analysis section immediately following the last fiber guarantee.
 - 5.12.1.2. A maximum percentage guarantee for fructans immediately following the sugars, if the feed contains forage products.
 - 5.12.2. When such guarantees for dietary starch, sugars, or fructans for commercial feeds appear on the label, feeding directions shall indicate the proper use of the feed product and a recommendation to consult with a veterinarian or nutritionist for a recommended diet.

Part 7. Ingredients

- 7.1. The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients published in the 2017 Official Publication of AAFCO, the common or usual name, or one approved by the Commissioner.
- 7.2. The name of each ingredient must be shown in letters or type of the same size.
- 7.3. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.
- 7.4. The term “dehydrated” may precede the name of any product that has been artificially dried.
- 7.5. A single ingredient product as defined in the Official Definitions of Feed Ingredients published in the 2017 Official Publication of AAFCO is not required to have an ingredient statement.
- 7.6. Tentative definitions as published in the Official Definitions of Feed Ingredients published in the 2017 Official Publication of AAFCO for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e. sugar).
- 7.7. When the word “iodized” is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

Part 9. Non-Protein Nitrogen

- 9.1. Urea and other non-protein nitrogen products defined in the Official Definitions of Feed Ingredients published in the 2017 Official Publication of AAFCO are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen, added as such, or the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: "CAUTION: USE AS DIRECTED." The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.
- 9.2. Non-protein nitrogen defined in the Official Definitions of Feed Ingredients published in the 2017 Official Publication of AAFCO when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed 1.25% of the total daily ration.
- 9.3. On labels such as those for medicated feeds which bear adequate feeding directions and/or warning statements, the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen.

Part 10. Drug and Feed Additives

- 10.1. Prior to approval of a registration application and/or approval of a label for commercial feed which contains additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.
- 10.2. Satisfactory evidence of safety and efficacy of a commercial feed may be:
 - 10.2.1. When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for such use, or
 - 10.2.2. When the commercial feed is itself a drug as defined in Section 35-60-102(8) of the Colorado Feed Law and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360 b, or
 - 10.2.3. When one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended, or
 - 10.2.4. When the commercial feed is a direct fed microbial product and:
 - 10.2.4.1. The product meets the particular fermentation product definition; and

10.2.4.2. The microbial content statement, as expressed in the labeling, is limited to the following: "Contains a source of live (viable) naturally occurring microorganisms." This statement shall appear on the label; and

10.2.4.3. The source is stated with a corresponding guarantee expressed in accordance with Part 5.7.

10.2.5. When the commercial feed is an enzyme product and:

10.2.5.1. The product meets the particular enzyme definition as defined in the Official Definitions of Feed Ingredients published in the 2017 Official Publication of AAFCO, and

10.2.5.2. The enzyme is stated with a corresponding guarantee expressed in accordance with Part 5.8.

Part 17. Statements of Basis, Specific Statutory Authority and Purpose

17.1. Adopted April 10, 2001 – Effective May 30, 2001

STATUTORY AUTHORITY:

The Commissioner of Agriculture, Colorado Department of Agriculture, adopts these permanent rules pursuant to the provisions and requirements of the Colorado Commercial Feed Law, § 35-60- 109(1), C.R.S. (2000).

PURPOSE:

The purpose of these rules is to comply with the requirements of the Colorado Commercial Feed to provide specific guidelines for the manufacture, labeling and distribution of commercial feed.

These rules are designed to:

- Set standards for the correct labeling of livestock and pet food.
- Set standards for good manufacturing practices for medicated livestock feed.

FACTUAL AND POLICY ISSUES:

The factual and policy issues encountered in the proposal of these permanent rules are as follows:

1. The Colorado Commercial Feed Law was repealed and reenacted effective January 1, 2000. That statute requires the Commissioner to adopt the Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials, Inc. (AAFCO), as published in the official publication of such association.
2. These new, revised rules are based upon national standard (model) regulations developed by AAFCO, a nation-wide group of regulatory officials. They are specifically for the purpose of promoting standardization between states for the animal feed industry.
3. Over 30% of the states have adopted the AAFCO model regulations. These rules are widely accepted by Colorado and national feed companies. Adoption of these rules would help to ensure uniform labeling requirements.

4. The Department met with the Colorado Grain and Feed Association's (CFGFA) Feed Committee throughout the rule drafting process. The CGFA supports these new rules and regulations.
5. Two sets of rules are needed, one for livestock feed, the other for pet food. Livestock feed rules are specific to matters regarding production, animal growth and weight gain, and use of medications in feed. Pet food rules employ separate criteria for complete and balanced nutrition and provide regulatory guidance for advertising and claims frequently found on pet food labels.

17.2. Emergency Rule Adopted October 19, 2006 – Effective October 19, 2006

Statutory Authority:

These emergency amendments to the Rules Pertaining to the Administration and Enforcement of the Colorado Commercial Feed Law, §§ 35-60-101 - 115, C.R.S., are proposed for adoption by the Commissioner pursuant to his authority in Section 35-60-109(1), C.R.S.

Purpose:

The purposes of these emergency amendments to the rules are as follows:

- (a) To specify in rule that all information required or requested by the Commissioner, including lawful presence documentation required under Section 24-76.5-103, C.R.S., must be complete and accurate, and to specify the legal consequences of noncompliance with this rule.
- (b) To document and record the statements of statutory authority, basis and purpose for these rules.

Factual Basis:

- (a) On August 1, 2006, Section 24-76.5-103, C.R.S., took effect following its enactment in House Bill 06S-1023 by the General Assembly in the July, 2006, special legislative session.
- (b) Currently, neither the Commercial Feed Law nor its associated rules specify that individuals who apply for registrations must comply with the verification documentation requirements of Section 24-76.5-103, C.R.S.
- (c) These emergency rules are necessary to provide the Commissioner with specific legal authority to deny applications for registration or renewal of existing registrations from natural persons who do not provide sufficient documentation to comply with Section 24-76.5-103, C.R.S., and to revoke existing registrations if the information provided in connection with an application is later proven to be false.
- (d) These emergency rules are necessary to fulfill the purposes described above prior to the adoption of permanent rules to that effect.

17.3. Adopted November 13, 2006 – Effective January 1, 2007

Statutory Authority:

These permanent amendments to the Rules Pertaining to the Administration and Enforcement of the Colorado Commercial Feed Law, §§ 35-60-101 - 115, C.R.S., are proposed for adoption by the Commissioner pursuant to his authority in Section 35-60-109(1), C.R.S.

Purpose:

The purposes of these permanent amendments are as follows:

- (a) To specify in a permanent rule that all information required or requested by the Commissioner, including lawful presence documentation required under Section 24-76.5-103, C.R.S., must be complete and accurate, and to specify the legal consequences of noncompliance with this rule.
- (b) To document and record the statements of statutory authority, basis and purpose for these rules.

Factual Basis:

- (a) On August 1, 2006, Section 24-76.5-103, C.R.S., took effect following its enactment in House Bill 06S-1023 by the General Assembly in the July, 2006, special legislative session.
- (b) On October 19, 2006, the Commissioner adopted emergency rules specifying that individuals who apply for registrations under the Commercial Feed Law must comply with the verification documentation requirements of Section 24-76.5-103, C.R.S.
- (c) These permanent amendments to the rules are necessary to provide the Commissioner with specific legal authority, following the expiration of the emergency rules adopted on October 19, 2006, to deny applications for registration or renewal of existing registrations from natural persons who do not provide sufficient documentation to comply with Section 24-76.5-103, C.R.S., and to revoke existing registrations if the information provided in connection with an application is later proven to be false.
- (d) These permanent amendments to the rules are necessary to make permanent the provisions of the emergency rules adopted by the Commissioner on October 2, 2006.

17.4. Adopted November 1, 2007 – Effective December 30, 2007

Statutory Authority:

These amendments are proposed for adoption by the Commissioner pursuant to his authority in section 35-60-109(1), C.R.S.

Purpose:

The purposes of these amendments are as follows:

- (a) To amend the name of the Act used in the Rules to correspond with the new name adopted under Senate Bill 07-207.
- (b) Remove the definition of “contract feeder.”
- (c) To clarify the reporting requirements associated with the respective distribution fees.
- (d) To specify the due date of the distribution fees and report.
- (e) To specify the expiration date of a commercial feed registration.
- (f) To amend the listing of guarantees from an “as fed” basis to an “as is” basis.
- (g) Update the references to the official publications of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2007 version.
- (h) To correct typographical errors.

Factual Basis:

- (a) On May 22, 2007, the Colorado Commercial Feed Law was amended by Senate Bill 07-207. The title of the law was amended to the Colorado Feed Law.
- (b) The registration expiration date and the filing date for distribution fees and reports were removed from the Colorado Feed Law. The rules maintain the existing date for the submission of distribution reports and fees, and establish a new expiration date for feed registration to coincide with the distribution due date. This change will allow industry to file both reports at one time.
- (c) A new definition for “contract feeder” was adopted in the Colorado Feed Law which supersedes the current rule definition.
- (d) The current rules require the guaranteed analysis to be listed on an “as fed” basis. The AAFCO national standard requires it be listed on an “as is” basis.

17.5. Adopted February 11, 2015 – Effective March 30, 2015

The Commissioner's authority for the adoption of these permanent Rule amendments is set forth in Sections 35-60-102(2) and 35-60-109(1), C.R.S.

The Purpose of this rulemaking is to:

1. Edit Part 1 Legal Authority to include all rulemaking authority in 35-60, C.R.S.
2. Update the references throughout the Rules to the official publication of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2015 version.
3. Edit commercial feed definition Part 2.3. for clarity.
4. Add Part 4.1.4.11.6. to specify a labeling exemption to allow manufacturers of wild bird seed products to use a composition statement instead of a guaranteed analysis statement.
5. Remove Section (5)(III) “In lieu of ingredient statement.”
6. Remove “pet food” from Part 11.1.6. Adulterants
7. Change the date in Part 15 and Part 16.2. for registrations and the due date for small package distribution reports and fees to December 31st.
8. Correct typographical errors.
9. Reformat Rules to meet new rulemaking guidelines.

Factual and Policy Issues:

The factual and policy issues encountered in the proposal of these permanent Rules are as follows:

1. The previous version of these Rules did not include the rulemaking authority under 35-60-102(2), C.R.S.
2. Numerous changes to the AAFCO publication have occurred since the printing of the 2007 version which is referenced in the Rules. This change will make our Rules more consistent with other states' feed Rules

3. Purchasers of wild bird seeds are generally more interested in the composition of the seed mix rather than nutritional guarantees. This voluntary change in labeling will allow manufacturers the option of using a composition statement to convey that information.
4. The option of filing an ingredient list with the state in lieu of listing the ingredients on the label makes it more difficult for the public to know what is in the feed that they purchase. This option has not been exercised by feed manufacturers in Colorado in many years,
5. Pet food adulterants are now covered in the Pet Food Rules (8 CCR 1202-7) and no longer needs to be addressed in this Rule.
6. The Colorado Department of Agriculture license and registration expiration dates have been moved to the calendar year in order to consolidate licensing for the Department.
7. These amendments incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

17.6. Adopted February 10, 2016- Effective March 30, 2016

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in Section 35-60-109(1), C.R.S.

The Purpose of this rulemaking is to:

1. Add Part 3.1.9 to include the requirement of the date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date to be included in the label.

Factual and Policy Basis

The factual and policy issue pertaining to the adoption of this permanent Rule amendment is as follows:

1. The date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date as required in Section 35-60-106(1)(g), C.R.S., is being added to the Rule so that the Rule will contain the complete requirements for labeling an animal feed product.

17.7. Adopted November 9, 2016- Effective December 30, 2016

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in § 35-60-103(1), § 35-60-105(3)(a), and § 35-60-105(4), C.R.S.

The Purpose of this rulemaking is to:

Change the date in Part 15 and Part 16.2 for registrations and the due date for small package distribution reports and fees to January 31st.

Factual and Policy Basis

The factual and policy issue pertaining to the adoption of this permanent Rule amendment is as follows:

1. Currently, feed registrants have to log into the Department's licensing system at separate times of the year to complete the registration and reporting process. This can be burdensome to registrants and be prone to mistakes.

2. After consulting with industry stakeholders, the Department has proposed to synchronize all deadlines associated with the larger registration process to make the process more efficient for registrants.

17.8. Adopted September 20, 2017 – Effective November 30, 2017

Statutory Authority

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in § 35-60-109(1) C.R.S.

Purpose

The Purpose of this rulemaking is to update the references to the current publication of the Association of American Feed Control Officials; add "Neutral Detergent Fiber" to the list of nutrient guarantees; remove the required minimum zinc guarantee for Swine; add required minimum Acid Detergent Fiber and Neutral Detergent Fiber guarantees for Equines; add Quantity Statement requirements for clarity; and add requirements for guarantees of dietary starch and fructans.

Factual and Policy Basis

1. Numerous changes to the AAFCO Official publication have occurred since the printing of the 2015 version which is referenced in the rules. The change to the 2017 version is reflected throughout the rule. Updating the rule to follow the 2017 AAFCO Model regulations will make our rules more consistent with other states' feed rules. This is reflected by the changes to Part 4.1.4. Guarantees, Part 4.1.8 Quantity Statements, and Part 5.12. Guarantees for Dietary Starches.
2. These amendments incorporate changes as a result of the department's regulatory efficiency review process.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00291

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/20/2017

8 CCR 1202-6

**RULES FOR COMMERCIAL FEED UNDER THE COLORADO FEED LAW, SECTIONS 35-60-101
THROUGH 115, C.R.S.**

The above-referenced rules were submitted to this office on 09/25/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 03, 2017 08:16:09

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Inspection and Consumer Services Division

CCR number

8 CCR 1202-7

Rule title

8 CCR 1202-7 RULES FOR PET FOOD UNDER THE COLORADO FEED LAW,
SECTIONS 35-60-101 THROUGH 115, C.R.S. 1 - eff 11/30/2017

Effective date

11/30/2017

COLORADO DEPARTMENT OF AGRICULTURE

Inspection and Consumer Services Division

Rules for Pet Food Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.

8 CCR 1202-7

Part 2. Definitions and Terms

- 2.1. The Official Publication of the Association of American Feed Control Officials, Inc. shall mean the 2017 Official Publication of the Association of American Feed Control Officials, Inc. ("AAFCO"), effective January 1, 2017. This rule incorporates by reference the AAFCO standards and guidelines. This rule does not adopt any later amendments to, or editions of, the AAFCO standards and guidelines. Additionally, anyone seeking to review a copy of the referenced material may contact the Inspection and Consumer Services Division of the Department of Agriculture, located at 2331 West 31st Avenue, Denver, Colorado 80211 to learn how this information may be obtained or reviewed. This, and any other material that is incorporated by reference, may be examined at any state publications depository library.
- 2.2. These Rules incorporate the Official Feed Terms as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included), except as the Commissioner designates otherwise in specific cases.
- 2.3. The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 35-60-102(2), C.R.S. of the Colorado Feed Law, when unground and when not mixed or intermixed with other materials: raw meat, bone and antler, individual chemical compounds, hay, loose salt, straw, stover, silage, cobs, husks, and hulls; provided that these commodities are not adulterated within the meaning of Section 35-60-107, C.R.S., of the Colorado Feed Law. The exemption from the definition of commercial feed is removed for an exempted commodity that bears a label listing nutritional claims or guarantees.

The definitions in the Colorado Feed Law shall apply in addition to the following:

- 2.4. "AAFCO" means the Association of American Feed Control Officials, Inc.
- 2.5. "AAFCO Cat Food Nutrient Profiles" means the lists of nutrients required for cat foods as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)
- 2.6. "AAFCO Dog Food Nutrient Profiles" means the lists of nutrients required for dog foods as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)
- 2.7. "AAFCO Family Guidelines" means the procedures for establishing pet food product families as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included).
- 2.8. "AAFCO-Recognized Animal Feeding Protocols" means the AAFCO Dog and Cat Food Feeding Protocols as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)

- 2.9. "AAFCO-Recognized Authority" means the nutritional authority for a given species of animal as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)
- 2.10. "AAFCO-Recognized Nutrient Profile" means the list of nutrients required for specialty pet foods for specific species of specialty pets as published in the 2017 Official Publication of AAFCO, incorporated herein by reference (later amendments not included.)
- 2.11. "All Life Stages" means gestation/lactation, growth, and adult maintenance life stages.
- 2.12. "Immediate Container" means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.
- 2.13. "Ingredient Statement" means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.
- 2.14. "Pet" means dog or cat.
- 2.15. "Pet Food" means any commercial feed distributed or intended to be distributed for consumption by pets.
- 2.16. "Principal Display Panel" means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.
- 2.17. "Specialty Pet" means any domesticated pet animal normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, finches, parrots, other cage birds, tropical fish, goldfish, snakes, turtles, and iguanas.
- 2.18. "Specialty Pet Food" means any commercial feed distributed or intended to be distributed for consumption by specialty pets.
- 2.19. "Family" means a group of products which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product which has been successfully test-fed according to an AAFCO-Recognized Animal Feeding Protocol(s).

Part 3. Label Format and Labeling

- 3.1. Pet food and specialty pet food shall be labeled with the following information prescribed in this Part:
 - 3.1.1. Product name and brand name, if any, on the principal display panel as stipulated in Part 4;
 - 3.1.2. The species of pet or specialty pet for which the food is intended conspicuously designated on the principal display panel;
 - 3.1.3. Quantity statement on the principal display panel, which must include net quantity in terms of weight, liquid measure or count. The net quantity must be labeled in terms of weight both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate SI metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or whole quart and in the appropriate SI metric system units.

- 3.1.3.1. Net quantity shall be declared in terms of weight, liquid measure or count.
 - 3.1.3.2. Net quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate SI metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or whole quart and in the appropriate SI metric system units.
 - 3.1.3.3. When the declaration of quantity of contents by count does not give the adequate information as to the quantity of feed in the container, it shall be combined with such statement of weight, liquid measure, or size of the individual units as will provide such information.
- 3.1.4. Guaranteed analysis as stipulated in Part 5;
- 3.1.5. Ingredient statement as stipulated in Part 6.1;
- 3.1.6. A statement of nutritional adequacy or purpose if required under Part 8;
- 3.1.7. Feeding directions if required under Part 9;
- 3.1.8. Name and address of the manufacturer or distributor as stipulated in Part 12; and
- 3.1.9. The date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date.
- 3.2. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.
- 3.3. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.
- 3.4. The use of the word “proven” in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.
- 3.5. No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.
- 3.6. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.
- 3.7. A statement on a pet food or specialty pet food label stating “Improved”, “New”, or similar designation shall be substantiated and limited to six- (6) months production.
- 3.8. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.
- 3.9. Storage and handling information statements
 - 3.9.1. Products containing raw frozen meat and/or poultry for animal consumption must bear a statement, “Keep Frozen”, displayed in a prominent manner on the principal display panel.

- 3.9.2. Products containing raw frozen meat and/or poultry for animal consumption must conspicuously bear the following statement under a heading “Handling guidelines for safe use” on the outside of the immediate container:

Some raw food products may contain bacteria that could cause illness if mishandled. Follow these instructions for safest use.

1. Keep frozen until ready to use.
2. Thaw in refrigerator or microwave.
3. Keep raw meat and poultry separate from other foods. Wash working surfaces, utensils (including cutting boards, preparation and feeding bowls), hands, and any other items that touch or contact raw meat or poultry with hot soapy water.
4. Refrigerate leftovers immediately or discard.

Part 8. Nutritional Adequacy

- 8.1. The label of a pet food or specialty pet food which is intended for all life stages of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as “complete and balanced”, “perfect”, “scientific”, or “100% nutritious” if at least one of the following apply:
- 8.1.1. The product meets the nutrient requirements for all life stages established by an AAFCO-Recognized Nutrient Profile; or
- 8.1.2. The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-Recognized Animal Feeding Protocol(s); or
- 8.1.3. The product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, provided that:
- 8.1.3.1. The nutritional similarity of the family product can be substantiated according to the appropriate AAFCO Family Guidelines, and
- 8.1.3.2. The family product meets the criteria for all life stages; and
- 8.1.3.3. Under circumstances of reasonable doubt, the Commissioner may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.
- 8.2. The label of a pet food or specialty pet food which is intended for a limited purpose or a specific life stage, but not for all life stages, may include a qualified claim such as “complete and balanced”, “perfect”, “scientific”, or “100% nutritious” when the product and claim meets all of the following:
- 8.2.1. The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, “complete and balanced for puppies (or kittens)”. The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style and color print; and
- 8.2.2. The product meets at least one of the following:

- 8.2.2.1. The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-Recognized Nutrient Profile; or
- 8.2.2.2. The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-Recognized Animal Feeding Protocol(s); or
- 8.2.2.3. The product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that:
 - 8.2.2.3.1. The nutritional similarity of the family product can be substantiated according to the appropriate AAFCO Family Guidelines; and
 - 8.2.2.3.2. The family product meets the criteria for such limited purpose; and
 - 8.2.2.3.3. Under circumstances of reasonable doubt, the Commissioner may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.

8.3. Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and conspicuously identified on the principal display panel as a “snack” or “treat”. The statement shall consist of one of the following:

8.3.1. A claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:

8.3.1.1. “(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for ____.” (Blank is to be completed by using the stage or stages of the pet’s life, such as, gestation/lactation, growth, maintenance or the words “All Life Stages”) For a dog food, when the blank includes the words “Growth” or “All Life Stages.” One of the following phrases must be added verbatim to the end of the claim:

8.3.1.1.1. “including growth of large size dogs (70 lb. or more as an adult)” if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs.

8.3.1.1.2. “except for growth of large size dogs (70 lb. or more as an adult)” if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or

8.3.1.2. “Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for ____.” (Blank is to be completed by using the stage or stages of the pet’s life tested, such as, gestation/lactation, growth, maintenance or the words “All Life Stages”); or

- 8.3.1.3. "(Name of Product) provides complete and balanced nutrition for ___ (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests."
- 8.3.2. A nutritional or dietary claim for purposes other than those listed in Part 8.1 or 8.2 if the claim is scientifically substantiated; or
- 8.3.3. The statement: "This product is intended for intermittent or supplemental feeding only", if a product does not meet the requirements of Part 8.1 or 8.2 or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.
- 8.4. A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with Part 8.3.1 or 8.3.3.
- 8.5. A signed affidavit attesting that the product meets the requirements of Part 8.1 or 8.2 shall be submitted to the Commissioner upon request.
- 8.6. If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-Recognized Nutrient Profile, or if no requirement has been established by an AAFCO-Recognized Nutritional Authority for the life stage(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.
- 8.7. The following shall be acceptable as the basis for a claim of nutritional adequacy:
 - 8.7.1. An AAFCO-Recognized Nutrient Profile or Nutritional Authority:
 - 8.7.1.1. For dogs, the AAFCO Dog Food Nutrient Profiles;
 - 8.7.1.2. For cats, the AAFCO Cat Food Nutrient Profiles;
 - 8.7.1.3. For specialty pets, a nutrient recommendation approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, provided that such nutrient recommendation is recognized only for the specific species of specialty pet for which the profile is intended.
 - 8.7.2. An AAFCO-Recognized Animal Feeding Protocol(s):
 - 8.7.2.1. The AAFCO Dog Food Feeding Protocols; or
 - 8.7.2.2. The AAFCO Cat Food Feeding Protocols.

Part 10. Statements of Calorie Content

- 10.1. Except as required in Part 11, the label of a dog or cat food may bear a statement of calorie content when the label meets all of the following:
 - 10.1.1. The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content";
 - 10.1.2. The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and shall be expressed as "kilocalories per kilogram" ("kcal/kg") of product, and

may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and

10.1.3. The calorie content is determined by one of the following methods:

10.1.3.1. By calculation using the following "Modified Atwater" formula:

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

Where: ME = Metabolizable Energy

CP = % crude protein "as fed"

CF = % crude fat "as fed"

NFE = % nitrogen-free extract (carbohydrate) "as fed"

and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or

10.1.3.2. In accordance with a testing procedure established by AAFCO.

10.1.4. An affidavit shall be provided upon request to the Commissioner, substantiating that the calorie content was determined by:

10.1.4.1. Part 10.1.3.1 in which case the results of all the analyses used in the calculation shall accompany the affidavit; or

10.1.4.2. Part 10.1.3.2 in which case the summary data used in the determination of calorie content shall accompany the affidavit.

10.1.5. The calorie content statement shall appear as one of the following:

10.1.5.1. The heading "Calorie Content" on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined in accordance with Part 10.1.3.1; or

10.1.5.2. The heading "Calorie Content" on the label or other labeling shall be followed parenthetically by the word "fed" when the calorie content is determined in accordance with Part 10.1.3.2.

10.2. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

Part 13. Adulterants

13.1. For the purpose of Section 35-60-107(2)(a), C.R.S., of the Colorado Feed Law, the terms "poisonous or deleterious substances" include but are not limited to the following:

13.1.1. Pathogenic bacteria, including but not limited to *Salmonella* sp., *listeria monocytogenes*, or *escherichia coli* O157:H7 found in any detectable amounts.

13.1.2. Aflatoxin B1, B2, G1, G2 above 20 parts per billion (ppb).

Part 18 . Statements of Basis, Specific Statutory Authority and Purpose

18.1. Adopted April 10, 2001 – Effective May 30, 2001

STATUTORY AUTHORITY:

The Commissioner of Agriculture, Colorado Department of Agriculture, adopts these permanent rules pursuant to the provisions and requirements of the Colorado Commercial Feed Law, § 35-60- 109(1), C.R.S. (2000).

PURPOSE:

The purpose of these rules is to comply with the requirements of the Colorado Commercial Feed to provide specific guidelines for the manufacture, labeling and distribution of commercial feed.

These rules are designed to:

- Set standards for the correct labeling of livestock and pet food.
- Set standards for good manufacturing practices for medicated livestock feed.

FACTUAL AND POLICY ISSUES:

The factual and policy issues encountered in the proposal of these permanent rules are as follows:

1. The Colorado Commercial Feed Law was repealed and reenacted effective January 1, 2000. That statute requires the Commissioner to adopt the Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials, Inc. AAFCO), as published in the official publication of such association.
2. These new, revised rules are based upon national standard (model) regulations developed by AAFCO, a nation-wide group of regulatory officials. They are specifically for the purpose of promoting standardization between states for the animal feed industry.
3. Over 30% of the states have adopted the AAFCO model regulations. These rules are widely accepted by Colorado and national feed companies. Adoption of these rules would help to ensure uniform labeling requirements.
4. The Department met with the Colorado Grain and Feed Association's (CGFA) Feed Committee throughout the rule drafting process. The CGFA supports these new rules and regulations.
5. Two sets of rules are needed, one for livestock feed, the other for pet food. Livestock feed rules are specific to matters regarding production, animal growth and weight gain, and use of medications in feed. Pet food rules employ separate criteria for complete and balanced nutrition and provide regulatory guidance for advertising and claims frequently found on pet food labels.

18.2. Adopted November 1, 2007 – Effective December 30, 2007

STATUTORY AUTHORITY

These amendments are proposed for adoption by the Commissioner pursuant to his authority in section 35-60-109(1), C.R.S.

PURPOSE

The purposes of these amendments are as follows:

- (a) To amend the name of the Act used in the Rules to correspond with the new name adopted under Senate Bill 07-207.
- (b) To amend the listing of guarantees from an “as fed” basis to an “as is” basis.
- (c) Modify the definition of “pet.”
- (d) Update the references to the official publications of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2007 version.
- (e) To add section 14 to contain the Statements of Basis, Specific Statutory Authority and Purpose.
- (f) To correct typographical errors.

FACTUAL BASIS

- (a) On May 22, 2007, the Colorado Commercial Feed Law was amended by Senate Bill 07-207. The title of the law was amended to the Colorado Feed Law.
- (b) The current rules require the guaranteed analysis to be listed on an “as fed” basis. The AAFCO national standard requires it to be listed on an “as is” basis.
- (c) The AAFCO national standard definition of “pet” means dog or cat.

18.3. Adopted February 11, 2015 – Effective March 30, 2015

The Commissioner's authority for the adoption of these permanent Rule amendments is set forth in Section 35-60-109(1), C.R.S.

The Purpose of this rulemaking is to:

- 1. Edit Part 1 Legal Authority to include all rulemaking authority in 35-60, C.R.S.
- 2. Update the references throughout the Rules to the official publication of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2015 version.
- 3. Add Part 2.3 to specify the commodities that are exempted from the definition of “commercial feed”, and to define when that exemption does not apply.
- 4. Edit Part 2.15 and 2.18 for clarity.
- 5. Add Part 3.9 to specify raw pet food labeling requirements to include safe handling directions on the label.
- 6. Amend Part 4.2.1 product name requirements for pet foods to give manufacturers more flexibility when using the “95% rule.”
- 7. Amend Part 4.2.2 for clarity and uniformity.
- 8. Add Part 5.10 to specify labeling exemptions for pet food items made from animal skin and/or cartilage to allow these products to be distributed without a guaranteed analysis statement.

9. Add Part 13 (adulterants), Part 15 (false or incomplete information), Part 16 (commercial feed registration), and Part 17 (distribution fees-reports).
10. Correct typographical errors.
11. Reformat Rules to meet new rulemaking guidelines.

Factual and Policy Basis

The factual and policy issues pertaining to the adoption of these permanent Rule amendments are as follows:

1. The previous version of these Rules did not include the rulemaking authority under Section 35-60-102(2), C.R.S.
2. Numerous changes to the AAFCO publication have occurred since the printing of the 2007 version which is referenced in the Rules. This change will make our Rules more consistent with other states' feed Rules.
3. This Rule needed to be added to make the Pet Food Rules a stand-alone set of Rules.
4. Raw pet food safe handling labeling requirements are needed to ensure the safe use of these type products.
5. When the Rule was originally drafted, manufacturers typically only used meat ingredients in the product name. Current pet food products incorporate many ingredients that, under the current Rule, cannot be used as part of the product name. This change will allow manufacturers more flexibility with naming products.
6. The industry standard for labeling of rawhide pet treats does not include a guaranteed analysis statement. This eliminates the need for national distributors to re-label their products.
7. Parts 13, 15, 16 and 17 were previously sub-Rules under 1202-6 (Rules for Commercial Feed). Parts 13, 15, 16, and 17 have been copied from 8 CCR 1202-6 and duplicated in 8 CCR 1202-7 (Rules for Pet Food) in order to make the Pet Food Rules a stand-alone set of rules.
8. These amendments incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

18.4. Adopted February 10, 2016- Effective March 30, 2016

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in Section 35-60-109(1), C.R.S.

The Purpose of this rulemaking is to:

1. Add Part 3.1.9 to include the requirement of the date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date to be included in the label.

Factual and Policy Basis

The factual and policy issue pertaining to the adoption of this permanent Rule amendment is as follows:

1. The date of manufacture, processing, packaging, or repackaging or a code that permits the determination of the date as required in Section 35-60-106(1)(g), C.R.S., is being added to the Rule so that the Rule will contain the complete requirements for labeling a pet food product.

18.5. Adopted November 9, 2016- Effective December 30, 2016

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in § 35-60-103(1), § 35-60-105(3)(a), and § 35-60-105(4), C.R.S.

The Purpose of this rulemaking is to:

Change the date in Part 16 and Parts 17.2 for registrations and the due date for small package distribution reports and fees to January 31st.

The factual and policy issue pertaining to the adoption of this permanent Rule amendment is as follows:

1. Currently, feed registrants have to log into the Department's licensing system at separate times of the year to complete the registration and reporting process. This can be burdensome to registrants and be prone to mistakes.
2. After consulting with industry stakeholders, the Department has proposed to synchronize all deadlines associated with the larger registration process to make the process more efficient for registrants.

18.6. Adopted September 20, 2017 – Effective November 30, 2017

Statutory Authority

The Commissioner's authority for the adoption of this permanent Rule amendment is set forth in § 35-60-109(1) C.R.S.

Purpose

The purpose of this rulemaking is to update references throughout the Rules to the official publication of the Association of American Feed Control Officials (AAFCO) incorporated by reference to the 2017 version; clarify net quantity labeling requirements; update nutritional adequacy requirement labeling for dogs; update calorie content labeling requirements; and clarify the quantity of certain pathogenic organisms that are adulterants in pet food and harmful to human health.

Factual Policy and Issues

1. Numerous changes to the AAFCO publication have occurred since the printing of the 2015 version which is referenced in the rules. The change to the 2017 version is reflected throughout the rule. Updating the rule to follow the 2017 AAFCO Model regulations will make our rules more consistent with other states' feed rules. This is reflected by the changes to Part 3.1.3. Quantity Statement, Part 8.3. Nutritional Adequacy Statements, and Part 10.1.5. Calorie Content Statements.
2. Due to the safety concerns related to humans handling pet foods containing salmonella, listeria monocytogenes and e. coli o157:h7, this change to Part 13.1.1. clarifies that these pathogens are adulterants in any detectable amount.
3. These amendments incorporate changes as a result of the department's regulatory efficiency review process.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00292

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/20/2017

8 CCR 1202-7

RULES FOR PET FOOD UNDER THE COLORADO FEED LAW, SECTIONS 35-60-101 THROUGH 115, C.R.S.

The above-referenced rules were submitted to this office on 09/25/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 03, 2017 08:15:53

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Inspection and Consumer Services Division

CCR number

8 CCR 1202-13

Rule title

8 CCR 1202-13 RULES PERTAINING TO THE ADMINISTRATION AND
ENFORCEMENT OF THE CUSTOM PROCESSING OF MEAT ANIMALS ACT 1 - eff
11/30/2017

Effective date

11/30/2017

COLORADO DEPARTMENT OF AGRICULTURE

Inspection and Consumer Services Division

Rules Pertaining to the Administration and Enforcement of the Custom Processing of Meat Animals Act

8 CCR 1202-13

PART 2. REQUIREMENTS FOR PROCESSING FACILITIES.

- 2.1. Except as provided in Part 3.1 below, any processing facility licensed under the Act shall comply with all of the requirements in this Part 2.
- 2.2. The following areas shall have a concrete floor or surface that is sloped and drained into a waste disposal system:
 - 2.2.1. any holding pen;
 - 2.2.2. the entire length of any alley not more than twelve feet in length; or
 - 2.2.3. up to twelve feet of any longer alley that leads directly, and is immediately adjacent to the area where livestock are slaughtered and dressed.
- 2.3. Any slaughtering or dressing must be done in a room separate from any room where other processing is done; provided, however, slaughtering or dressing may be done in the same room where cutting, wrapping and other processing of meat is done if:
 - 2.3.1. the slaughtering or dressing is not done in such room at the same time cutting, wrapping, or any other processing of meat is done; and
 - 2.3.2. the room and all equipment and utensils used are thoroughly cleaned and sanitized after any slaughtering or dressing is done, and before any cutting, packing, or other processing of meat is done.
- 2.4. All floors in any room where processing is done or where meat is held in storage, other than a freezer, must be: drained into a waste disposal system; coved at the wall to prevent meat products, waste from processing, or any liquids from penetrating between any wall and floor, or under any wall; and constructed of and finished with durable, water-resistant materials that are capable of being readily and thoroughly cleaned.
- 2.5. The walls, ceilings, columns, and other structural parts of any room where processing is done or where meat is held in storage shall be constructed of and finished with durable, water-resistant materials that are capable of being readily and thoroughly cleaned.
- 2.6. Any doorway through which any meat product is transferred shall be wide enough so that there is no contact between the doorways and the meat product. Doors in such doorways must be constructed of either rust-resistant metal or other materials that are water-resistant, capable of being readily and thoroughly cleaned, and do not flake, chip, or splinter. If made of wood, all surfaces of such doors and all doorjambes must be securely clad with a rust-resistant metal, and be so affixed so as not to provide crevices for dirt or vermin, or be coated with a water-based epoxy coating intended for such use and labelled as approved by the United States Department of Agriculture.

- 2.7. Any rails used to transport meat product shall be located, and sufficient space shall be provided in all passageways so that meat product does not come into contact with walls, posts, or other structural parts of the processing facility, or with any containers or other things that may be located in the processing facility or transported through it.
- 2.8. Every processing facility must have a cooler and a freezer for holding or storing meat product under refrigeration.
- 2.9. All coolers must be large enough, and constructed, maintained and operated so that the meat product is hung or otherwise stored therein without contacting any interior surface of the cooler, and with sufficient space to permit inspection of the meat product. The refrigeration unit for any cooler must deliver sufficient refrigerated air to maintain the cooler at an ambient temperature of no more than 41° F.
- 2.10. All freezers must be large enough, and constructed, maintained and operated so that refrigerated air adequately flows under and around the meat product held or stored therein to maintain the required level of refrigeration. The refrigeration unit for any freezer must deliver sufficient refrigerated air to maintain the freezer at an ambient temperature consistent with the requirements in § 35-33-103(12), C.R.S.
- 2.11. All lighting fixtures must use safety shielded light bulbs in all areas where meat product is exposed, and provide ample illumination for all work areas.
- 2.12. All work table surfaces must be constructed of rust-resistant metal; provided, however, work table surfaces may be constructed of other durable, water-resistant, non-metal materials if they are free of cracks and are capable of being readily and thoroughly cleaned.
- 2.13. All equipment used in processing, including, but not limited to, saws, tenderizers, and meat grinders, shall be of such material and construction that they can be readily and thoroughly cleaned. Such requirements include, but are not limited to: being capable of disassembly for thorough cleaning; rust-resistant and free from painted surfaces in any area of the equipment that comes into contact with the meat product; supported by rust-resistant metal legs; and movable for cleaning. All pans, trays, and utensils used for processing shall also be constructed of rust-resistant materials that are capable of being readily and thoroughly cleaned.
- 2.14. The processing facility must be equipped with a wash basin of adequate size for cleaning equipment and utensils. The wash basin must be: constructed of a rust-resistant metal capable of being readily and thoroughly cleaned; and equipped with hot and cold running, potable water delivered through a combination mixing faucet.
- 2.15. Each room where processing is done shall be equipped with a hand washing facility. The hand washing facility must be equipped with: a sink that is not hand operated; hot and cold running, potable water delivered through a combination mixing faucet; liquid or powdered soap delivered in a wall- or sink-mounted dispenser; an adequate supply of disposable, single-use sanitary towels in a wall-mounted dispenser; and a receptacle for used sanitary towels.

PART 5. SANITARY REQUIREMENTS

- 5.1. Except as provided in Part 4.9 above, all processing facilities licensed under the Act shall comply with the requirements of this Part 5.
- 5.2. The exterior premises of any processing facility, including, without limitation, loading docks and other areas where vehicles are loaded and unloaded, and any driveways, alleys, yards, and pens, shall be kept in a clean and orderly condition and drained to prevent the accumulation of standing water.

- 5.3. All catch basins and similar features of any waste disposal system shall be maintained in a clean and orderly condition to prevent the accumulation therein of waste products and avoid the creation of offensive odors.
- 5.4. All rooms and other interior areas shall be free from any condition that could result in contamination of the meat product, including, without limitation, dirt, dust, or odors from catch basins, livestock pens, hide cellars, or any other source.
- 5.5. All rooms and other interior areas shall be thoroughly cleaned after each day's use. All equipment and utensils used for meat processing shall be thoroughly cleaned and sanitized:
 - 5.5.1. each time there is a change in processing from raw pork or raw poultry to raw meat products of other species, or a change in processing from raw meat products to ready-to-eat meat products;
 - 5.5.2. after four hours of operation if the room where such equipment and utensils are used is at any time maintained at an ambient temperature of more than 50° F; and
 - 5.5.3. after each working day's use. Any item of equipment or utensil must be thoroughly cleaned and sanitized after any event at or during which time contamination of such equipment or utensil may have occurred. All cleaned and sanitized equipment and utensils, when stored after use, shall be protected and stored so as to avoid contamination.
- 5.6. Meat product must be stored on racks or shelves elevated at least two inches from the floor in any freezer, and at least six inches from the floor in any cooler. Such racks and shelves must be constructed of durable, rust- and water-resistant materials that are capable of being readily and thoroughly cleaned. No meat product shall be placed beneath any carcass. Any non-food products or supplies shall be stored in a storage room or area separate from any room or area where meat product is processed or stored, on racks or shelves elevated from the floor at least 12 inches, and constructed of the same kind of materials for the racks and shelves described above in this paragraph 5.7.
- 5.7. Before being placed in a cooler, any carcass must be cleaned and free from any hair, waste product, dirt, or anything else that could contaminate the meat.
- 5.8. If any large game animal is processed in any processing facility where other species of livestock is processed, all rooms, equipment, and utensils used in processing the large game animal shall be thoroughly cleaned and sanitized before they are used to process any such other livestock. The carcass and meat product of any large game animal shall at all times be kept separate and apart from the carcass and meat product of other species of livestock.
- 5.9. Every processing facility shall establish and maintain procedures for excluding and removing flies, rats, mice, and any other vermin from the interior premises of the processing facility.
- 5.10. All animals, other than those presented for processing, shall be excluded from the interior premises of a processing facility.

Part 9 DISPOSAL OF INEDIBLE WASTE

- 9.1 All inedible waste shall be denatured and disposed of by a method approved by the Commissioner.
- 9.2 Acceptable methods of denaturing:

- 9.2.1. FD&C green No. 3 coloring;
 - 9.2.2. FD&C blue No. 1 coloring;
 - 9.2.3. FD&C blue No. 2 coloring;
 - 9.2.4. Finely powdered charcoal; or
 - 9.2.5. Other proprietary substance approved by the USDA FSIS Administrator.
- 9.3 Before the denaturing agents are applied to articles in pieces more than 4 inches in diameter, the pieces shall be freely slashed or sectioned. If the articles are in pieces not more than 4 inches in diameter, slashing or sectioning will not be necessary. The application of any of the denaturing to the outer surface of molds or blocks of boneless meat, meat byproducts, or meat food products shall not be adequate. The denaturing agent must be mixed intimately with all of the material to be denatured, and must be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. A sufficient amount of the appropriate agent shall be used to give the material a distinctive color, odor, or taste so that such material cannot be confused with an article of human food.
- 9.4 Any container used in the processing facility for the disposal of waste generated from processing, other than a disposable waste container that is discarded at the end of the work day, must be constructed and finished with durable, water-resistant materials that are capable of being readily and thoroughly cleaned. All waste containers, including, without limitation, disposable waste containers, shall be limited to and clearly marked for such use, and maintained in a clean and sanitary condition.
- 9.5 All waste products from processing shall be disposed of daily, or stored for later disposal in a manner that does not create any condition that could cause contamination, or otherwise adversely affect the wholesomeness or quality of any meat product, or generate offensive odors or other objectionable conditions.
- 9.6 Approved methods of disposal include:
- 9.6.1. Disposal to a licensed rendering company;
 - 9.6.2. Sanitation Landfill;
 - 9.6.3. Composting, subject to approval by county and / or state health agency;
 - 9.6.4. Burial on site, subject to approval by county and / or state health agency; or
 - 9.6.5. Retail or wholesale sale under the following conditions:
 - 9.6.5.1. Waste products to be sold are limited to the hides, antler, and bones, of wild game only;
 - 9.6.5.2. The processor notifies the department prior to engaging in retail or wholesale sales of hide, antler, and bone products;
 - 9.6.5.3. The processor collects a signed disclosure from the owner of the animal carcass advising them that the hide, antler, or bone may be sold as a method of disposal. These records must be kept for a period of at least two years, and made available to the Commissioner upon request; and

- 9.6.5.4. The bones must be decharacterized and kept segregated from all other edible and non-edible material in clean containers. Raw bone must be stored under refrigeration until delivered to buyer.

PART 10. STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

10.1. Adopted July 16, 2009 – Effective August 30, 2009

STATUTORY AUTHORITY:

The Commissioner's authority for the adoption of these Permanent Rule Amendments is set forth in § 35-33-104(1), C.R.S. (2008), and § 35-33-206(3), C.R.S., as enacted in SB 09-117.

PURPOSE:

The purpose of these Permanent Rule Amendments is to adopt new rules pertaining to the Colorado Slaughter, Processing, and Sale of Meat Animals Act to comply with the amendments to the Act set forth in SB 09-117.

These Permanent Rule Amendments:

- a. Incorporate the Act's new short title wherever cited in the rules.
- b. Modify the terms "processing facility" to read "custom processing facility."
- c. Establish a license expiration date of June 30.
- d. Amend references to sections in the Act to refer to amended section numbers.
- e. Delete obsolete rule definition of "processing" which is now defined in the Act.
- f. Add a section to contain the statements of basis, specific statutory authority and purpose.
- g. Remove the rule contained under the Animal Industry Division section of the CCR at 8 CCR 1201-14 to the Inspection and Consumer Services Division section of the CCR with a new number of 8 CCR 1202-13 and a new rule title.

FACTUAL AND POLICY BASIS:

The factual and policy issues pertaining to the adoption of these Permanent Rule Amendments are as follows:

1. The Department of Regulatory Agencies performed a Sunset Review in 2008 of the Colorado Slaughter, Processing and Sale of Meat Animals Act, which resulted in several legislative amendments to the Act enacted by SB 09-117, effective July 1, 2009, that:
 - a. Change the title of the Act to the Custom Processing of Meat Animals Act. These rules reflect the correct short title of the Act.
 - b. Specify that the Commissioner has jurisdiction only over meat processing facilities that perform custom processing. As used throughout the rules, the term "processing facility" is amended to read "custom processing facility" in order to clarify that jurisdiction is only over those facilities that perform custom processing.

- c. Remove the license expiration date from the Act and require that the Commissioner establish the date in rule. These rules establish a license expiration date of June 30.
 - d. Amend some section numbers in the Act. These rules refer to the amended section numbers.
2. The Commissioner intends to adopt Emergency Amendments to the Rules on July 1, 2009 at 8 CCR 1201-14 in order to implement the changes to the Act made by the General Assembly in SB 09-117. These Permanent Rule Amendments will make permanent those Emergency Rule Amendments.

10.2. Adopted April 9, 2013 – Effective July 1, 2014

STATUTORY AUTHORITY:

The Commissioner's authority for the adoption of this permanent rule amendment is set forth in § 35-33-206(3) and § 35-1-107(5(a), C.R.S.

PURPOSE:

The purpose of this permanent rule amendment is to amend Part 6.1 to change the expiration date for a license to operate a custom processing facility from June 30 to December 31.

FACTUAL AND POLICY BASIS:

The factual and policy issues pertaining to the adoption of this permanent rule amendment are as follows:

1. This change is necessary to allow the Department to consolidate licensing functions to one time per year for all licenses issued by the ICS Division.
2. The Department of Agriculture is moving its licensing functions from a paper based system to an online system. To accommodate licensee's who hold multiple licenses with the Department of Agriculture, we are establishing a common licensing date so a licensee can obtain all their licenses in one transaction.

10.3. Adopted November 9, 2016-Effective December 30, 2016

STATUTORY AUTHORITY:

The Commissioner's authority for the adoption of this permanent rule amendment is set forth in § 35-33-104(1) § 35-33-201(11), and § 35-33-202, C.R.S.

PURPOSE:

The purpose of this permanent rule amendment is to:

1. Add labeling and recordkeeping requirements for poultry processors and strike the word "custom" where applicable.
2. Update formatting to be consistent with other Rules within the Department.

FACTUAL AND POLICY BASIS:

The factual and policy issues pertaining to the adoption of this permanent rule amendment are as follows:

1. Senate bill 16-058 allows for poultry processors, licensed or exempt, to sell poultry to individuals so long as certain regulations regarding labeling and recordkeeping are followed. These regulations must be defined in rule by the Colorado Department of Agriculture. The poultry labeling requirements closely follow standard labeling requirements from the United States Department of Agriculture. Additional input from the Colorado Department of Public Health and Environment was incorporated to ensure requirements for poultry processors comport with state regulations for similar processing facilities.

10.4. Adopted September 20, 2017 – Effective November 30, 2017

Statutory Authority

The Commissioner's authority for the adoption of this permanent rule amendment is set forth in § 35-33-104 C.R.S.

Purpose:

The purpose of this permanent rule amendment is to create a new Part 9 “Disposal of Inedible Waste” to establish requirements for disposal of inedible waste from wild game processing through retail and wholesale sales; and move Parts 2.6 and 5.6 that deal with the disposal of inedible waste generated by processing meat animals to Part 9.

Factual and Policy Basis:

1. The Department of Agriculture conducted a regulatory review of the Rules Pertaining to the Administration and Enforcement of the Custom Processing of Meat Animals Act - 8 CCR 1202-13. This regulatory review resulted in the recommendation that certain existing rules related to the disposal of inedible waste generated through the processing of meat animals be deleted and incorporated into a new comprehensive rule.
2. The industry representatives in our stakeholder review requested a change of existing policy regarding the disposal of large wild game inedible waste – specifically the disposal of hides, antlers, and bones from wild game and the possibility to allow for resale of these products by the processor. Part 9 – Disposal of Inedible Waste allows licensed large wild game processors to sell the hides, antlers, and bones from wild deer and elk they process to a third party when certain conditions are met.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00287

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/20/2017

8 CCR 1202-13

**RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE CUSTOM
PROCESSING OF MEAT ANIMALS ACT**

The above-referenced rules were submitted to this office on 09/25/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 03, 2017 08:16:23

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Plant Industry Division

CCR number

8 CCR 1203-1

Rule title

8 CCR 1203-1 ADMINISTRATION AND ENFORCEMENT OF THE PESTICIDE ACT 1 -
eff 11/30/2017

Effective date

11/30/2017

Colorado Department of Agriculture

Plant Industry Division

Administration and Enforcement of the Pesticide Act

8 CCR 1203-1

Part 1. Definition and construction of terms.

- 1.1. As used in these Rules, the singular includes the plural, the masculine gender includes the feminine and neuter, and vice versa. All terms used in these Rules shall have the meaning set forth for such terms in the Act.
- 1.2. As used in these Rules, unless the context otherwise requires:
 - (a) “Act” means the Pesticide Act, Title 35, Article 9, C.R.S.
 - (b) “Applicant” means a person who applies for a registration or renewal of a registration under the Act.
 - (c) “Brand” or “Brand name” means the name, number or trademark, or designation applied to a pesticide of any particular description by the manufacturer, distributor, importer or vendor. Each pesticide differing in the ingredient statement, analysis, manufacturer or distributor, name, number or trademark shall be considered as a distinct and separate brand.
 - (d) “Certified applicator” means an individual who is certified or licensed to use or supervise the use of restricted use pesticides;
 - (e) “Distribute or sell” and other grammatical variations of the term such as “distributed or sold” and “distribution and sale” means the acts of distributing, advertising, offering for sale, holding for distribution, holding for sale, selling, bartering, or supplying in any fashion any pesticide product in this state.
 - (f) “Federal restricted use pesticide” means any pesticide classified for restricted use by the administrator of the Environmental Protection Agency under the FIFRA.
 - (g) “FIFRA” means the Federal Insecticide, Fungicide and Rodenticide Act including all amendments and rules and regulations.
 - (h) “Final printed labeling” means the label or labeling of the product when distributed or sold. Final printed labeling does not include the package of the product, unless the labeling is an integral part of the package.
 - (i) “Label” means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
 - (j) “Labeling” means all labels and all other written, printed, or graphic matter:
 - (1) accompanying the pesticide or device at any time; or
 - (2) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental

Protection Agency, the United States Departments of Agriculture and Interior, the United States Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

- (k) "Liquid chemical sterilant product" means any liquid chemical sterilant product (including any product with sterilant or subordinate disinfectant claims) for use on a critical or semi-critical device, as defined in the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 321 (h) (incorporated by reference herein, later amendments not included). For purposes of this definition, the term "critical device" includes any device that is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body; the term "semi-critical device" includes any device that contacts intact mucous membranes but that does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body.
- (l) "Pesticide product" means a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide. The term also includes any device whose labeling includes or should include an establishment number issued pursuant to 40 C.F.R. § 167.20 (2016) (incorporated by reference herein, later amendments not included) except for those devices exempted in Part 14. The term also includes the characteristic designation by words, symbols, name, number, or trademark of a specific, particular pesticide or formulation thereof, under which the pesticide is distributed or sold in the State of Colorado. For more than one pesticide product to be considered the same pesticide product, each pesticide product must exhibit the same:
 - (1) product name;
 - (2) registrant name;
 - (3) manufacturer name;
 - (4) EPA registration number (if the pesticide product is subject to registration by EPA pursuant to the FIFRA); and
 - (5) labeling.
- (m) "Registrant" means any person who has registered any pesticide with the state of Colorado.
- (n) "State restricted use pesticide" means any pesticide which when used as directed or in accordance with the generally accepted practice, the Commissioner determines requires additional restrictions for that use to prevent unreasonable -adverse effects on the environment including, but not limited to people, lands, beneficial insects, animals, crops, and wildlife, other than pests.
- (o) "Under the direct supervision" means the application of a pesticide by a competent person acting under the instructions and control of a certified applicator who is available when needed, even though said applicator is not physically present at the time and place the pesticide is applied.

Part 3. The registration system.

- 3.1. Every pesticide product which is distributed in this state must be registered with the Commissioner.
- (a) The Commissioner may exempt certain pesticides from registration in accordance with §35-9-106(2), C.R.S. (incorporated by reference herein, later amendments not included).
 - (b) The following pesticide products shall not be exempt from registration;
 - (1) minimum risk pesticides as described under 40 C.F.R. § 152.25(f) (2016) (incorporated by reference herein, later amendments not included);
 - (2) pesticides distributed under an experimental use permit, as described under 40 C.F.R. § 152.30(c)(1) (2016) (incorporated by reference herein, later amendments not included).
 - (3) pesticides distributed under an emergency exemption, as described in 40 C.F.R. § 152.30(e) (2016) (incorporated by reference herein, later amendments not included).
- 3.2. Each pesticide product shall be registered separately.
- 3.3. Repealed.
- 3.4. The annual application fee for registration or renewal of a registration shall be \$165.00.
- 3.5. Repealed.
- 3.6. Any person is eligible to be a registrant.
- 3.7. Effect of registration: If a pesticide product is registered under the Act, no further registration under the Act is required unless the label or ingredient statement differ from the representations made in connection with registration.
- 3.8. The Commissioner will send all correspondence concerning the application and any subsequent registration information to the address provided by the applicant. It is the responsibility of the applicant and any registrant to ensure that the Commissioner has a current and accurate address. Any change of address submitted on the application form or renewal form shall result in a change of address for the registrant. Otherwise, any change of address must be in writing and specifically indicate an intention to change the official mailing address of the registrant.
- 3.9. Any change of address submitted to the Commissioner by a registrant will result in a change of address for all pesticide products registered by said registrant.
- 3.10. Applications and correspondence relating to registration should be submitted as specified by the Commissioner to:
- Colorado Department of Agriculture Division of Plant Industry 305 Interlocken Parkway,
Broomfield, CO 80021
- 3.11. At any time the Commissioner, under the authority of the Act, may require from the registrant, a description or descriptions of tests and the results thereof upon which labeling claims are made.
- 3.12. Effective date of registration. Registration of a pesticide product shall become effective on the date the application is approved and accepted by the Commissioner. A Certificate of Registration will be issued to the registrant for each pesticide product registered with the Commissioner.

- 3.13. Responsibility of a registrant. The registrant is responsible for the accuracy and completeness of all information submitted in connection with his application for registration of a pesticide product.
- 3.14. Changes in labeling or ingredient statement. Changes in the labeling or ingredient statement of a registered pesticide product shall be submitted prior to any sales using the changed label or ingredients in Colorado. The exact changes shall be described.
- 3.15. Claims must conform to registration. Claims made for a pesticide product must not differ in substance from representations made in connection with registration or revised labeling submissions, including representations with respect to effectiveness, ingredients, directions for use, or pests against which the product is recommended. Any claims which differ in substance from representations made in connection with registration shall be described.
- 3.16. Compliance with the FIFRA. The Commissioner shall refuse application for registration of any pesticide product that is not in compliance with the FIFRA.
- 3.17. Failure to provide the information required by Section 3.11, Section 3.18 and/or Section 3.19 within 60 days from the date the first Notice of Lack of Compliance is printed, shall be considered an incomplete application and no registration or renewal of a registration for the pesticide product shall be issued.
- 3.18. Each applicant for a registration shall submit a signed, complete, accurate, and legible application, including: the form provided by the Commissioner; the application fee set by the Commissioner; unless provided on the application form, a list of each inert ingredient and its percentage when requested by the Commissioner; and a final printed label and labeling as it appears on the pesticide product in the marketplace.
- 3.19. Registration expiration and renewal:
 - (a) All pesticide registrations shall expire on December 31 of each year.
 - (b) Each applicant for renewal of a registration shall submit, prior to expiration on December 31, a signed, complete, accurate, and legible application, including: the form provided by the Commissioner and the application fee set by the Commissioner.
- 3.20. Repealed.
- 3.21. Repealed.
- 3.22. Repealed.
- 3.23. Repealed.
- 3.24. Repealed.

Part 4. Label requirements.

- 4.1. All pesticides except those pesticide products determined to be exempt from registration pursuant to § 35-9-106(2), C.R.S. (incorporated by reference herein, later amendments not included), and Part 3.1, that are distributed or registered in Colorado must have a label which conforms to this Part 4.
- 4.2. These Rules incorporate by reference rules of the Environmental Protection Agency, United States of America 40 C.F.R. §156 (2016) (later amendments not included) concerning labeling

requirements and the rules of the Environmental Protection Agency, United States of America 40 C.F.R. §152.25(f) (2016) (later amendments not included) concerning minimum risk pesticides.

- (a) Labels and labeling for pesticide products must comply with all of the labeling requirements of 40 C.F.R. §156 (2016), as incorporated above, unless exempted from federal registration pursuant to 40 C.F.R. §152.25(f) (2016), as incorporated above.
- (b) Labels and labeling for pesticide products exempted from federal registration pursuant to 40 C.F.R. §152.25(f) (2016), as incorporated above shall:
 - (1) comply with 40 C.F.R. §152.25(f)(3) (2016), as incorporated above; and
 - (2) comply with all provisions of the act and these Rules except § 35-9-120(1)(g)(ii), C.R.S. (incorporated by reference herein, later amendments not included), and parts 6.1(i) and 6.1(j) of these Rules.

4.3. This Rule does not include later amendments to or editions of the incorporated material.

4.4. Repealed.

4.5. Repealed.

Part 5. Coloration and discoloration.

5.1. These Rules incorporate rules of the Environmental Protection Agency, United States of America 40 C.F.R. §153.140 through 153.155 (2016) (incorporated by reference herein, later amendments not included).

5.2. This Rule does not include later amendments to or editions of the incorporated material.

5.3. Repealed.

Part 20. Statements of Basis, Specific Statutory Authority, and Purpose

Statements of Basis, Specific Statutory Authority and Purpose for rulemaking activity from 1968 through 1992 are no longer in the Departments files and are presumably in the state archives.

20.1 Adopted July 28, 1994 – Effective September 30, 1994

These rules are adopted by the Commissioner of the Department of Agriculture pursuant to his authority under §35-9-118, C.R.S. (1993 Suppl.)

The purpose of these rules is to implement the provisions of the Pesticide Act, Title 35, Article 9, C.R.S. (1993 Suppl.).

These rules: establish procedures for registration of pesticides including experimental use products; establish requirements for pesticide labels; establish standards for coloration and discoloration of pesticides; establish what constitutes false and misleading statements; establish the reasons for refusal or cancellation of pesticide registration; establish the procedures for pesticide dealer licensing and record keeping requirements; establish the conditions for use of a Section 18 pesticide; and establish a list of pesticides whose use is restricted in the state.

Because of the revision of Article 9 of Title 35, and Article 10 of Title 35 (the Pesticide Applicators' Act) the language of the rules associated with the Pesticide Act needed to be changed to conform with the statutes. The language in Parts 1 to 13 now reflects the terminology in the current statutes. The language was also changed to conform with current terminology in the code of federal regulations where necessary. Other than Part 3 the requirements set out in Parts 1 to 13 remain basically unchanged from the rules in place.

The format and organization of the rules was also simplified.

Factual issues encountered when developing these rules include:

1. How to describe the administrative procedures for registering a pesticide product system so an applicant can understand and comply with them.
2. An application for registration, including a label, is received in the office. The pesticide product to be registered is then identified using the language on the label which accompanies the application. Often this label is not identical to, and sometimes does not even resemble, the label which appears on the product found in the marketplace. Inspections for compliance with the statute occur in the marketplace using data generated from the applications received in the office. Differences between the labels submitted for registration and the labels as they appear in the marketplace have caused numerous problems in enforcement complaints from registrants who believed their product to be registered.
3. It is not unusual for a registrant to submit several applications for product registration together with one check for payment of all applications.
4. It is not unusual to receive an application for registration of a pesticide product which is under Cease and Desist Order along with other applications for registration.
5. The state restricted use pesticide list has been in place since 1989. At that point in time the Cooperative Extension and/or the Department were receiving several complaints or reports each year concerning damage related to the use of the listed materials in landscape areas. Only one such case was reported last year.
6. Pesticides are regulated at the federal level under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Some rules pertaining to pesticides at the state level must be identical to those associated with FIFRA.

Policy issues encountered when developing these rules include:

1. To help resolve the dilemma addressed in factual issues concerning labels submitted with the application and those found on the container in the field. The rules now state the label to be submitted with the application for registration is to be the final printed label as it appears on the pesticide product in the field.
2. To resolve the dilemma of which application to process first when multiple applications for the same registrant are received at the same time it was determined the applications would be processed in the order in which the registrant submitted them, except as noted.
3. To be responsive to the needs of Colorado businessmen it was decided if multiple applications from the same registrant were received at the same time and any of those applications were for products which were under Cease and Desist Order, the applications for the products under Cease and Desist Order would be processed first, even if that was not the order in which they were submitted.

4. It appears the state restricted use list had the desired result. Consequently, the list will continue with a minor modification which removes a trade name of a product.
5. It was decided to incorporate by reference those regulations which are identical to the code of federal regulations instead of duplicating all of the language in these rules.

20.2 Adopted January 19, 1995 - Effective March 2, 1995

Statement of Basis and Purpose

These rules are adopted by the Commissioner of the Department of Agriculture pursuant to his authority under §35-9-118, C.R.S. (1993 Suppl.)

The purpose of these rules is to implement the provisions of the Pesticide Act, Title 35, Article 9, C.R.S. (1993 Suppl.).

These rules: establish procedures for registration of pest control devices; and comply with the recommendations of Legal Services concerning consistency in wording with the statute.

Factual issues encountered when developing these rules include:

1. How to describe the administrative procedures for registering a pest control device so an applicant can understand and comply with them.
2. Pest control devices are regulated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).
3. Rule 8.2 relating to the examination of pesticides samples failed to meet the incorporation by reference standards of §24-4-103 (12.5) of the Administrative Procedure Act C.R.S.
4. The date in Rule 11.1 does not coincide with the date of the statute.

Policy issues encountered when developing these rules include:

1. The Department needed to determine which pest control devices would require registration in order to apply and enforce the provisions in an equitable and consistent manner. After discussions concerning the numerous types of devices and device technologies, it was decided the manner which best achieved this was to use requirements already set forth in 40 CFR 150-189 and its associated interpretations and policies. Under these requirements producers of devices which work through the efforts of an individual, such as fly swatters or mouse traps, are exempted from registering their producing establishments; while producers of other devices must register their producing establishments. This requirement was used as the criteria for requiring registration with the Commissioner.
2. It was decided to use the same registration process already in place for pesticide products to administer the registration of devices with a few exceptions.
3. Methods used to analyze pesticides change constantly as new analytical instruments enter the marketplace, as new pesticides enter the marketplace, and as our own chemists modify methods to fit the instrumentation available to them. The statute does not require that the Department establish by rule the methods it will use to analyze pesticides. Consequently, it was decided to repeal the clause.

20.3 Adopted April 17, 1995 - Effective May 30, 1995

STATEMENT OF REASONS FOR ADOPTION OF EMERGENCY RULE

This rule is adopted under the Pesticide Act pursuant to §35-9-118 (2), C.R.S. (1994 Supp.) and pertains to the administration and enforcement of the registration of pesticides under the Pesticide Act.

Parts 4.1 and 4.2 of the Rules and Regulations Associated with the Pesticide Act state:

“All pesticides sold or registered in Colorado must have a label which conforms to this Part 4.”

“These rules incorporate rules of the Environmental Protection Agency, United States of America 40 C.F.R. §156.10.”

The rules in 40 C.F.R. §156.10 require such things as net contents, warning or precautionary statements, physical or chemical hazards, storage and disposal directions, etc.

The Commissioner has received application for registration of a “plant-pesticide”. This plant-pesticide has been registered by EPA. In so doing EPA is not requiring the label contain many of the elements set forth in 40 C.F.R. §156.10.

In order to register the plant-pesticide for distribution and use in Colorado the requirements set forth in part 4.2 must be modified to conform with current policy of EPA.

The immediate adoption of Parts 1.2 (j.5) and 4.5 is imperatively necessary and compliance with notice and hearing requirements of §24-4-103 of the Colorado Administrative Procedure Act would be contrary to the public interest.

20.4 Adopted December 6, 1999 – Effective January 30, 2000

STATUTORY AUTHORITY: C.R.S. 35-9-118 (2) and (3)

GENERAL DISCUSSION: To establish requirements for registration of pesticide products to reflect changes made in the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); to codify existing policy for registration of discontinued products; and to make miscellaneous technical amendments.

20.5 Adopted November 9, 2000 – Effective December 30, 2000

Statutory Authority:

These permanent rules are adopted by the Commissioner of the Colorado Department of Agriculture (Commissioner) pursuant to his authority under the Pesticide Act (the “Act”) at §35-9-118 (2) and (3) C.R.S. (2000).

Purpose:

The purpose of this amendment is to: increase the amount of the annual application fee for the registration or renewal of a pesticide product registration from \$70.00 to \$80.00.

Factual and Policy Issues:

The factual and policy issues encountered in the proposal of this amendment are as follows:

- (1.) The Commissioner adopted a rule change effective January 1, 2000 that established the registration renewal fee for pesticide products designated as discontinued. This rule reduced the registration renewal fee for the pesticide products designated as discontinued from \$70.00 to \$21.00.

- (2.) In Fiscal Year 2000, this fee reduction decreased the pesticide product registration program's revenue by approximately \$185,000.00.
- (3.) Because of this loss of revenue, the pesticide product registration program expects that it will have personal services and operating expense deficits for Fiscal Year 2001.
- (4.) The average pesticide product registration fee among the 50 states for calendar year 2000 is approximately \$120.00.
- (5.) The last pesticide product registration fee increase occurred in 1994 for the purpose of implementing the Agricultural Chemical Groundwater Protection Act. This fee change did not impact or produce any additional revenue for the pesticide product registration program.
- (6.) The Department estimates that this proposed fee increase will be sufficient to meet the personal service and operating cost expenses of the pesticide product registration program for at least three years without additional fee increases.

20.6 Adopted August 29, 2002 – Effective October 30, 2002

Statutory Authority:

These amendments to the permanent rules are adopted by the Colorado Commissioner of Agriculture (Commissioner) pursuant to his authority under the Pesticide Act (the "Act") at section 35-9-118 (2) and (3) C.R.S.

Purpose:

The purpose of these amendments is to:

1. Increase the amount of the annual pesticide fee for registration or renewal of a pesticide product registration from \$80.00 to \$95.00.
2. Eliminate "Discontinued" product registration. With this type of registration, the registrant affirms that they are no longer producing the particular pesticide product, and then pays a reduced fee of \$21 for up to four years. After four years, the product registration is automatically cancelled.
3. Revise the rules to conform with the decision of Judge Babcock of The United States District Court for the District of Colorado in Bioganic Safety Brands, Inc., v. Don Ament, Colorado Commissioner of Colorado, Civil Action No. 01-B-1808.

Factual and Policy Issues:

The factual and policy issues encountered in proposing these amendments are as follows:

1. Rule changes affecting registration fees:
 - a) The pesticide registration and dealer licensing activities of the Colorado Department of Agriculture are funded solely by the fees collected for pesticide registrations and dealer licenses. These funds are credited to the pesticide fund. Annual appropriations are made from this fund to carry out the purposes of the Act. Of the funds collected, 97% are from pesticide registration fees, and 3% from dealer license fees.
 - b) The current pesticide or pesticide device registration fee is \$80. Of this \$80, \$20 goes to the groundwater fund, and \$60 goes to the pesticide fund.

2. Rule changes affecting “discontinued” pesticide registrations.
 - a) About 30% of registered products are in “discontinued” registration. These products pay a registration fee of \$21. Of this \$21, \$20 goes to the groundwater fund, and only \$1 goes to the pesticide fund.
 - b) Maintaining and processing discontinued product registrations increases administrative efforts and costs. The \$1 fee for these products does not support the administrative costs involved.
 - c) There have been numerous cases of registrants requesting to change products back from “discontinued” to a normal active registration status. This was not anticipated to be a reversible process.
 - d) There are some cases of products with cancelled federal registrations being renewed as “discontinued” in Colorado, even though sales are now illegal under federal law.
 - e) The large number of registered products that are in “discontinued” status has contributed to the current financial shortfall in the pesticide registration program.
 - f) Pesticides are registered on a calendar year basis, with most revenue received during the December-January registration renewal period. The Colorado fiscal year is on a July-June period. At the beginning of the 2003 fiscal year (July, 2002) the fund balance (including reserve fund balance) will be insufficient to pay expenses for the following months. By October of 2002, the projected fund deficit is about \$150,000.
 - g) With the proposed changes to the fee structure, the pesticide fund should be returned to a sound financial footing by the end of FY04, with funds sufficient to operate the program until the renewal period and a reserve reestablished for future emergencies or economic changes.
 - h) Further registration fee increases for the portion allocated to the pesticide fund are not anticipated for the next five years.
- 3) Rule changes to conform with the decision of Judge Babcock of United States District Court for the District of Colorado in Bioganic Safety Brands, Inc., v. Don Ament, Colorado Commissioner of Colorado, Civil Action No. 01-B-1808.
 - a) Section 35-9-120(1)(g)(II), C.R.S. states: “It is a false representation to make claims as to the safety of any pesticide or device or their components or ingredients, including, but not limited to, such claims as “safe”, “noninjurious”, “harmless”, or “nontoxic to humans and pets”, with or without such qualifying phrases as “when used as directed” and “when properly applied”.
 - b) The Pesticide Act Rules include the following as prohibited false and misleading statements on pesticide labels:
 - “(i) Claims as to the safety of the pesticide or pesticide product or its ingredients, including statements such as “safe”, “nonpoisonous”, “noninjurious”, “harmless”, or “nontoxic to humans and pets” with or without such a qualifying phrase as “when used as directed”; or
 - (ii) Non-numerical and/or comparative statements on the safety of the product, including but not limited to:

- i) "Contains all natural ingredients"
- ii) "Among the least toxic chemicals known"
- iii) "Pollution approved";
- c) In the court decision referenced above, Judge Babcock ruled that the sections of the Act and Rules prohibiting safety claims on labeling of pesticides exempted from federal regulation as minimum risk pesticides (section 25(b) of FIFRA) are preempted by FIFRA. This Pesticide Act prohibition with regards to Bioganic Shoobug insect repellent was declared a violation of both the First Amendment (free speech) and the Commerce clause of the U.S. Constitution.
- d) The Commissioner did not appeal this ruling.
- e) The proposed amendments conform to the order issued in this case.

20.7 Adopted October 19, 2006 – Effective January 1, 2007.

Statutory Authority:

These amendments to the permanent rules are adopted by the Colorado Commissioner of Agriculture (Commissioner) pursuant to his authority under the Pesticide Act (the "Act") at §§ 35-9-118 (2) and (3), C.R.S.

Purpose:

The purpose of these amendments is to:

1. Change references to licensed applicators to recognize that CDA will be licensing private pesticide applicators as of January 1, 2007.
2. Modify pesticide dealer licensing requirements to include record-keeping requirements for federal restricted use pesticides.

Factual and Policy Issues:

The factual and policy issues encountered in proposing these amendments are as follows:

1. House Bill 1274 amended the Pesticide Applicator Act (Title 25, Article 10) to authorize the CDA to begin issuing licenses to private pesticide applicators on and after January 1, 2007 and to require that any person acting as a private applicator using or supervising the use of restricted use pesticides be licensed as a private applicator by the Commissioner.
2. Historically private pesticide applicators making pesticide applications in Colorado have been licensed by the Environmental Protection Agency ("EPA"), specifically EPA region 8, Denver, Colorado. Once CDA assumes responsibility for licensing private applicators, EPA will cease issuing such licenses. We anticipate that this transfer of authority will take place on January 1, 2007.
3. Part 13 of the current rules for the Pesticide Act allows for the permitting of each user of a section 18 pesticide, and requires that each permittee be either licensed by the Commissioner or licensed with EPA region 8, Denver, Colorado as a private applicator.

4. The current rules of the Pesticide Act only require recordkeeping on the part of licensed dealers for state restricted use pesticides, not federal restricted use pesticides.
5. EPA currently imposes record-keeping requirements on Colorado pesticide dealers of federal restricted use pesticides, under the authority of FIFRA §11(a)(1) and CFR 171.11(g). However, this federal authority only exists in any state in which the EPA conducts a certification program. Once CDA takes over the private applicator certification program from EPA region 8, federal authority to require Colorado pesticide dealers to keep records concerning federal restricted use pesticides will cease.

20.9 Adopted January 4, 2007 – Effective March 4, 2007.

STATUTORY AUTHORITY:

These amendments to the Rules are adopted by the Colorado Commissioner of Agriculture (Commissioner) pursuant to his authority under the Pesticide Act ("Act"), § 35-9-110 (2), C.R.S.

PURPOSE:

The purpose of these amendments is to exempt a certain class of devices from the registration requirements of the Act.

FACTUAL AND POLICY ISSUES:

The factual and policy issues encountered in proposing these amendments are as follows:

1. The Act requires certain devices to be registered, and authorizes the Commissioner to designate which classes of devices are subject to this requirement.
2. Colorado producers are suffering an economic loss due to an increase in burrowing animals in and around agronomic fields and in rangeland areas. Black-tailed prairie dogs have been increasing in recent years across eastern Colorado. Although exact figures are not available from most agronomic production areas, the Comanche and Pawnee National Grasslands have documented increasing number of prairie dog colonies, with a 79% increase in active colonies in 2004 and a 30% increase in 2005. The overall hectares affected has more than doubled between 2003 and 2005 (from 2680 ha to 6323 ha).
3. The Commissioner has determined that destructive rodent pests, particularly prairie dogs, pose a significant threat to agricultural production in this State, and that additional control methods, including the devices that are the subject of this rulemaking, are needed to protect the public welfare.
4. The devices proposed for exemption from registration, which inject a mixture of propane and oxygen into the burrow and then ignite it, are currently available and widely used in adjacent states. Until recently, however, the use of these devices in Colorado was considered a prohibited method of take by the Colorado Division of Wildlife ("DOW"). On November 1, 2006, a new DOW regulation took effect allowing the use of such devices. DOW decided to allow the use of these devices in response to the urgent need of agricultural producers to have better control methods for burrowing animals.
5. Because DOW has regulatory authority over use of such devices, the regulation of the distribution of these particular devices under the Act is duplicative and unnecessary. Due to the length of time that registration of a new device under the Act typically requires, the Commissioner adopted emergency amendments to the Rules, effective November 13, 2006, exempting this class of

devices from registration to permit the timely use of these devices to control prairie dogs. These permanent amendments to the rules continue this exemption.

20.10 Adopted August 12, 2008 – Effective September 30, 2008.

STATUTORY AUTHORITY

These amendments to these rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Pesticide Act (the "Act"), §§ 35-9-118(2)(c),(f), and (h), C.R.S.

PURPOSE

The purpose of these proposed rules is to:

1. Amend Rule 10.1 to specify conditions to allow distribution of repaired bags containing certain pesticides.
2. Create a new Rule 10.3 to require distributors to properly clean up and dispose of pesticides when pesticide spills occurred.
3. Amend Rule 13.1 and create a new Rule 13.2 to restrict distribution of State and Federal Restricted Use Pesticides to licensed dealers, licensed applicators, and their authorized agents and only for uses allowed by the applicator's license category.
4. Amend current Rule 13.3 to require pesticide dealers to maintain records of any distribution of a State or Federal Restricted Use Pesticide to an authorized agent of a licensed applicator.

FACTUAL AND POLICY ISSUES

The factual and policy issues encountered when developing these rules include:

- 1) Rules 10.1(b) and (d) currently do not allow any distribution of a pesticide except in its original unbroken container. The CDA believes that if bags containing granular ready to use pesticides or ready-to-use combinations of pesticide and fertilizer ingredients can be repaired to their original condition and the product's label does not become misbranded in the process, sale of such products should be allowed to facilitate application to a labeled site and minimize disposal of these pesticides in Colorado landfills. CDA proposes to amend Rule 10.1 to create guidelines to allow this practice.
- 2) CDA is proposing to create a new Rule Part 10.3 to require distributors to clean up and dispose of any pesticide product that spills from a broken container to prevent any pesticide exposure to customers or employees.
- 3) Currently, Rule 13.1 requires that State Restricted Use Pesticides only be distributed and used by licensed applicators or persons under their direct supervision and only for uses covered by the applicator's licensure category(s). Part 13 of the Rules only addresses distribution and use of State Restricted Use Pesticides, but it does not currently address distribution and use of federal restricted use pesticides.

The CDA is proposing to amend Rule 13.1 and create a new Rule 13.2 to clarify that both state and federal restricted use pesticides may only be distributed to licensed dealers, licensed applicators or their authorized agents who are licensed in the appropriate category to use that product.

- 4) Prior to January 1, 2007, EPA was performing restricted use pesticide dealer record inspections and, under 40 C.F.R. §171.11(g)(2)(ii), required dealers to maintain a record of any distribution of an RUP to an uncertified agent of a certified applicator documenting that the RUP would be used by a certified applicator or persons under their supervision.

CDA is proposing to amend current Rule 13.3 to require pesticide dealers to maintain records of any distribution of an RUP to a licensed applicator through an authorized agent.

20.11 Adopted July 16, 2009 – Effective August 30, 2009.

Statutory Authority

These amendments to these rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Pesticide Act (the "Act"), §§ 35-9-107(2), and 35-9-118(3)(a) and (b) C.R.S.

Purpose

The purpose of this proposed rule amendment is to amend Rule 3.4 to increase the annual pesticide registration fee from \$95 to \$165.

Factual and Policy Issues

The factual and policy issues encountered when developing these rules include:

1. Under 35-9-118(3)(a) the Commissioner has the authority to promulgate Rules to determine the annual registration fee for each pesticide registered in the state of Colorado.
2. On January 1, 2007, the CDA obtained primacy over all private applicators.
3. CDA's budget projections for the private applicator program took into account the initiation of the program prior to any revenue generation, projected expenses to administer the program and projected revenue from private applicator licensing over a 4 year period. Budget projections showed an annual revenue shortfall of \$250,000. To account for this shortfall CDA combined all pesticide cash funds and subsidized the private applicator expenses through a surplus in the pesticide registration fund. This was done to maintain private applicator examination and licensure fees at less than \$100.
4. The pesticide applicator program, which licenses commercial applicators, has not raised its fees to cover rising costs since 1994, when business licensure fees were increased to \$350, and 2003, when examination licensure fees were increased to \$100. Expenses in the pesticide applicator program have outpaced revenues in 2007 and 2008 by an average of \$80,000. These shortfalls have been covered by the pesticide registration fund and EPA grant funds.
5. In 2007 the pesticide registration fund balance was \$670,517. In FY 07 and FY 08 the private applicator program and the commercial pesticide applicator program operated at an average loss of \$251,000. In FY 2009 the pesticide program is projected to be at a \$250,000+ loss, depleting the remaining pesticide registration funds at the end of FY 2009.
6. In 2009 and 2010 the administration of the private applicator exam and the commercial applicator exam will be shared between a private company, Metro Institute, Colorado State University and CDA. This is being done to allow private applicators to take their examination on-line and allow proctored computer based examinations with CSU and CDA. This will provide an easier, more accessible and improved testing environment for the applicator community; however, it will

increase CDA's program expenses to maintain the examination software and hardware and result in a loss in revenue with each examination administered by Metro Institutes or CSU.

7. The current registration fee is set in the Pesticide Act Rules, Part 3.4, which is currently \$95. The CDA registers an average of 11,000 pesticide products per year.
8. The CDA is proposing a fee increase of \$70, making the new registration fee \$165. The fee increase will generate, based on average registration renewals, an additional \$770,000 in revenue. This will cover all projected expenses, allow the CDA to resolve the deficit created in FY 2010, rebuild its fund balance, cover increases in expenditures and allow program growth in future years without having to increase pesticide applicator licensure fees.
9. Under 35-10-118(3)(a) any fee collected under the pesticide registration program shall have an increment approved by the Agricultural Commission to fund the Groundwater Protection Program. Currently the Groundwater increment is set at \$30. In conjunction with this rulemaking, CDA plans to ask the Agricultural Commission to approve an increase in the increment from \$30 to \$40 dollars. This will bring an additional \$110,000 to the Groundwater Program to cover increased program expenses and allow for growth in future years.
10. Twenty-one states have pesticide registration fees that exceed \$165 per product, the highest being \$750 per product; ranking Colorado twenty-second in comparison to the nation.

20.12 Adopted October 21, 2010 – Effective November 30, 2010.

Statutory Authority

These amendments to these rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Pesticide Act ("Act"), specifically §§ 35-9-118(2)(f), (g), (h) and (i), C.R.S.; § 35-9-117, C. R.S.; and § 35-9-117.5, C.R.S.

Purpose

The purpose of these proposed rules is to:

- 1) Create new Parts 3.1(a) & (b), The Registration System, to conform with new statutory provisions in regards to exempting pesticides consistent with the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA").
- 2) Repeal duplicative provision in Part 3.5.
- 3) Parts 3.10, 3.11, 3.12, 3.15, 3.18 and 3.19 are amended to update registration requirements, clearly reflect current business procedures and set registration expiration and renewal dates in Rule.
- 4) Repeal outdated business procedures, Parts 3.20 through 3.24.
- 5) Amend Parts 4.1 and 4.2 to reflect new statutory provision that allows CDA to exempt certain pesticides and update references to 40 C.F.R.
- 6) Create a new Part 11.1(i) to clearly state it is a violation for a dealer to sell an RUP after the expiration date and prior to the renewal of its dealer license.
- 7) Create a new Part 15. Part 15.1 creates recordkeeping requirements for pesticide refillers. Part 15.2 creates cleaning guidelines for refillable containers. Part 15.3 creates cleaning requirements when tamper-evident devices or one-way valves are not intact. Create a new Part 10.1(h) to

prohibit distribution of a pesticide product in a container that has not had the residue removal procedure performed.

- 8) Update application submission language, address information, references to 40 C.F.R. and references to pesticide products through the rules.

Factual and Policy Issues

The factual and policy issues encountered when developing these rules include:

1. S.B. 10-034 changed the Act to permit the Commissioner to exempt certain pesticides from registration consistent with FIFRA. Part 3.1(a) reiterates the statutory provision that CDA may exempt products in accordance with FIFRA. Part 3.1(b) specifies certain products that are not exempt from registration in Colorado. CDA will exempt certain pesticides from registration through policy.
2. Part 3.5 is being repealed consistent with the recent repeal of the provisions in the pesticide act that specified collection of a penalty fee from registrants upon registration of a product that had previously been found unregistered in the marketplace.
3. Parts 3.10, 3.11, 3.12, 3.15, 3.18 and 3.19 are amended to update outdated language in the registration requirements, to clearly reflect current business procedures and set registration expiration and renewal dates in Rule as allowed now by S.B. 10-034. The ability to change renewal dates in Rule will allow CDA to stagger registration renewal dates and spread the work load of processing 11,000+ registration renewals if CDA chooses to in the future.
4. Parts 3.20 through 3.24 are business procedures that were placed in Rule in 1996 due to a back log of registration requests and complaints from industry. CDA has since modified procedures and registration processes to avoid backlogs. Repeal of these provisions will allow these processes to be more efficiently addressed through CDA's business procedures and policies.
5. All pesticides registered in Colorado must have labeling that conforms to provisions outlined under 40 C.F.R. § Part 156, which describes what elements must be on a pesticide label such as ingredient statements, net weight, EPA registration number, etc. The existing language in Part 4.1 requires all pesticides to meet these labeling requirements except liquid chemical sterilants. The amendment to Part 4.1 now addresses the additional authority provided as a result of S.B. 10-034 to exempt certain pesticides from registration by clarifying that those pesticides are exempt from the labeling requirements in Part 4.2. Part 4.2 was amended to update references to 40 C.F.R. that detail labeling requirements for pesticides required to be registered in Colorado pursuant to Part 3.1 or the Pesticide Act.
6. Pesticide dealer licenses expire on December 31 of each year. CDA has found during records inspections that the some dealers continue to sell RUPs during the time period that their license was expired and prior to their renewal or a new application being submitted. The creation of a new Part 11.1(i) will clearly state that it is a violation, subject to civil penalties, for a dealer to sell an RUP after the expiration date and prior to the renewal or new application for a dealer license.
7. Section 19(f), Residue Removal Requirements, of FIFRA requires that states must have the authority to ensure pesticide refillers comply with the residue removal requirements. CDA historically has only had the authority to regulate registered pesticides from the distribution point forward and had no authority to regulate producer establishment or refiller establishment activities. S.B. 10-034 amended the Pesticide Act to provide CDA the authority to regulate producer establishments for the purpose of enforcing and ensuring compliance with the federal pesticide residue removal requirements. A new Part 15 was created to conform to the statutory

provisions that require pesticide refillers to maintain records and clean refillable containers prior to distribution.

A new Part 10.1(h) was created to prohibit distribution of a pesticide product in a container that has not had the residue removal procedure performed. Part 10.1(h) will make it a violation to distribute a product if the pesticide residue removal procedures have not been conducted in accordance with Part 15 of the Rule.

8. Throughout the Pesticide Act CDA is updating application submission language, such as applications must be “postmarked”, to remove impediments for future electronic submissions; updates to CDA’s address, references to 40 C.F.R. and references to pesticide products to ensure the Pesticide Act clearly reflects CDA’s current business practices and maintains consistent language throughout the Act.

20.13 Adopted November 10, 2015 – Effective December 30, 2015.

Statutory Authority

These amendments to these Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture (“CDA”) pursuant to his authority under the Pesticide Act (“Act”), specifically § 35-9-118(2), C.R.S

Purpose

The purpose of these proposed Rules is to update language to reflect the Department’s current physical address and websites for materials incorporated by reference. Specifically:

1. Update Part 3 and Part 19 with the Department’s current address.
2. Update Part 19 with current website links.
3. Correct formatting and grammatical errors.
4. These amendments incorporate changes as a result of the Department’s Regulatory Efficiency Review Process.
5. Rule 12.4 is being updated to reflect the changes that resulted in the Department taking over the certification and regulation of Private Pesticide applicators in 2007 and who are no longer certified through the EPA.

Factual and Policy Issues

The factual and policy issues encountered when developing these Rules include:

1. In May of 2014 the Colorado Department of Agriculture moved from 700 Kipling St, Denver, CO to 305 Interlocken Parkway, Broomfield, CO. Part 3 of the Rule outlines registration requirements and references the Department’s address for submission. Part 19 outlines where certified copies of materials incorporated by reference may be obtained, which references the Department’s address as well. The proposed amendments update the Department’s address in each of these Parts.
2. Part 19 provides website address where materials incorporated by reference may be obtained at no cost. The proposed amendments update these web addresses.

20.14 Adopted November 9, 2016- Effective December 30, 2016

Statutory Authority

These amendments to these rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Pesticide Act ("Act"), specifically § 35-9-118(2)(f), C.R.S

Purpose

The purpose of these proposed rules is to:

1. Amend Part 2 of the Rule to further clarify when substances or mixture of substances will be considered to be a pesticide subject to regulation under the Act.

Factual and Policy Issues

The factual and policy issues encountered when developing these rules include:

1. Part 2 of the current Rule lists several factors the Department considers in determining if a substance or mixture of substances is a pesticide that is subject to regulation under the Act, including: (1) if a product bears pesticidal claims; (2) if collateral advertising makes pesticidal claims or recommendations; (3) if pesticidal claims are made verbally or in writing by the manufacturer or distributor and; (4) if the product is intended for use as a pesticide or other purpose.
2. Part 2 does not address products that contain pesticides where the manufacturer or distributor has made no pesticidal claims or statement of intended use. This amendment clarifies that the physical presence of a pesticide in a product, for which there is no significant commercially valuable non-pesticidal purpose when the product is used as intended (e.g., applied to the leaves of a plant), is sufficient to establish that the product is a pesticide subject to regulation under the Act – regardless of the lack of any pesticidal claims, advertising or statements or intent by the distributor.
3. Recently, it came to the Department's attention that a product was being sold and distributed in Colorado. This product was sold as a leaf polish and made absolutely no pesticidal claims. The product was tested and found to contain the pesticide active ingredient pyrethrin. The Department has subsequently identified other products sold for use on plants that contain other pesticides not disclosed on the label or mentioned in any of the distributor's product advertising.
4. This amendment makes clear that any such product is considered a pesticide under the Act and thus must be registered under the Act in order to be legally distributed in this state. Products containing pesticidal substances that are not registered are subject to stop sale orders and /or civil penalties.
5. This amendment to the Rules implementing Colorado's Pesticide Act compliments the federal regulations implementing the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), 40 C.F.R. §152.15, which similarly requires registration under FIFRA of products containing active ingredients that have no non-pesticidal use, regardless of the absence of pesticidal claims.

20.15. Adopted September 20, 2017 - Effective November 30, 2017

Statutory Authority

The amendments to these Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Pesticide Act ("Act"), specifically § 35-9-118(2)(f) and (h), C.R.S.

Purpose

The purpose of the proposed Rules is to:

Amend Parts 1, 3, 4, and 5 of the Rule to cite the most current version of Title 40 of the Code of Federal Regulations ("C.F.R.").

Factual and Policy Issues

The factual and policy issues encountered when developing these Rules include:

1. On February 26, 2016, the Environmental Protection Agency revised 40 C.F.R Part 152 to more clearly describe the active and inert ingredients that are permitted in products eligible for the minimum risk pesticide exemption.
2. 40 C.F.R. is incorporated by reference in the Act at Part 1, Definitions and Construction of Terms; Part 3, The Registration System; Part 4, Label Requirements; and Part 5, Coloration and Discoloration. The last 40 C.F.R. date referenced in the Act is 2009.
3. Updating the C.F.R. date reference to 2016 ensures that CDA's administration of the Act is consistent with current Federal law concerning minimum risk pesticide exemptions.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00290

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/20/2017

8 CCR 1203-1

ADMINISTRATION AND ENFORCEMENT OF THE PESTICIDE ACT

The above-referenced rules were submitted to this office on 09/25/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 06, 2017 08:21:24

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Plant Industry Division

CCR number

8 CCR 1203-2

Rule title

8 CCR 1203-2 RULES AND REGULATIONS PERTAINING TO THE
ADMINISTRATION AND ENFORCEMENT OF THE PESTICIDE APPLICATORS' ACT
1 - eff 11/30/2017

Effective date

11/30/2017

Colorado Department of Agriculture

Plant Industry Division

Rules and Regulations Pertaining to the Administration and Enforcement of the Pesticide Applicators' Act

8 CCR 1203-2

Part 1. Definition and Construction of Terms.

- 1.01. As used in these Rules, the singular includes the plural, the masculine gender includes the feminine and neuter, and vice versa. All terms used in these Rules shall have the meaning set forth for such terms in the Act.
- 1.02. As used in these Rules, unless the context otherwise requires:
- (a) "abut" means to join; to be contiguous, as where no other land, road, or street intervenes; "abut" includes two property sites that would otherwise be considered abutting, but for the fact that such sites are separated by an alley. As used herein, "alley" means a passage way within a block set apart for public use, vehicular travel, and local convenience to provide a secondary means of access to the rear or side of abutting lots or buildings.
 - (b) "category" shall include any sub-category thereof.
 - (c) "engaged in the business of applying pesticides for hire" means: the evaluation of pest problems; the recommendation of pest controls and evaluation of results; the mixing, loading or application of pesticides; and/or the soliciting, advertising, offering or contracting to do any of the above, in return for money or anything of value, including goods or services. Notwithstanding anything to the contrary in the foregoing, the rendering of consultation services by an individual in evaluating pest problems, recommending pest controls and/or evaluating results, shall not be deemed to constitute the application of pesticides for hire, if said individual is not affiliated with, or soliciting business for, any person or business entity which performs the mixing, loading or application of pesticides.
 - (d) "in the possession of" means in the physical possession of the applicator or in a location at the site of the application, such as a service vehicle, that is readily accessible to the applicator.
 - (e) "fumigant" means any substance which by itself or in combination with other substances emits or liberates a gas or gases, fumes or vapors, and which gas or gases, fumes or vapors when liberated and used will destroy vermin, rodents, insects, and other pests, but are usually lethal, poisonous, noxious, or dangerous to human life.
 - (f) "pasture" means land which is managed primarily for the production of forage for domestic livestock. Pasture typically receives intensive renovation and/or cultural treatments, such as tillage, fertilization, mowing, irrigation and weed control.
 - (g) "proof of medical justification" means a statement signed by a physician licensed to practice medicine in Colorado pursuant to Article 36 of title 12, C.R.S. which states

I certify that the individual named above is a patient of mine and should be placed on the list of pesticide sensitive individuals. This individual has a documented sensitivity to

certain pesticides and should not be exposed to them because of the reason(s) described below:

- (h) “property damage” includes, but is not limited to, injury to domestic animals, livestock and economically important insects.
- (i) “ready to use pesticide” means, any pesticide that requires no mixing or loading of a pesticide into a service container or other application device; such as but not limited to: aerosols and pre-mixed formulations in the original container.
- (j) “structure” means any building, regardless of its design or the type of material used in its construction, whether public or private, vacant or occupied, the foundation thereof, and the adjacent outside areas, and shall also include but shall not be limited to warehouses, trucks, boxcars, boats, airplanes, other vehicles, or the contents thereof, and fumigation vaults.
- (k) “use” means any and all aspects of the handling of pesticides from the time a pesticide container is opened until disposal of the pesticide container, including without limitation, the mixing, loading, application, spill control, and disposal of a pesticide or its container.
- (l) “to use any pesticide in a manner inconsistent with labeling directions or requirements” includes, but is not limited to, for termiticides only, the use of a termiticide at any concentration less than that stated on the labeling.
- (m) “agricultural commodity” means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.
- (n) “device” means any device for which licensure as a commercial applicator is required pursuant to § 35-10-118(9.5). C.R.S. For purposes of these Rules, use of a pesticide includes the use of any such device by a commercial applicator.

Part 5. Technician Training.

Subpart A General

5.01. Definitions. For purposes of this part 5 unless the context otherwise requires:

- (a) “Applicator technician” means a technician whose job includes the use of pesticides;
- (b) “Experienced technician” means a technician who has been trained and has the following minimum experience within the past 3 years: for applicator technicians doing structural applications, 6 months of experience including time in training, for applicator technicians doing agricultural, turf, ornamental or turf and ornamental applications, 1 season of experience including time in training, and for sales technicians, 1 season of sales experience;
 - (1) “New hire experienced technician” means any technician who has met the experience requirements, outlined in Rule 5.01(b) of this Part 5, within the last 3 years, but is a new employee of a commercial applicator, registered limited commercial applicator, or registered public applicator.

- (2) "On-going experienced applicator technician" means an individual who has met the definition of an experienced technician and continues to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator.
- (c) "Sales technician" means a technician whose sole job is selling application services; and
- (d) "Selling application services" means the sale of a pesticide application. Selling application services does not include the sale of an evaluation service, inspection service, or recommendation service. To qualify as a sale of an application service, the seller must make an evaluation of pest problems or a recommendation of pest controls using pesticides. A seller does not make an evaluation of pest problems or a recommendation of pest controls using pesticides if the seller answers questions from a customer using an answer sheet prepared by a licensed qualified supervisor.
- (e) "Flagger technician" means an individual employed and compensated by the applicator who designates, with a flag or any other identification, the alignment of a pesticide application during the application of pesticides at that site.

5.02. Scope of part 5.

- (a) A person will not be considered a technician for purposes of these Rules if said person uses, sells, or recommends a general use pesticide while under the on site supervision of a qualified supervisor.
- (b) A person who evaluates any pest problem while under the on site supervision of a qualified supervisor will not be considered a technician.
- (c)
 - (1) A person must be a trained technician or must be training to be a technician if said person uses, a restricted use pesticide while under the on site supervision of a qualified supervisor.
 - (2) A person must be training to be a technician to sell or recommend a restricted use pesticide while under the on site supervision of a qualified supervisor.
 - (3) A person must be a trained technician to sell or recommend a restricted use pesticide while under the supervision of a qualified supervisor.
- (d) A person must be a technician or must be training to be a technician if said person uses, sells, or recommends a general use pesticide while on the job with a certified operator or experienced technician.
- (e) A person may not use, sell, or recommend, general use pesticides unaccompanied by a qualified supervisor, certified operator, or experienced technician without completing the training required by these Rules.
- (f) For the purposes of determining if a person is experienced and/or trained, upon a showing of exceptional circumstances by a commercial applicator, the Commissioner may waive all or part of the experience and training requirements specified in these Rules. The Commissioner may accept, with sufficient verification, valid relevant field experience and training obtained from sources other than the commercial applicator in this state or any other state so long as safety is not compromised and the person has the necessary pertinent application skills,

- (g) The amount of time given to each topic covered by these Rules is discretionary with the trainer. However, the technician's training must be relevant to each technician's job duties.
- (h) Each commercial, registered limited commercial, or registered public applicator licensed or registered in any category shall maintain a form established by the Commissioner for each technician trained by said commercial applicator.
- (i) Each commercial, registered limited commercial, or registered public applicator licensed or registered in any category may give a written examination to trained technicians to determine the comprehension of subjects covered by the training. However, said examination shall not in any manner substitute for any of the training required by these Rules.
- (j) This Part 5 shall not apply to limited commercial applicator and public applicators not registered with the Department pursuant to Section 35-10-109, C.R.S., which are regulated by Part 16 of these Rules.

Subpart B Agricultural

- 5.03. Except as otherwise expressly provided in these Rules, each applicator technician and flagger technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in any agricultural category shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (b) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.04. Except as otherwise expressly provided in these Rules, each sales technician working for a commercial applicator licensed in any agricultural category shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 16 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. No more than 8 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety; and

- (c) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor.
- 5.05. Except as otherwise expressly provided in these Rules, each on-going experienced applicator technician, flagger technician, and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in any agricultural category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in § 5.03 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.06. Except as otherwise expressly provided in these Rules, each new hire experienced technician and flagger technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in any agricultural category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
 - (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart C Turf

- 5.07. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have at a minimum 36 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 4 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may

be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.

- 5.08. Each sales technician working for a commercial applicator licensed in the turf category shall have at a minimum 40 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pesticide label and labeling, and public safety;
 - (b) At least 8 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety.
- 5.09. Each technician who acts as both a sales technician and an applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have at a minimum 48 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 16 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.10. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of turf pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in § 5.09 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.

- 5.11. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years which training shall cover: use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom and the job site as the need is determined by the qualified supervisor; and
 - (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart D Ornamental

- 5.12. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have at a minimum 40 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 8 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.13. Each sales technician working for a commercial applicator licensed in the ornamental category shall have at a minimum 48 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pesticide label and labeling, and public safety;
 - (b) At least 16 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and

- (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety.
- 5.14. Each technician who acts as both a sales technician and as an applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have at a minimum 56 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 24 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.15. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of ornamental pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in § 5.14 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.16. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. Said training shall cover: use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;

- (c) The remaining 4 hours shall be divided between classroom and the job site as the need is determined by the qualified supervisor; and
- (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart E Turf and Ornamental

- 5.17. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have at a minimum 60 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 12 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 40 hours of which shall be on the job training. At least 16 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. No more than 24 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.18. Each sales technician working for a commercial applicator licensed in both the turf category and the ornamental category shall have at a minimum 64 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pesticide label and labeling, and public safety;
 - (b) At least 24 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 32 hours of which shall be on the job training, at least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. No more than 24 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety.
- 5.19. Each technician who acts as both a sales technician and as an applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have at a minimum 80 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use,

equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;

- (b) At least 32 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 40 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. No more than 32 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.20. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have, during each year of employment after the first season of experience, at a minimum, the following on- going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of turf and ornamental pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in § 5.19 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.21. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom and the job site as the need is determined by the qualified supervisor; and
 - (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart F Structural

- 5.22. Each applicator technician and sales technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of wood destroying organism pest control, fumigation, or residential/commercial pest control shall have at a minimum 160 hours of training:

- (a) At least 32 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 120 hours of which shall be on the job training. At least 60 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 year of structural pesticide application experience within the last 2 years. No more than 60 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
 - (d) Successfully complete a written examination prepared and given by the commercial applicator showing overall comprehension of the subject matter of the training.
- 5.23. Each on-going experienced applicator technician and sales technician continuing to work for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of wood destroying organism pest control, fumigation, or residential/commercial pest control shall have during each year of employment after the first season of experience, at a minimum, the following on-going training:
- (a) 2 hours per month of training which training shall over a period of 6 months include at least 3 hours of classroom-instructional training. 9 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor. Said classroom-instructional training and on the job training shall be conducted by either a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of structural pesticide application experience within the last 2 years. Said training shall cover those areas enumerated in § 5.22; and
 - (b) Successfully complete a written examination prepared and given by the commercial applicator showing overall comprehension of the subject matter of the training.
- 5.24. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of wood destroying organism pest control, fumigation, or residential/commercial pest control shall have at a minimum 32 hours of training:
- (a) At least 16 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (b) At least 16 hours of which shall be the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 year of structural pesticide application experience within the last 2 years which training shall cover: use, equipment and calibration, applicator safety, pesticide label and labeling, host and pest identification, and public safety.

- (c) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.
- 5.25. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (b) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.26. Each sales technician working for a commercial applicator licensed in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 16 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. No more than 8 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety; and
 - (c) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor.
- 5.27. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in § 5.25 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.

- 5.28. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
 - (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Part 8. Agricultural Applicators.

- 8.01. The agricultural classification includes the following categories:

- (a) Category 101: Agricultural Insect Control: the application of pesticides to agricultural plants, including applications performed on pastures, croplands and non-crop agricultural lands, to control invertebrate pests, including insects, mites, slugs, snails, and nematodes.
- (b) Category 102: Agricultural Plant Disease Control: the application of pesticides to agricultural plants, including applications performed on pastures, croplands and non-crop agricultural lands, to control plant diseases.
- (c) Category 103: Agricultural Weed Control: the application of pesticides to agricultural lands, including pastures, croplands and non-crop agricultural lands, to control weeds.
- (d) Category 104: Seed Treatment: the application of pesticides to seeds.
- (e) Category 105: Livestock Pest Control: the application of pesticides to livestock.
- (f) Category 106: Forest Pest Control: the application of pesticides in forests, forest nurseries, forest seed producing areas managed for the production of timber and other forest products or maintained as wood vegetation for such indirect benefits as protection of catchment areas or public recreation, including windbreaks and downed timber. For applications in forested areas within fifty (50) feet of a residential or commercial structure, an applicator must also hold the ornamental pest control category in accordance with Part 9 of these Rules and comply with all of the posting and notification requirements in Section 35-10-112, C.R.S., of the Pesticide Applicators' Act. This additional certification in the ornamental pest control category shall not apply to aerial applicators or ground applications made by federal, state, or local governments on property they own. This category does not apply to pesticide applications made to control vertebrate pests.

- (g) Category 107: Rangeland Pest Control: the application of pesticides to land which is not managed for turf, pasture or forest on which the vegetation is predominantly native plant species or introduced species managed as native species such as grasses, grass-like plants, forbs or shrubs. Rangelands include but are not limited to natural grasslands, shrublands, deserts, tundras, and meadows. For applications performed in rangeland areas within fifty (50) feet of a residential or commercial structure, an applicator must also hold the turf pest control category in accordance with Part 9 of these Rules and comply with all of the posting and notification requirements in Section 35-10-112, C.R.S., of the Pesticide Applicators' Act. This additional certification in the turf pest control category shall not apply to aerial applicators or ground applications made by federal, state, or local governments on property they own. This category does not apply to pesticide applications made to control vertebrate pests.
 - (h) Category 108: Aquatic Pest Control: the application of pesticides to standing or running water when made to control weeds, amphibians, fish and other pests in water, except for pesticide applications which are included in the "Public Health" category, at Rule 8.01(j).
 - (1) Category 113: Metam sodium for root control in sewers: the application of metam sodium in sewers to control roots. For purposes of this sub-category, "sewer" shall mean any artificial conduit for the transmission of wastewater to a wastewater treatment plant.
 - (i) Category 109: Industrial and Right-of-Way Weed Control: the application of pesticides to maintain roads, sidewalks, trails, paths, utility lines, railways, parking lots, drilling rigs, substations, open irrigation and drainage structures or similar areas and adjacent land within right of ways associated with such areas for the purpose of establishing or maintaining definable cover or bare ground.
 - (j) Category 110: Public Health Pest Control: the application of pesticides for control of disease vectors, except vertebrates.
 - (k) Category 111: Research and Demonstration: the application of pesticides in the course of conducting field research or demonstration. No license or certification will be issued in this category unless the applicant also obtains licensing or certification, in the specific category listed in these Rules, which is appropriate to the research activity.
- 8.02. Applicants for licensing as a qualified supervisor in the agricultural pest control categories, except the metam sodium for root control in sewers sub-category, must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing.
- (a) Said applicant shall have obtained a minimum of eight months field experience in agricultural pest control.
 - (b) If said applicant has earned college or university credit in agricultural pest control or related fields, such credit may be combined with field experience in agricultural pest control in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Two years college credit and two months field experience in agricultural pest control; or
 - (2) One year college credit and five months field experience.
- 8.03. Commercial applicators classified in the agricultural categories shall provide the following notices of pesticide applications.

- (a) Prior to each application, the customer shall be informed of: (1) the pesticide(s) to be applied, (2) the site of application, (3) applicable re-entry intervals, (4) applicable grazing intervals, (5) applicable pre-harvest interval, and (6) any precautionary statements contained on the applicable pesticide label(s). This notice may be oral.
- (b) After the application, the applicator shall promptly furnish the customer with a written notice which states: (1) the pesticide(s) applied; (2) the amount of each pesticide applied; (3) the date of application; (4) the site of application; (5) applicable re-entry intervals; (6) applicable grazing intervals; (7) applicable crop rotation intervals; and (8) any precautionary statements contained on the pesticide label(s).
- (c) An applicator may furnish the information specified in Sections 8.03. (a)(3) through (6), and/or 8.03. (b)(5) through (8) above, by giving the customer a copy of the applicable pesticide label(s).
- (d) In the event that a commercial applicator classified in the agricultural categories performs an application at a site which is occupied by someone other than the applicator's customer, the applicator shall be responsible for giving the notices required by Sections (a) and (b) above to the person(s) who are occupying the site, as well as to the customer: This Section (d) does not apply to applications to crops or to large-scale pest control programs.
- (e) Notices in this Rule 8.03 may be provided electronically when the following conditions have been met.
 - (1) Commercial applicators must obtain a written request from each customer and occupant confirming their request to obtain any notice required by this Rule electronically.
 - (2) A commercial applicator must maintain a record of the written request(s) for electronic notices from each customer and occupant.
 - (3) A commercial applicator that does not have a record of the written request(s) for electronic notices on file at the time of an application must provide a notice as outlined in the (a) – (d) of this Rule 8.03.

8.04 An applicant for licensing in the sub-category of metam sodium for root control in sewers shall satisfy each of the following requirements:

- (a) In addition to any other required examination, an applicant must take and pass the specific examination for this sub-category, but not the examination for the aquatic pest control category.
- (b) An applicant for licensing as a qualified supervisor in this sub-category must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing.
 - (1) An applicant shall have obtained a minimum of 40 hours of field experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers; or
 - (2) If an applicant has a Level 2 or 3 wastewater collection certification issued by the Colorado Water Distribution and Wastewater Collection Systems Council, or a Class A, B, or C wastewater treatment plant operator certification issued by the

Colorado Department of Public Health and Environment pursuant to Title 25, Article 9 of the Colorado Revised Statutes, the applicant shall have obtained a minimum of 20 hours of field experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers.

- (c) Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in this sub-category shall have at a minimum 32 hours of training:
 - (1) At least 8 of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (2) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- (d) Each sales technician working for a commercial applicator licensed in this sub-category shall have at a minimum 32 hours of training:
 - (1) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety;
 - (2) At least 16 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. No more than 8 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety; and
 - (3) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor.
- (e) Each applicator technician or sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in this sub-category shall have after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. The qualified supervisor shall determine from those topics enumerated above in

sub-sections 8.04. (c) (1) and (2) the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.

- (f) Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in this sub-category shall have at a minimum 16 hours of training:
 - (1) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (2) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (3) The remaining 4 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
 - (4) Experienced sales technicians are not required to complete training in use, equipment and calibration, nor applicator safety.

Part 10. Structural Applicators.

10.01. The structural pest control classification includes the following categories.

- (a) Category 301: Wood Destroying Organism Pest Control: the application of pesticides to control termites, carpenter ants, powder post beetles, fungi, and/or other wood destroying organisms in structures and/or adjacent outside areas.
- (b) Category 302: Outdoor Vertebrate Pest Control: the application of pesticides intended for preventing, destroying, repelling or mitigating any reptile, bird, feral dogs and cats, moles, voles, bats, wild carnivores, rabbits, skunks, amphibian pests not in water and any other vertebrate pest, except rats and mice.
- (c) Category 303: Fumigation: the application of a fumigant to one or more rooms in a structure or to the entire structure at a desired concentration and for a length of time necessary for the control of rodents and/or insect pests, including the application of a fumigant to a localized space or harborage within a structure for local insect and/or rodent control.
- (d) Category 304: Residential/Commercial Pest Control: the application of pesticides or bait stations intended for use for preventing, destroying, repelling or mitigating structural pests, including without limitation insects and rodents. However, this category does not include the application of fumigants or actions taken to control wood destroying organisms, outdoor vertebrates, or grain storage pests.
- (e) Category 305: Stored Commodities Treatment: the application of pesticides for the treatment of pests in raw grain stored in facilities which are not used for animal or human

habitation; the application of plant growth regulators to agricultural commodities stored in facilities which are not used for animal or human habitation; and the application of pesticides to commodity processing equipment or commodity storage facilities (not including offices or other structures). This category does not cover applications made to control pests in potato storage facilities covered by category 308.

- (f) Category 306: Wood Preservation and Wood Products Treatment: the application of pesticides to prevent, destroy, repel or mitigate pests in wood or wood products which are, or are capable of being, incorporated into a structure, not including downed timber prior to bark removal or sawing.
 - (g) Category 307: Interior Plant Pest Control: the application of pesticides to house plants and other indoor ornamental plants kept or located within structures occupied by humans, including, but not limited to houses, apartments, offices, shopping malls, other places of business and other dwelling places, to control invertebrate pests that adversely affect such plants, including insects, mites, slugs, snails and nematodes; and to control plant diseases.
 - (h) Category 308: Post-Harvest Potato Pest Control: the application of pesticides for the treatment of pests in raw potatoes stored in facilities which are not used for animal or human habitation; the application of plant growth regulators to potatoes stored in facilities which are not used for animal or human habitation; and the application of pesticides to potato processing equipment or potato storage facilities (not including offices or other structures).
- (1) Applicators holding a valid Category 305, Stored Commodities Treatment, as of January 1, 2016, will be awarded the category 308 license with no further examination. The category 308 licensure category will be valid until the expiration date of the applicator's current license. If the applicator's license expires prior to January 1, 2017, license category 308 will also be awarded when such license is renewed, so long as all category 305 continuing education credit requirements have been met prior to the expiration of the license.
 - (2) On or after January 1, 2016, any applicator wishing to obtain the Category 308 category must take and pass the Stored Potato Treatment category examination and pay any necessary fees.
 - (3) Applicators wishing to renew the category 308 license after December 31, 2016, will need to obtain one (1) continuing education category credit in the Post-Harvest Potato Pest Control category prior to the expiration of their current license.

10.02. An applicant for licensing as a qualified supervisor in the structural pest control categories of wood destroying organisms, residential/commercial pest control, and fumigation must have the following field experience or equivalents. Such field experience must have been obtained during the five years immediately preceding the date of the applicant's application for licensing. Experience using pesticides gained while the applicant was maintaining his own home, or performing janitorial or maintenance duties for another in a residential, industrial or commercial location will not satisfy experience requirements imposed by these regulations.

- (a) Said applicant must have obtained at least twenty-four months field experience in structural pest control. In addition, an applicant for licensing as a qualified supervisor in the structural pest control category of wood destroying organisms must have obtained, within the two years immediately preceding the date of the applicant's application for licensing, at least 100 hours of verifiable field experience in termite control. A minimum of 30 of said 100 hours must consist of verifiable "hands-on" field experience covering drill

and inject and other post-treat methods and applications. Any or all of the 100 hours may be obtained in courses approved by the Commissioner.

- (b) If said applicant has earned college or university credit in structural pest control or related fields, such credit may be combined with field experience in related categories of structural pest control in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Four years college credit and four months field experience; or
 - (2) Three years college credit and nine months field experience; or
 - (3) Two years college credit and fourteen months field experience; or
 - (4) One year college credit and nineteen months field experience.
- 10.03. An applicant for licensing as a qualified supervisor in the structural pest control categories of outdoor vertebrates, wood preservation and wood products treatment, stored commodities treatment, Post-Harvest Potato Pest Control, or interior plant pest control must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing:
- (a) Said applicant must have obtained at least eight months field experience in the related categories of structural pest control.
 - (b) If said applicant has earned college or university credit in the related categories of structural pest control, such credit may be combined with field experience in related categories of structural pest control in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Two years college credit and two months field experience; or
 - (2) One year college credit and five months field experience.
- 10.04. At the time of a pesticide application, a commercial applicator licensed in any structural pest control category shall leave for each customer, a printed or legibly written notice stating the name of each pesticide applied, the date applied, and such precautionary statements from the label of the pesticide or device as are necessary or appropriate to avoid endangering human or animal health, or to avoid creating an unreasonable risk of damage to property.
- 10.05. In the event that the customer is not the occupant, at the time of a pesticide application a commercial applicator licensed in any structural pest control category shall leave for the occupant, a printed or legibly written notice stating the name of each pesticide applied, the date applied, and such precautionary statements from the label of the pesticide or device as are necessary or appropriate to avoid endangering human or animal health, or to avoid creating an unreasonable risk of damage to property.
- 10.06. Notices in Rule 10.04 and 10.05 may be provided electronically when the following conditions have been met.
- (a) Commercial applicators must obtain a written request from the customer or the occupant, as required, confirming their request to obtain any notice required by this Rule electronically.
 - (b) A commercial applicator must maintain a record of the written request(s) for electronic notices from each customer or occupant.

- (c) A commercial applicator that does not have a record of the written request(s) for electronic notices on file at the time of an application must provide a written notice as outlined in Rules 10.04 and 10.05.
- 10.07. When making pesticide applications within a multiunit dwelling site and the owner of the site or agent of the owner of the site is not present at the site, a commercial applicator must post a written notice at the primary entrance(s) to interior common area(s) that has been treated. The notice shall state the name of each pesticide applied, the date applied, and such precautionary statements from the label of the pesticide or device as are necessary or appropriate to avoid endangering human or animal health, or to avoid creating an unreasonable risk of damage to property. Electronic notices may not be used to meet this requirement.
- Part 11. Storage.**
- Subpart A Storage Requirements for Commercial, Registered Limited Commercial, Registered Public Applicators**
- 11.01. All commercial, registered limited commercial, or registered public applicators shall store pesticide concentrates and dilute mixtures using methods which are reasonably calculated to prevent the contamination of other products by means of volatilization, leakage, breakage or other causes, and which are reasonably calculated to avoid the creation of an unreasonable risk of harm to persons, property, domestic or wild animals, or the environment.
- 11.02. Pesticide storage areas shall be kept clean and orderly, and pesticide containers shall be positioned so that they are not exposed to unreasonable risk of damage to the containers or their labels.
- 11.03. Indoor pesticide storage areas shall be secured from access by unauthorized persons, including the general public, and locked when the building is unoccupied by an applicator or his employees.
- 11.04. Outdoor pesticide storage areas shall be fenced or walled, and locked. Pesticides and pesticide containers shall be covered or otherwise protected from the elements, in a manner which is reasonably calculated to minimize the risk of damage to labels, and to avoid the creation of an unreasonable risk of harm to persons, property or domestic or wild animals.
- 11.05. Pesticide storage areas shall be marked with a sign or signs, in letters at least one inch high, warning that pesticides are stored within and communicating the highest toxicity category any person may be exposed to within the storage area (i.e.: Danger, Danger skull and crossbones, Warning, Caution), such as: "Danger, Pesticide Storage, Authorized Personnel Only." Signage must also provide emergency contact information, in letters at least one half inch high and must state: "In case of emergency, contact: (name) at (telephone number)." Compliance with this Rule 11.05 is not necessary for any person who has marked their pesticide storage areas with signs that comply with local fire department requirements. Applicators must obtain written confirmation from the local fire department if no sign(s) is required and maintain this record for inspection by the department.
- 11.06. Each commercial, registered limited commercial, or registered public applicator storing pesticides shall inform the local fire department of the location of the pesticide storage, and shall provide the fire department with safety data sheets for all pesticides held at the location.
- 11.07. Each commercial, registered limited commercial, or registered public applicator who stores pesticides shall have available, at each storage location, in good working order, one or more fire extinguishers rated for chemical fires, and materials for use in cleaning up pesticide spills.

11.08. A service container that is not at all times in the immediate custody or control of a qualified supervisor, certified operator, or technician shall have prominently displayed thereon the following information from the label affixed to the pesticide's original container: the common name of each active ingredient, if there is such a common name, or the chemical name of each active ingredient; the EPA Registration Number; each and every human hazard signal word shown on the label, and the name of the commercial, registered limited commercial, or registered public applicator. For purposes of this Section 11.08, "service container" shall mean any container holding pesticide, whether in a concentrated or diluted form, other than the pesticide's original container, that is of a size and capacity that permits it to be carried or moved by only one individual, unaided by any tool or apparatus; and "human hazard signal word" shall mean those human hazard signal words required by the U.S. Environmental Protection Agency in its rules and regulations at 40 C.F.R. § 156.10(h) (1995), to be shown on the front panel of the label affixed to the pesticide's original container. Compliance with this Rule is not necessary if the service container is marked in compliance with the rules and regulations of the occupational safety and health administration, U.S. Department of Labor at 29 C.F.R. § 1910.1200 and appendices A through E, inclusive, thereto (1995), applicable to hazard communication for chemicals.

- (a) The incorporation in this Section of the aforesaid regulations of the U.S. Environmental Protection Agency and the Occupational Safety and Health Administration, U.S. Department of Labor does not include any later amendments to or editions of such incorporated material.
- (b) Information concerning the aforesaid incorporated regulations of the U.S. Environmental Protection Agency and the Occupational Safety and Health Administration, U.S. Department of Labor may be obtained from:
The Plant Industry Division
Colorado Department of Agriculture
305 Interlocken Parkway
Broomfield, CO 80021

and may be examined at any state publications depository library.

Subpart B Storage Requirements for Licensed Private Applicators

- 11.09. All licensed private applicators shall store pesticide concentrates and dilute mixtures using methods which are reasonably calculated to prevent the creation of an unreasonable risk of harm to persons, property, domestic or wild animals, or the environment.
- 11.10. Pesticide containers shall be stored so that they are not exposed to unreasonable risk of damage to the containers or their labels.
- 11.11. Pesticides and pesticide containers, stored in outdoor pesticide storage areas, shall be covered or otherwise protected from the elements, in a manner which is reasonably calculated to minimize the risk of damage to labels, and to avoid the creation of an unreasonable risk of harm to persons, property or domestic or wild animals.

Part 17. The Use of Pesticides in the Production of Cannabis

- 17.01. Definition and Construction of Terms for purpose of this Part 17, as used in these Rules unless the context otherwise requires:
 - (a) "Cannabis" means a plant of the genus Cannabis and any part of the plant.

- (b) “Human consumption” means the consumption of cannabis by a person through oral ingestion, absorption through the skin, inhalation through smoking, vaporization or other means.
 - (c) “Tolerance” means a level of pesticide residue in or on food that the Environmental Protection Agency has determined with reasonable certainty will not pose a hazard to public health when used in accordance with label directions.
- 17.02. Pesticide Use on Cannabis: These Rules establish the criteria under which certain pesticides may be legally used on cannabis in the State of Colorado. To assist cannabis growers, the Department will publish a list of pesticides that it has determined meet these criteria. As of the effective date of these Rules, there are currently no pesticides that are specifically labeled or have pesticide residue tolerances established for use on cannabis by the federal government or the State of Colorado. The Colorado Department of Agriculture does not recommend the use of any pesticide not specifically tested, labeled and assigned a tolerance for use on cannabis because the health effects on consumers are unknown.
- 17.03. Any pesticide used in the cultivation of cannabis must be registered with the Colorado Department of Agriculture, except for purposes of research and demonstration conducted in accordance with 40 CFR Part 172.
- 17.04. Any pesticide registered with the Colorado Department of Agriculture may be used in accordance with its label or labeling directions for the cultivation of cannabis in the State of Colorado under the following conditions:
- (a) For products registered by the Environmental Protection Agency under Section 3 of the Federal Insecticide, Fungicide, Rodenticide Act:
 - (1) All active ingredients of the pesticide product are exempt from the requirements of a tolerance, as established under 40 C.F.R. Part 180, Subparts D and E;
 - (2) The pesticide product label allows use on the intended site of application. The term “site” for purposes of this Rule includes any location or crop to which the application is made;
 - (3) The pesticide product label expressly allows use on crops or plants intended for human consumption; and
 - (4) The active ingredients of the pesticide product are allowed for use on tobacco by the Environmental Protection Agency.
 - (b) Notwithstanding Part 17.04(a)(3) the Commissioner has the authority to permit the use of a pesticide product, that does not expressly allow use on crops intended for human consumption if:
 - (1) The active and inert ingredients are exempt under 40 C.F.R. Part 180, Subparts D and E;
 - (2) The pesticide product label allows use on the intended site of application; and
 - (3) The active ingredients of the pesticide product are allowed for use on tobacco.
 - (c) The pesticide product label specifically allows use on cannabis.

- (d) For 25(b) minimum risk pesticide products as defined in 40 CFR 152.25(f); the pesticide product label allows use on the intended site of application and allows use on crops or plants intended for human consumption.
- (e) For pesticide products with a Colorado Special Local Need registration, issued under Section 24(c) of the Federal Insecticide, Fungicide and Rodenticide Act; the Colorado Special Local Need label allows use on cannabis.

17.05. The Commissioner may prohibit the use of any pesticide product for the cultivation of cannabis if the Commissioner determines that such use poses a significant threat to public health and safety or the environment.

Part 18. Statements of Basis, Specific Statutory Authority & Purpose

18.18. Adopted September 20, 2017- Effective November 30, 2017

Statutory Authority

The amendments to these Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Pesticide Applicators' Act (the "Act"), §§ 35-10-118(2)(a) and (b), C.R.S.

Purpose

The purpose of these Rules is to add a new Post Harvest Potato Pest Control category; amend the criteria for determining which pesticides may be used in the cultivation of Cannabis to allow for the use of unregistered pesticides during research and demonstration activities only; to update commercial applicator storage signage requirements; and to make conforming changes to clarify existing Rules. Specifically, these Rules:

1. Correct typographical errors and references.
2. Amend Rules 5.25, 5.26, 5.27, 5.28 and 10.03 to add the new Post Harvest Potato Pest Control category.
3. Amend 8.01(g) to make the "turf" reference consistent throughout this Part 8.
4. Amend Rule 11.05 to provide a more flexible manner in which commercial applicators must post signs notifying employees, first responders, and other parties of the presence of pesticides in pesticide storage areas.
5. Amend Rule 17.03 to allow the use of unregistered pesticides in the cultivation of Cannabis for research and demonstration purposes only.

Factual and Policy Issues

1. Clarify which part of Rule 5.01 outlines the required training and experience to meet the qualifications of a New Hire Experienced Technician.
2. On December 30, 2015, a new licensure category, the Post-Harvest Potato Pest Control category (i.e., Category 308), was created. Prior to the creation of this licensure category, post-harvest potato pest control pesticide applications were performed under the Stored Commodities Treatment category (i.e., Category 305). Rules 5.25, 5.26, 5.27, 5.28 and 10.03 outline the technician training requirements and experience required to obtain a Qualified Supervisor's

license in the Stored Commodities Treatment category. To address the technician training and licensure experience requirements for the Post-Harvest Potato Pest Control category, the Department proposes to update Rules 5.25, 5.26, 5.27, 5.28 and 10.03 to add the Post-Harvest Potato Pest Control category so that the training and experience requirements are the same for this category as for its parent category.

3. The Turf Pest Control category and the Ornamental Pest Control category fall under the broad definition of “ornamental” applications. The Rangeland Pest Control category defines sites of applications for this licensure category and requirements that applicators who make applications in a forested area that is within fifty feet of a residence or commercial structure also comply with the posting and notification requirements in the Turf Pest Control category. Rule 8.01(g) currently references the Turf Pest Control requirement and uses the general “ornamental” term. To clarify the rule requirement, the Department proposes to reference the Turf Pest Control category throughout.
4. Rule 11.05 sets forth that warning signs are required for pesticide storage areas or entrances thereto. The current Rule has specific verbiage which pesticide storage signs must meet. When this Rule was originally created, applicators could purchase signs with this exact verbiage. However, pesticide storage signs currently available for sale no longer contain the required language in the PAA. Because the Rule states that pesticide storage signs “shall” be marked with the specific verbiage used in the Rule, companies must now create their own pesticide storage signs to be in compliance with the Rule. The Department wants to amend Rule 11.05 to permit the use of other types of standardized pesticide storage signage, while maintaining the emergency contact information requirement and storage marking provisions already contained in the Rule, as well as requiring that any applicator who obtains a waiver of this sign requirement from a local fire department maintain a copy of that waiver in the applicator’s files for Department review.
5. On March 30, 2016, the Department passed Rules that outlined the criteria for which pesticides may be applied in the cultivation of Cannabis. Specifically, Rule 17.03 limited the use of pesticides in the cultivation of Cannabis to registered pesticides only. In May 2017, HB 1367 was passed to allow marijuana cultivators and other persons to conduct research and demonstration activities related to pesticide use on marijuana. Research and demonstration activities are for the purpose of developing data on currently unregistered pesticides or pesticides that are not registered for a specific use. The Department proposes to amend Rule 17.03 to allow the use of unregistered pesticides in the cultivation of Cannabis for research and demonstration purposes in accordance with the intent of HB 1367 and 40 CFR Part 172.

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2017-00284

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 09/20/2017

8 CCR 1203-2

**RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF
THE PESTICIDE APPLICATORS' ACT**

The above-referenced rules were submitted to this office on 09/25/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 06, 2017 08:20:07

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/06/2017

Department

Department of Revenue

Agency

Division of Motor Vehicles



COLORADO
Department of Revenue

Department of Motor Vehicle
1881 Pierce Street
Lakewood, CO 80214

Stakeholder Workshop Notification of Future Rule Promulgation

Concerning Rule 1 CCR 204-10 Rule 2 Establish Vehicle Registration Period

There will be a public workshop held for discussion of the above rule on:

Date: Monday, November 20, 2017

Time: 10:00-11:00a.m.

**Location: 1881 Pierce Street
Boards/Commissions Conference Room 110
Lakewood, CO 80214**

Please enter through Entrance B. The Conference Room is to the left.

If you cannot attend:

1. Please join my meeting.

<https://global.gotomeeting.com/join/514270390>

2. Use your microphone and speakers (VoIP) - a headset is recommended. Or, call in using your telephone.

Dial **+1 (646) 749-3131**

Access Code: **514-270-390**

Audio PIN: Shown after joining the meeting

Meeting ID: 514-270-390

We look forward to seeing you at this workshop.



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/06/2017

Department

Department of Revenue

Agency

Division of Motor Vehicles



COLORADO
Department of Revenue

Department of Motor Vehicle
1881 Pierce Street
Lakewood, CO 80214

Stakeholder Workshop Notification of Future Rule Promulgation

Concerning Rules:

- 1 CCR 204-10 Rule 16 Group Special License Plates**
- 1 CCR 204-10 Rule 20 License Plate Retirement**
- 1 CCR 204-10 Rule 45 Alumni License Plates**

There will be a public workshop held for discussion of the above rule on:

Date: Monday, November 6, 2017

Time: 9:30-11:00a.m.

**Location: 1881 Pierce Street
Boards/Commissions Conference Room 110
Lakewood, CO 80214**

Please enter through Entrance B. The Conference Room is to the left.

If you cannot attend:

1. Please join my meeting.

<https://global.gotomeeting.com/join/514270390>

2. Use your microphone and speakers (VoIP) - a headset is recommended. Or, call in using your telephone.

Dial +1 (646) 749-3131

Access Code: 514-270-390

Audio PIN: Shown after joining the meeting

Meeting ID: 514-270-390

We look forward to seeing you at this workshop.



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/10/2017

Department

Department of Revenue

Agency

Division of Motor Vehicles



COLORADO
Department of Revenue

Department of Motor Vehicle
1881 Pierce Street
Lakewood, CO 80214

Stakeholder Workshop Notification of Future Rule Promulgation

Concerning Rule 1 CCR 204-10 Rule 26 Physical Inspection of Motor Vehicles

There will be a public workshop held for discussion of the above rule on:

Date: Tuesday, November 28, 2017

Time: 10:00-11:00a.m.

**Location: 1881 Pierce Street
Boards/Commissions Conference Room 110
Lakewood, CO 80214**

Please enter through Entrance B. The Conference Room is to the left.

If you cannot attend:

1. Please join my meeting.

<https://global.gotomeeting.com/join/514270390>

2. Use your microphone and speakers (VoIP) - a headset is recommended. Or, call in using your telephone.

Dial **+1 (646) 749-3131**

Access Code: **514-270-390**

Audio PIN: Shown after joining the meeting

Meeting ID: 514-270-390

We look forward to seeing you at this workshop.



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/12/2017

Department

Department of Natural Resources

Agency

Ground Water Commission



COLORADO

Division of Water Resources

Department of Natural Resources

Ground Water Commission
1313 Sherman Street, Room 821
Denver, CO 80203

October 12, 2017

NOTICE

The location of the Colorado Ground Water Commission's November 3, 2017 rulemaking hearing concerning amendment to Designated Basin Rule 7.4 is being changed from that published in the Colorado Register on September 25, 2017 and stated in the Notice of Public Rulemaking Hearing, as described below.

From:

Town of Castle Rock Council Chambers
100 Wilcox, 2nd Floor
Castle Rock, CO 80104

To:

Town of Castle Rock Utilities Department
Building 183 (enter through Gate C)
175 Kellogg Ct.
Castle Rock, CO 80109

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Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/16/2017

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 extending 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	11/29/2017 5:00 pm	Additional submittal information below
Public Administrative Action Hearing	12/11/2017 11:00 am	Florence Sabin 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 intended use plans.

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 so as to be received no later than the due date. Written comments will be available to the public on the commission's [web site](#).

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 16th day of October 2017 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

Nancy Horan

Digitally signed by Nancy Horan
DN: cn=Nancy Horan, o=Colorado Department
of Public Health and Environment, ou=Water
Quality Control Commission,
email=nancy.horan@state.co.us, c=US
Date: 2017.10.16 10:23:15 -06'00'

Nancy Horan, Operations Manager for the Commission

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/16/2017

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 extending the expiration date of the Human Health-Based Water Quality Criteria and Standards, Commission Policy 96-2.

SCHEDULE OF IMPORTANT DATES:

Written comments due	11/29/2017 5:00 pm	Additional submittal information below
Public Administrative Action Hearing	12/11/2017 10:45 am	Florence Sabin 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 intended use plans.

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 so as to be received no later than the due date. Written comments will be available to the public on the commission's [web site](#).

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PARTY STATUS:

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Dated this 16th day of October 2017 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

Nancy Horan

Digitally signed by Nancy Horan
DN: cn=Nancy Horan, o=Colorado Department of
Public Health and Environment, ou=Water
Quality Control Commission,
email=nancy.horan@state.co.us, c=US
Date: 2017.10.16 10:20:22 -06'00'

Nancy Horan, Operations Manager for the Commission

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/23/2017

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)



COLORADO

Department of Health Care
Policy & Financing

PUBLIC NOTICE

October 25, 2017

Removing Federal Authority for the Accountable Care Collaborative: Medicare-Medicaid Program and the Accountable Care Collaborative: Access KP Program

The Department of Health Care Policy and Financing (Department) intends to submit two State Plan Amendments to the Centers for Medicare and Medicaid Services (CMS) to phase out the Accountable Care Collaborative: Medicare-Medicaid Program (ACC:MMP) and the ACC: Access KP Program, both effective December 31, 2017. The Members currently enrolled in the ACC:MMP will be enrolled into the Accountable Care Collaborative (ACC) effective January 1, 2018. ACC Members with full Medicare and Medicaid benefits will not experience any change to their benefits or enrollment under the ACC State Plan. Members enrolled in the ACC: Access KP Program have been enrolled into the ACC and will not experience any change to their benefits.

The proposed State Plan Amendments do not increase annual aggregate expenditures.

General Information

A link to this notice will be posted on the [Department's website](#) starting on October 25, 2017. Written comments may be addressed to:

Director, Health Programs Office
Colorado Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203

Our mission is to improve health care access and outcomes for the people we serve while demonstrating sound stewardship of financial resources.
www.colorado.gov/hcpf



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/23/2017

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)



COLORADO

Department of Health Care
Policy & Financing

Long Term Services and Supports (LTSS) Home and Community Based Services (HCBS) Waiver Amendment Fact Sheet

The Department of Health Care Policy and Financing (the Department) proposes to amend the Children with Life Limiting Illness (CLLI) and the Community Mental Health Supports (CMHS) waivers. The proposed amendment for the CLLI waiver includes eliminating the point-in-time limit on clients to acknowledge program growth.

The proposed amendment for the CMHS waiver includes across the board rate increases for all HCBS services with the exception of Non-Medical Transportation, Personal Care and Homemaker Services, which have a targeted rate increase. The Department has asked for an effective date of October 1st, 2017 for both amendments.

Explanation of changes within each waiver can be found below.

Public Comment Opportunity

The Department will have drafts of the LTSS Waiver Amendments posted on the Department's website at <https://www.colorado.gov/hcpf/hcbs-waiver-transition> for public comment.

To request a paper or electronic copy of any waiver amendment materials, including the full draft waiver and/or provide public comment please do so by:

Phone: 303-866-6113

Email: LTSS.PublicComment@state.co.us

In-Person: 1570 Grant Street, Denver, CO 80203

Postal Mail: 1570 Grant Street, Denver, CO 80203 ATTN: LTSS HCBS Waiver Amendments

Fax: 303-866-2786 ATTN: LTSS HCBS Waiver Amendments

Public Comments will be accepted from October 26th through November 25th, 2017.

Summary of Changes in Waiver Amendments

Our mission is to improve health care access and outcomes for the people we serve while demonstrating sound stewardship of financial resources.
www.colorado.gov/hcpf



Across the Board Rate Increases

- *Rates for services available through the CMHS waiver will increase for all HCBS services by 1.402%. These across the board increases do not apply to HCBS Non-Medical Transportation, Personal Care and Homemaker, as these services received a targeted increase.*

Summary: An across the board rate increase for all HCBS providers was included in the [2017 Long Bill \(SB 17-25\)](#). The rates will be updated within the waivers to ensure appropriate projections in our agreements with CMS.

Targeted Rate Increases for Non-Medical Transportation, Personal Care, and Homemaker providers

- *The CMHS waiver will incorporate targeted rate increases for Non-Medical Transportation, Personal Care, and Homemaker services.*

Summary: In addition to the across the board rate increase, targeted rate increases for certain services were included in the [2017 Long Bill \(SB 17-254\)](#). Non-Medical Transportation was increased by 7.01%. Personal Care and Homemaker rates increased by \$0.50. Consumer Directed Attendant Support Services (CDASS) providers are included in the personal care/homemaker targeted rate increase of \$0.50.

Elimination of Point-in-Time Limit

- *The Department will no longer limit the amount of clients the waiver can serve at any time during the waiver year.*

Summary: The Department is removing the point-in-time limit on the waiver. The point-in-time limit is the number of clients the waiver will serve at any point throughout the waiver year. The Department is removing this cap to reflect the growth of the program. The unduplicated count, or the number of unique clients served in one waiver year, will remain the same.

Guidelines for Submitting Comments

- The Department will have a draft of the Waiver Amendments open for 30-day public comment from October 26th through November 25th, 2017. The amendments will be posted on the Department's website here: <https://www.colorado.gov/hcpf/hcbs-waiver-transition>
- Individuals may request a copy of the full waiver amendments by email, phone, fax, postal mail or in-person.

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- Comments regarding the draft waiver amendments can be emailed directly to LTSS.PublicComment@state.co.us; submitted by phone at 303-866-6113; submitted by fax at 303-866-2786 ATTN: HCBS Waiver Amendments or in-person at 1570 Grant Street, Denver CO 80203.
- Comments can also be addressed by mail to:
Department of Health Care Policy and Financing
ATTN: LTSS HCBS Waiver Amendments
1570 Grant Street
Denver, CO 80203
- All comments and responses will be recorded in a listening log that will be published after the public comment period ends.

The Department commits to incorporating comments, concerns, and suggestions when possible.



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/23/2017

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)



PUBLIC NOTICE

October 26th through November 25th, 2017

Home and Community Based Services (HCBS) Long Term Services and Supports (LTSS) Waiver Amendment Public Comment

The Colorado Department of Health Care Policy and Financing (the Department) intends to submit waiver amendments for the Children with Life-Limiting Illness (CLLI) and the Community Mental Health Supports (CMHS) waivers to the Centers for Medicare and Medicaid Services (CMS).

The proposed amendment for the CLLI waiver includes eliminating the point-in-time limit on clients to acknowledge program growth.

The proposed amendment for the CMHS waiver includes across the board rate increases for all HCBS services with the exception of Non-Medical Transportation, Personal Care and Homemaker Services, which have a targeted rate increase. The Department has asked for an effective date of October 1st, 2017 for both amendments.

For a more detailed summary of all changes, please go to the Department's website at <https://www.colorado.gov/pacific/hcpf/hcbs-waiver-transition> to view the full draft waivers and the amendment fact sheet. You may also obtain a paper or electronic copy by calling Sarah Hoerle at 303-866-6113 or by writing or visiting the Department at 1570 Grant St, Denver, CO 80203.

To provide public comment or request a paper or electronic copy of any materials, please contact LTSS.PublicComment@state.co.us; submitted by phone at 303-866-6113; submitted by fax at 303-866-2786 ATTN: HCBS Waiver Amendments; or in-person at 1570 Grant Street, Denver CO 80203.

Public Comments will be accepted October 26th through November 25th, 2017

General Information

A link to this notice is posted on the [Department's website](#). Written comments may be addressed to: Department of Health Care Policy and Financing, ATTN: HCBS Waiver Amendments, 1570 Grant Street, Denver CO 80203.



Calendar of Hearings

Hearing Date/Time	Agency	Location
12/11/2017 09:00 AM	Oil and Gas Conservation Commission	Colorado Oil and Gas Conservation Commission, 1120 Lincoln Street, Suite 801, Denver, CO 80203
11/14/2017 10:00 AM	Division of Insurance	1560 Broadway, Ste 1250 C, Denver CO 8202
11/14/2017 10:00 AM	Division of Insurance	1560 Broadway, Ste 1250 C, Denver CO 8202
11/16/2017 09:00 AM	State Board of Stock Inspection Commissioners	Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield, CO 80021
11/17/2017 01:00 PM	Public Employees' Retirement Association	PERA office - 1301 Pennsylvania Street, Denver, CO 80203
11/17/2017 01:00 PM	Secretary of State	Aspen Conference Room on the 3rd floor of the Secretary of States Office at 1700 Broadway, Denver, Colorado 80290